

AGENDA

Regulatory Sub Committee

Date: **Tuesday 27 March 2012**

Time: **10.00 am**

Place: **Meeting Room 22a, Brockington, 35 Hafod Road,
Hereford**

Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

Ricky Clarke, Democratic Services Officer

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail rclarke@herefordshire.gov.uk in advance of the meeting.

Agenda for the Meeting of the Regulatory Sub Committee

Membership

Councillor BA Durkin
Councillor JW Hope MBE
Councillor RC Hunt

GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

AGENDA

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1. ELECTION OF CHAIRMAN	
To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
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- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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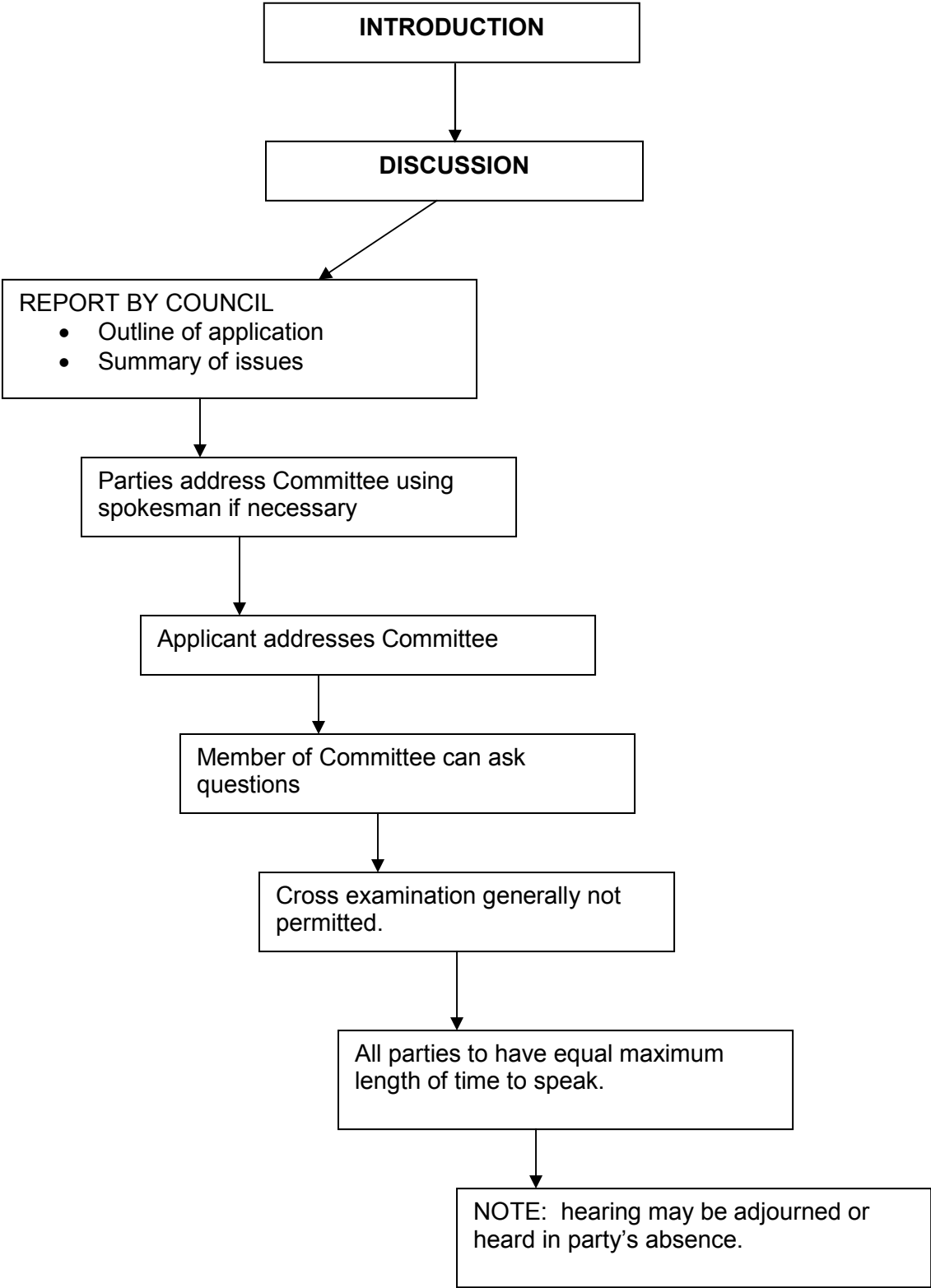
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB- COMMITTEE
DATE:	27TH MARCH 2012
TITLE OF REPORT:	FOOTPATH LR12 (PART) PARISH OF LEDBURY PUBLIC PATH DIVERSION ORDER 2012
PORTFOLIO AREA:	Highways and Transportation

