

AGENDA

Regulatory Sub Committee

Date: **Tuesday 8 May 2012**

Time: **3.30 pm**

Place: **The Council Chamber, 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

Tel: 01432 261885

Email: rclarke@herefordshire.gov.uk

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 JW Hope MBE
 Councillor FM Norman
 Councillor GA Powell

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

	Pages
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.	
5. APPLICATION FOR A PUBLIC PATH DIVERSION ORDER 'FOOTPATH HM11 IN THE PARISH OF HOPE MANSELL'	1 - 4
To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HM11 in the parish of Hope Mansell.	
Background Papers - Footpath HM11 - Location Plan	5 - 6
6. APPLICATION FOR A PUBLIC PATH DIVERSION ORDER 'FOOTPATHS WBK5 AND WBK1 IN THE PARISH OF WELSH BICKNOR'	7 - 10
To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath WBK5 in the parish of Welsh Bicknor and to make associated, concurrent public path extinguishment and creation orders under Highways Act 1980 sections 118 and 26, to move footpath WBK1 in the parish of Welsh Bicknor.	
Background Papers - Footpath WKB5 - Location Plan	11 - 12
Background Papers - Footpath WBK1 - Location Plan	13 - 14
7. REPRESENTATION AGAINST INTERIM STEPS 'THE GOLDEN FLEECE, 1 ST. OWEN'S STREET, HEREFORD, HR1 2JB.'	15 - 18
To consider a representation against the interim steps imposed on 12 th April 2012 made by Flint Bishop LLP on behalf of Marston's PLC the holders of the premises licence for 'The Golden Fleece, 1 St.Owen Street, Hereford, HR1 2JB'.	
8. APPLICATION FOR A REVIEW OF A PREMISES LICENCE FOLLOWING AN EXPEDITED REVIEW 'THE GOLDEN FLEECE, 1 ST. OWEN'S STREET, HEREFORD.'	19 - 22
To consider a review of a premises licence following an Expedited/Summary Licence Review in respect of 'The Golden Fleece, 1 St. Owen Street, Hereford, HR1 2JB'.	
<i>Please note that an amended report is attached following the representation against interim steps hearing considered prior to the full review.</i>	

Background Papers - The Golden Fleece - Application Form	23 - 28
Background Papers - The Golden Fleece - Decision Notice	29 - 30
Background Papers - The Golden Fleece - Police Representation	31 - 32

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- 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.
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- 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.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
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- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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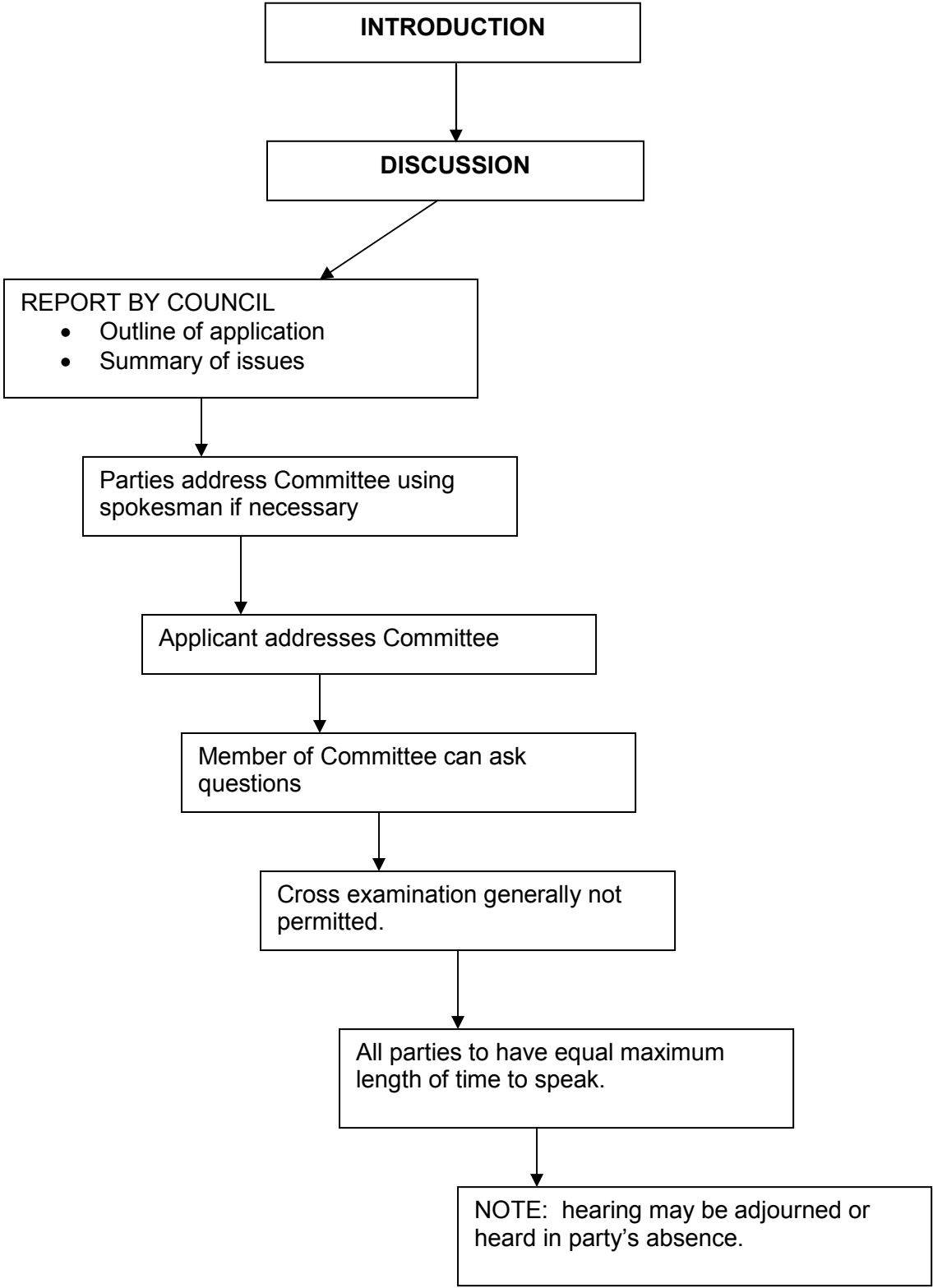
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB- COMMITTEE
DATE:	8 MAY 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HM11 (PART) IN THE PARISH OF HOPE MANSELL
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Penyard