CLASSIFICATION: Open

Wards Affected

Ledbury

Purpose

To consider an application under the Highways Act 1980, Section 119, to make a Public Path Diversion order to divert part of footpath LR12 in the Parish of Ledbury.

Key Decision

This is not a Key Decision.

Recommendation

THAT a Public Path Diversion Order be made under Section 119 of the Highways Act 1980, as illustrated on drawing number : D413/221-12.

Key Points Summary

- The applicants Universal Beverages Ltd., applied for the diversion of part of footpath LR12, in the Parish of Ledbury, on the 5th July 2011.
- The reason for the diversion is that changes to the drainage system necessary for environmental reasons, which affect the area over which the footpath crosses, have made it difficult to reinstate it on its original line, mainly due to cost and maintenance considerations.
- The proposed diversion runs a few metres south of the original route, on the other side of a drainage channel, from which it will be fenced off, and maintains its original east – westerly direction; it is considered to be substantially as convenient to the public.
- Pre-Order consultation and negotiations have been carried out and the proposal has general support; only one potential objection has been received.

Further information on the subject of this report is available from
Chris Chillingworth, Public Rights of Way Officer on (01432) 842100

Alternative Options

- 1 Under Section 119 of the Highways Act 1980, the Council has the power to make diversion orders; it does not have a duty to do so. To reinstate the path on its original line would require an additional crossing of the culvert; due to the new culvert position and the original path position this would require a long crossing with associated costs for construction and ongoing maintenance. The Council could reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council. However, as the proposal allows for unobstructed access and has general support we believe the diversion proposal is reasonable.

Reasons for Recommendations

- 2 The Public Path Order should be made because it is felt that it meets the criteria set out in Section 119 of the Highways Act 1980 and the Herefordshire Council's Public Path Order Policy.

Introduction and Background

- 3 This report is being considered by the Regulatory Sub Committee because it has the delegated authority to make or not to make an order.

Key Considerations

- 4 Universal Beverages Ltd., applied for a diversion of part of footpath LR12 on 5th July 2011. The reason given for making the application was that the existing line of part of the footpath has been seriously compromised by essential drainage changes making it difficult to reinstate without associated costs of construction and ongoing maintenance. This would be at a time when the Company is seeking to reduce costs and avoid potential redundancies. In addition, the existing line would be close to a new access road used daily by heavy goods vehicles; although the path could be fenced off from the road, the noise and dust could be off-putting to the public using the footpath.
- 5 Pre-Order consultation and negotiations were carried out and the proposal has general agreement; it is proposed that the new path follows the direction of a new drainage channel from which it will be fenced. A representative from the Open Spaces Society has expressed a preference for a different route which is not considered to meet one of the key tests of being 'not substantially less convenient' when compared with the existing route.
- 6 The applicant has agreed to pay for administration and advertising costs and the cost of bringing the diverted footpath into operation.
- 7 Local Members, Councillors EPJ Harvey and PJ Watts, have raised no objections to the application.
- 8 The proposed diversion meets the specified criteria set out in Section 119 of the Highways Act 1980, and in particular that:
- 9 The proposal benefits the owner of the land,
- 10 The proposal is substantially as convenient to the public,
- 11 It would be expedient to proceed with the proposal given the effect it will have on public enjoyment of the path.

Community Impact

- 12 The Parish Council and local user groups have been consulted as part of the process and the proposal has general agreement and support with the exception of The Open Spaces Society. Councillors EPJ Harvey and PJ Watts have been consulted and have not objected to the proposal.

Financial Implications

- 13 The applicant has agreed to pay the Council's costs in respect of making a diversion order, to pay associated advertising costs, and to meet the costs of bringing the footpath into operation. Any costs that may be incurred in the determination of the order should objections be received, would have to be met by the Council.

Legal Implications

- 14 Under Section 119 of the Highways Act 1980, the Council has the power to make diversion orders; it does not have a duty to do so.

Risk Management

- 15 Should an order be made to divert part of footpath LR12, as recommended within this report, there is a risk that the order will receive objections and would then require referral to the Secretary of State which could increase the demands on officer time and resources. Extensive informal consultations and negotiations have taken place to minimise the risk of such objections, however the Open Spaces Society have indicated that they may object to the Order.

Consultees

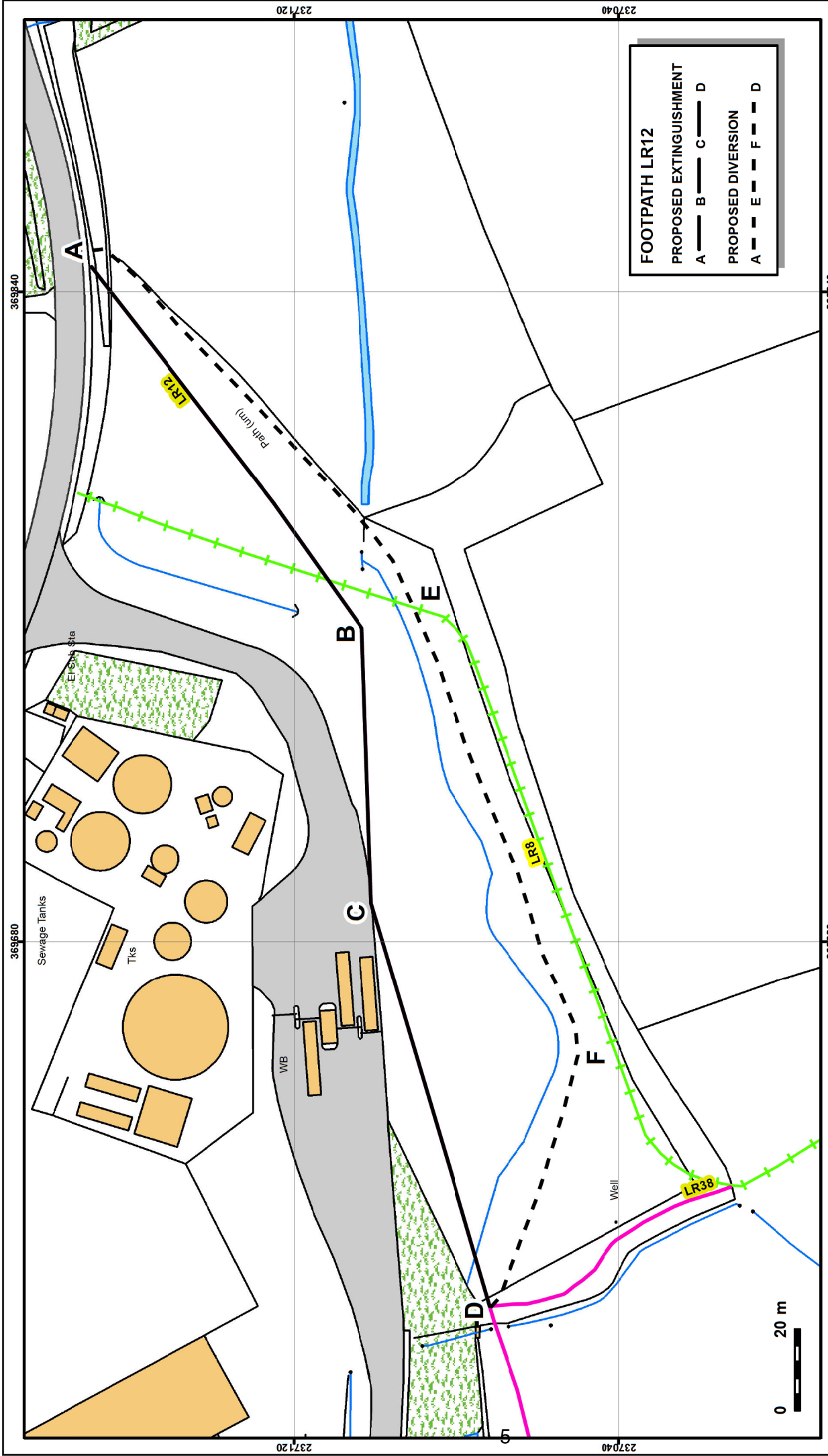
- 16 Prescribed organisations as per Defra Rights of Way Circular 1/09
- 17 Local Members Councillors EPJ Harvey and J Watts
- 18 Ledbury Town Council
- 19 Statutory Undertakers