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HM11 in the parish of Hope Mansell.

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: D408/189-11

Key Points Summary

- The applicants Mr and Mrs FW Jeffrey originally applied for the diversion of part of footpath HM11, in the Parish of Hope Mansell, in September 2010.
- Footpath HM11 has long been obstructed by old farm buildings; the proposed diversion order would, if made, and subsequently confirmed, establish on a legal footing the path currently used to avoid these buildings.
- Informal consultations have taken place and there are no outstanding objections to the proposal; the Parish Council had no objections and none was received from the local Member.

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. 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, this could be considered unreasonable.

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 The Report is being considered by the Regulatory Sub-Committee because it has the delegated authority to make the decision whether or not to make an order.

Key Considerations

- 4 Mr and Mrs FW Jeffrey, who own the land over which the existing line of the footpath passes, made the application on 3rd September 2010. Mr E Freeman who owns the adjacent field on which it is proposed to divert the footpath has agreed to the footpath being diverted across his land without claiming compensation. The reason for the application is to give a legal basis to the diversion which the applicants had allegedly been led to believe by Hereford and Worcester County Council in 1979/1980 to have taken place.
- 5 The applicants were led to believe by Hereford and Worcester County Council some years ago that the diversion currently applied for was put in place at that time; a stile was supplied by the Parish Council for the footpath and a finger post erected where the 'diverted' footpath met the road, confirming them in their belief that the 'diversion' was in existence.
- 6 The applicant has carried out all pre-order consultations. The proposal has general agreement.
- 7 The proposed diversion meets the specified criteria as set out in section 119 of the Highways Act 1980 in particular that:
 - i) The proposal benefits the owner of the land crossed by the existing path.
 - ii) The proposed new termination point of the path is substantially as convenient as the existing termination point.
 - iii) The proposal is not substantially less convenient to the public.
 - iv) It would be expedient to proceed with the proposal given the effect it will have on public enjoyment of the footpath.

Community Impact

- 8 The Parish Council and local user groups have been consulted as part of the process and the proposal has general agreement and support. Councillor Bramer has been consulted and has not objected to the proposals.

Financial Implications

- 9 The applicant has agreed to pay for advertising and for the cost of works but in view of the background to this application the Council advised the applicants in March 2010 that they would not be expected to pay the Council's other costs incurred in making the diversion order. The other affected landowner, Mr E Freeman, has given his written consent that he will not claim compensation if this diversion order is made and comes into operation.