Appendices

Draft Order and Order Plan, drawing number D413/221-12

Background Papers

None identified



FOOTPATH LR12

PROPOSED EXTINGUISHMENT

A — B — C — D

PROPOSED DIVERSION

A - - E - - F - - D

PUBLIC FOOTPATH (Pink line)

PUBLIC BRIDLEWAY (Green line with cross-ticks)

RESTRICTED BYWAY (Black dashed line)

BYWAY OPEN TO ALL TRAFFIC (Black solid line)

HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL-FOOTPATH LR12 (PART)
PARISH OF LEDBURY
PUBLIC PATH DIVERSION ORDER 2012

NORTH

Herefordshire Council

DWG No.: D413/221-12
 SCALE 1:1,250 @ A4

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	27TH MARCH 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEWAY GW33 (PART) IN THE PARISH OF GARWAY
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Pontrilas

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of bridleway GW33 in the parish of Garway.

Key Decision

This is not a Key Decision.

Recommendation

That a public path diversion order is made under Section 119 of the Highways Act 1980, as illustrated on drawing number: D355/153-33

Key Points Summary

- An application was made by Mr P Fox of March Hill Cottage in Garway to divert bridleway GW33.
- The application was made following substantial earthworks across the bridleway to stabilise the bank above March Hill Cottage which was in danger of collapse.
- The current line of the bridleway is obstructed by terracing.
- The application has been taken over by Mrs Fox.
- The applicant has carried out a pre-order consultation to which there were no outstanding objections.

Further information on the subject of this report is available from
Susan White, Assistant Rights of Way Officer on (01432) 842106

Alternative Options

- 1 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion orders. It does not have a duty to do so. The Council could reject the application on the grounds that it does not contribute sufficiently to the wider ambitions and priorities of the Council.

Reasons for Recommendations

- 2 The public path order should be made because it is felt that it meets the criteria set out in s 119 of the Highways Act and the Council's public path order policy and there have been no objections at pre-order consultation stage.

Introduction and Background

- 3 Before an order is made to divert a footpath under the Highways Act 1980, it is necessary to gain a decision from the Regulatory Sub-Committee as they hold the delegated authority to make this decision.

Key Considerations

- 4 Mr P Fox, who was the landowner, made the application in June 2003. The reasons given for making the application were that 'the existing route is no longer passable due to essential terracing work to stabilise earth bank to north west of March Hill Cottage'.
- 5 The current applicant, Mrs Fox, has carried out all pre order consultation. The proposal has not received any objections, although the Open Spaces Society insists on clearance of trees etc to a width of 3 metres and appropriate waymarking.
- 6 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 7 The local member, Cllr. Hamilton supports the application.
- 8 The proposed diversion meets the specified criteria as set out in Council policy section 119 of the Highways Act 1980 in particular that:
 - The proposal benefits the owner of the land crossed by the existing path.
 - The proposal does not alter the point of termination of the path.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 Garway Parish Council has been consulted and holds no objections to the proposals.

Financial Implications

- 10 The landowner has agreed to pay for all administration, advertising costs and necessary works associated with this order.

Legal Implications

- 11 Under Section 119 of the Highways Act 1980 the Council has the power to make diversion

orders. It does not have a duty to do so.

Equality Implications

12 there are not considered to be any adverse equalities implications of the proposal.

Risk Management

13 If an order is made as proposed, it could receive objections which may lead to a public inquiry thus impacting on the public rights of way resources, however, this is unlikely as a pre-order consultation has been carried out with the relevant user groups and statutory undertakers and has not received any objections.

Consultees

14

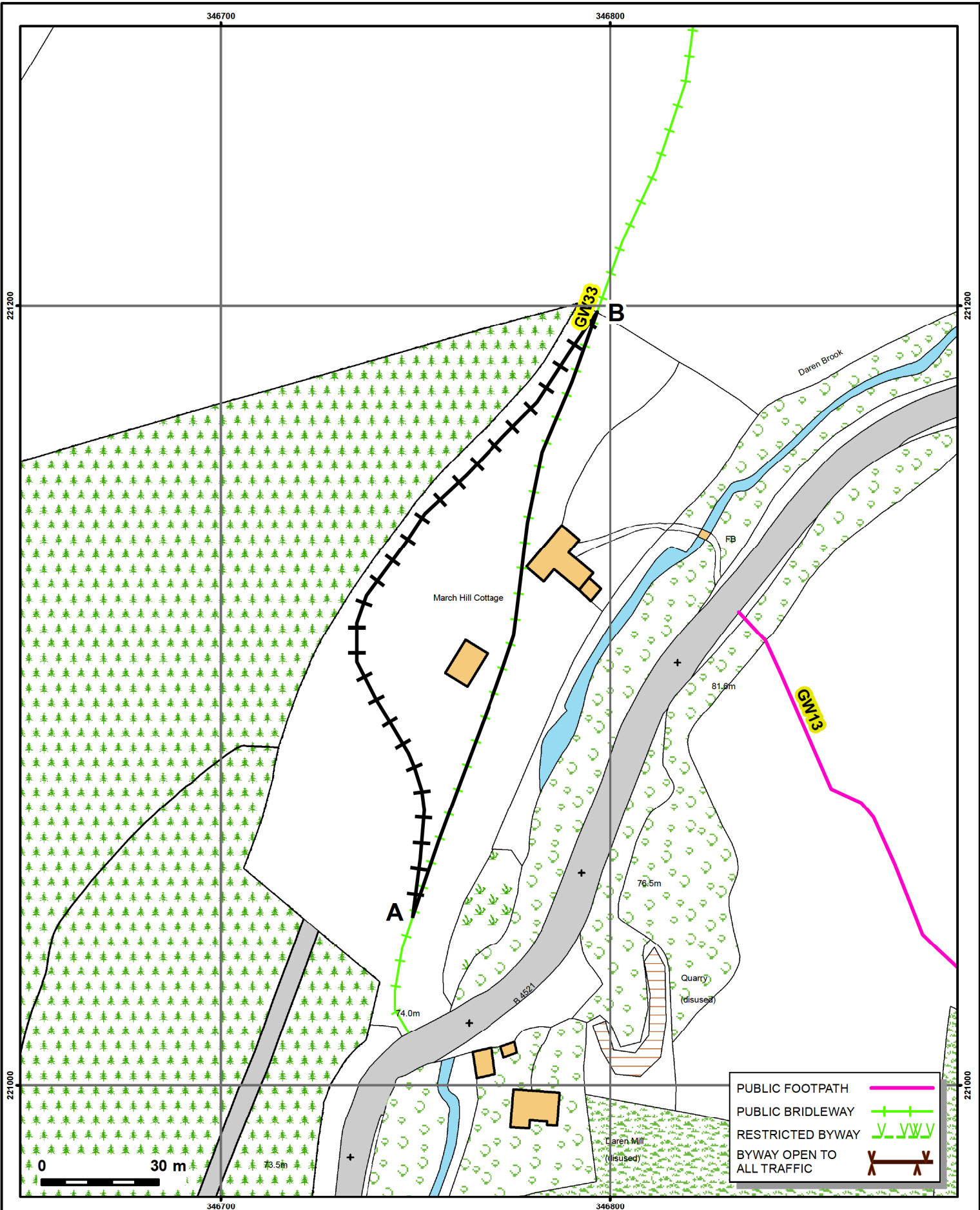
- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. R B Hamilton
- Garway Parish Council.
- Statutory Undertakers.

Appendices

15 Order Plan, drawing number: D355/153-33

Background Papers

- None identified.



HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL
BRIDLEWAY GW33 (PART) GARWAY
PUBLIC PATH DIVERSION ORDER 2011



SCALE 1:1,250

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	27 MARCH 2012
TITLE OF REPORT:	REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 1 MARCH 2012 FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: THE NAGS HEAD, CANON PYON, HEREFORD, HR4 8NY
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PEOPLE'S SERVICES DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Wormsley Ridge

Purpose

To consider a representation made by MFG Solicitors on behalf of 'Stephen Bengree, The Nags Head, Canon Pyon, Hereford, HR4 8NY, the premises licence holder, against the interim steps imposed on 1 March 2012 following the expedited licence review of the premises licence.

Key Decision

This is not a Key Decision.

Recommendation

THAT the Sub-Committee, when determining this representation against the interim steps, must take into account:

- The senior police officer's certificate that accompanied the application
- The chief officer's representation and
- Any representation made by the premises licence holder

Key Points Summary

- Application received for an expedited review on 28 February 2012.
- Hearing held on 1 March 2012 within the required 48 hours.
- 28 February 2012 - Copies of application and certificate sent to the premise licence holder and responsible authorities.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

- Application against interim steps received on 26 March 2012.

Options

1 The committee must:

- Consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and
- Determine whether or not to withdraw or modify the steps taken.

The following are options in respect of modification

Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect until the full review hearing.

Reasons for Recommendations

2 Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

Background Information

The powers to call for an expedited review are contained in Section 53A of the Licensing Act as amended by the Violent Crime Reduction Act 2006. The powers allow:-

- The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
- The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

The requirements of the legislation are that the application must be accompanied by a Certificate signed by a Superintendent. Where that has happened, as in this case, the requirements for launching an expedited review has been met and the Licensing Authority do not have power to question whether such certificate should have been issued by a Superintendent.

The expedited review hearing was held on 1 March 2012 where the committee considered an application made by the Chief Constable of the West Mercia Police. . At that hearing the applicants' solicitor offered the following condition which was endorsed by the committee:

- That the present Designated Premises Supervisor, Joanna West, be replaced by Melody Barton.
- That the Committee accepts the offer of the Solicitor for the Premises Licence Holder that Mr. Stephen Bengree will be excluded from the curtilage of the said licensed premises through all hours when they are open to the public. The curtilage shall be as described in the plan previously submitted and approved and Designated 08.096 Drawing 250 namely, the Nags Head Public House (as outlined in blue on the attached plan).

On 26 March 2012 an application was received by the Licensing Authority from MFG Solicitors on behalf of the premises licence holder to make representation against the interim steps.

The full review hearing has been arranged for today.

3 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

Provision of live music; A performance of dance; Other regulated entertainment; Provision of late night refreshment; Sale by retail of alcohol

Monday-Sunday: 11:00 - 00:30

Any playing of recorded music

Monday-Saturday: 11:00 - 00:00

Sunday: 11:00 - 23:00

- 4 The grounds for the review are contained in Appendix 1 and 2 of the background papers. Also attached is the request to make representation against the expedited review (appendix 3)

5 **Responsible Authorities**

Copies of the application and certificate have been sent to the responsible authorities.

Key Considerations

- 6 To consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and to determine whether to withdraw or modify the steps taken.

Guidance issued by the DCMS in respect of Expedited Reviews states at paragraphs 3.5 – 3.7: -

3.5 If the licensing authority decides to take steps at the interim stage then:

The decision takes effect immediately, or as soon after then as the licensing authority directs; but

The licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who make the application.

- 3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implication of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.
- 3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

Community Impact

- 7 It is felt that if the wrong course of action is taken then this could have an adverse effect on the local community.

Legal Implications

- 8 There is no right of appeal against the decision of the Licensing Authority at this stage.

Consultees

- 9 Responsible authorities and the premise licence holder.
- 10 A copy of the application has been served on the responsible authorities.

Appendices

- 11 a. Application form for expedited review
- b. Certificate
- c. Request to make representation against the interim steps
- d. Decision notice from 1st March 2012

Background Papers

Background papers were available for inspection in the Council Chamber 30 minutes before the start of the hearing.

Our Ref: AP/CLT/BEN05325.0001
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WORCESTER 1

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By e-mail only:
licensing@herefordshire.gov.uk
fspriggs@herefordshire.gov.uk

26 March 2012

Dear Sirs

**Re: The Nags Head, Canon Pyon
Representations against interim steps**

Further to the application for expedited review of the Premises Licence in respect of the above premises made by West Mercia Police, and further to the hearing on 29th February 2012, we write on behalf of the Premises Licence Holder to make representations against the interim steps taken by the Licensing Authority.

As you are aware, at the hearing the following conditions were attached to the Licence:-

1. That the present Designated Premises Supervisor, Joanna West, be replaced by Melody Barton.
2. That the Committee accepts the offer of the Solicitor for the Premises Licence Holder that Mr Stephen Bengree will be excluded from the curtilage of the said licensed premises through all hours when they are open to the public. The curtilage shall be as described in the plan previously submitted and approved and Designated 08.096 Drawing 250 namely, the Nags Head Public House (as outlined in blue on the attached plan).

www.mfgsolicitors.com

As you will be aware, the application to name Melody Barton as the Designated Premises Supervisor was made on 29th February 2012. As such, we do not believe that the first condition set out above is necessary.

In addition, we believe that the second condition referred to above was appropriate at the time of the expedited review of the Premises Licence. As of the date of these written representations, Mr Bengree will have been excluded from the premises during the hours that they are open to the public for nearly four weeks. We believe that this will have had the effect of significantly reducing the risk of any further disorder at the premises that may have been exacerbated by his continued presence.

We have received evidence from West Mercia Police in the form of three statements made by interested parties in relation to the allegations of disorder being made against Mr Bengree. As stated in the hearing on 29th February 2012, Mr Bengree denies the allegations that have been made against him.

As such, we believe that Mr Bengree acted reasonably in volunteering to be excluded from the curtilage of The Nags Head in order to allay any concerns that the police may have regarding his continued presence. Mr Bengree however feels that his continued absence is now no longer necessary in order to address the licensing objectives.

Mr Bengree is aware that an application for a full review of the Premises Licence is listed to be heard on Tuesday 27th March 2012. In anticipation of this hearing, Mr Bengree is willing to volunteer the following conditions be attached to the Premises Licence:-

1. CCTV

CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sales/supply of alcohol occurs.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police/Local Authority on demand.

The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence Holder/DPS MUST report the failure to the Police on contact number 0300 333 3000 immediately.

2. Incident Log

An incident log must be kept at the premises, and made immediately available on request to an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police, which must record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received
- (d) any incidents of disorder
- (e) seizures of drugs or offensive weapons
- (f) any faults in the CCTV system or searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service

In addition, Mr Bengree would require that the two conditions attached to the Premises Licence at the expedited review hearing on 29th February 2012 be removed from the Licence.

We believe that these volunteered conditions will address any ongoing concerns that the police may have regarding the premises.

We are aware that we are not required to provide the police with a copy of our written representations against the interim steps. In the interests of all parties concerned however we confirm that a copy of this letter has been forwarded to Jim Mooney of West Mercia Police.

We are aware that a hearing must be called within 48 hours of the date of this letter in order to address our representations. In the event that the Committee require further clarifications on the issues raised in this correspondence we confirm that we will be present at this hearing.

Kind regards,

Yours faithfully


mfg Solicitors LLP

MEETING:	REGULATORY SUB-COMMITTEE
DATE:	27 MARCH 2012
TITLE OF REPORT:	REVIEW OF A PREMISES LICENCE FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW AND REPRESENTATION AGAINST THE INTERIM STEPS IN RESPECT OF: THE NAGS HEAD, CANON PYON, HEREFORD, HR4 8NY
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PEOPLE'S SERVICES DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Wormsley Ridge

Purpose

To consider a review of a premises licence following an Expedited/Summary Licence Review and Representation against the interim steps in respect of 'The Nags Head, Canon Pyon, Hereford, HR4 8NY.

Key Decision

This is not a Key Decision.

Recommendation

THAT the Sub-Committee when determining this review must consider:

- what steps it considers necessary for the promotion of the licensing objectives; and
- what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.

Key Points Summary

- Application received for an expedited review on 28th February 2012.
- Hearing held on 1st March 2012 within the required 48 hours.
- 28th February 2012 - Copies of application and certificate sent to the premise licence holder and responsible authorities.

Further information on the subject of this report is available from
Fred Spriggs – Licensing Officer 01432 383542

- Application against interim steps received on 26th March 2012.
- Hearing for Representation against Interim Steps held on 27th March 2012.

Options

- 1 There are a number of option open to the committee:
 - the modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
 - the removal of the designated premises supervisor from the licence;
 - the suspension of the licence for a period not exceeding 3 months; and
 - the revocation of the licence
 - take no further action

Reasons for Recommendations

- 2 Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

Background Information

- 3 The powers to call for an Expedited review are contained in Section 53A of the Licensing Act as amended by the Violent Crime Reduction Act 2006. The powers allow;
 - The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
 - The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.
- 4 The expedited review hearing was held on 1st March 2012 where the committee considered an application made by the Chief Constable of the West Mercia Police. At that hearing the applicants' solicitor offered the following condition which was endorsed by the committee:
 - That the present Designated Premises Supervisor, Joanna West, be replaced by Melody Barton.
 - That the Committee accepts the offer of the Solicitor for the Premises Licence Holder that Mr. Stephen Bengree will be excluded from the curtilage of the said licensed premises through all hours when they are open to the public. The curtilage shall be as

described in the plan previously submitted and approved and Designated 08.096 Drawing 250 namely, the Nags Head Public House (as outlined in blue on the attached plan).

- 5 On 26th March 2012 an application was received against the interim steps on behalf of the premises licence holder Stephen Bengree.
- 6 This hearing was held on 27th March 2012. At that hearing the committee amended the conditions attached to the licence and removed the previous condition imposed at the expedited review hearing in relation to excluding Stephen Bengree from the premises. The conditions attached are shown at appendix c.
- 7 The grounds for the review are contained within the background papers. Also attached is the decision notice of 1st March 2012.

8 **Current Licence**

The current licence authorises the following licensable activities during the hours shown: -

Provision of live music; A performance of dance; Other regulated entertainment; Provision of late night refreshment; Sale by retail of alcohol

Monday-Sunday: 11:00 - 00:30

Any playing of recorded music

Monday-Saturday: 11:00 - 00:00

Sunday: 11:00 - 23:00

9 **Representation**

Copies of the application and certificate have been sent to the responsible authorities. (Appendix a & b)

The police have provided further evidence to support the grounds for calling of the expedited review. (Appendix d)

No further representation has been received.

Key Considerations

- 10 The licensing authority must take into account any relevant representations made. Relevant representations are those that:
 - relate to one or more of the licensing objectives;
 - have not been withdrawn; and
 - are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

Community Impact

- 11 It is felt that any decision will have little effect on the local community.

Legal Implications

- 12 An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
- 13 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.

Consultees

- 14 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.
- 15 The notice of review was displayed on the premises which invited representation. The notice was also displayed at the offices of the Licensing Authority at Bath Street.

Appendices

- 16
 - a. Application Form for Expedited Review
 - b. Certificate
 - c. Decision notice 1st March 2012
 - d. Further evidence served by the police.

Background Papers

Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.

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