Legal Implications

- 10 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

- 11 Should an order be made to divert part of footpath HM11 as recommended within this Report, there is a risk that that the order will receive objections and would then require referral to the Secretary of State which will increase the demands on officer time and resources. Extensive informal consultations and negotiations have taken place to minimise the risk of such objections.

Equality Implications

- 12 The proposed new route facilitates wider access by the public as it will have a kissing gate at either end in place of the existing stiles. Access along the route is over a predominantly flat field with no increase in gradient when compared with the existing route. As such, the proposal is considered to apply with the requirements of the Equality Act 2010.

Consultees

Prescribed organisations as per Defra Rights Of Way Circular 1/09

Local Member – H. Bramer

Hope Mansell Parish Council

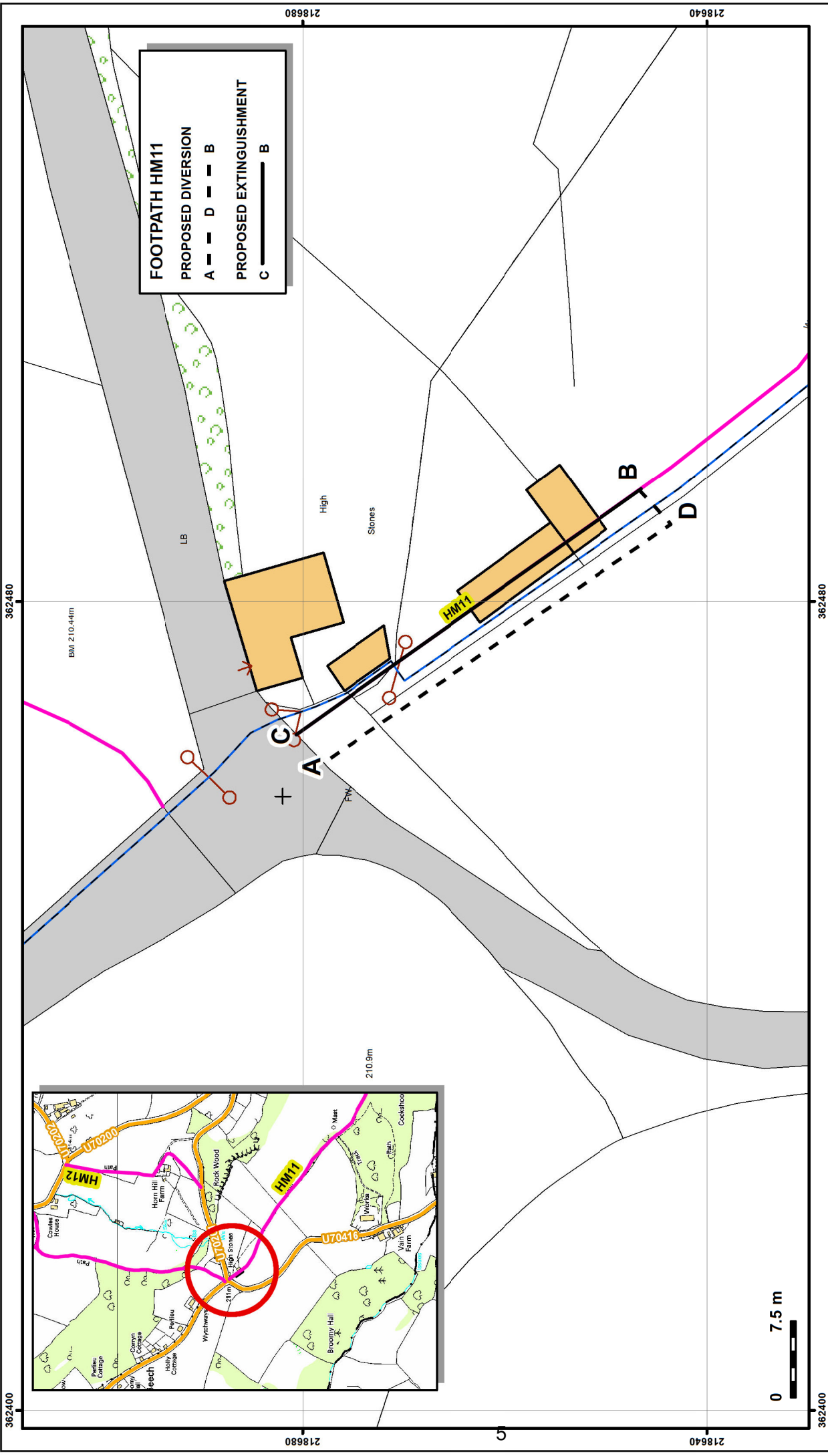
Statutory Undertakers

Appendices

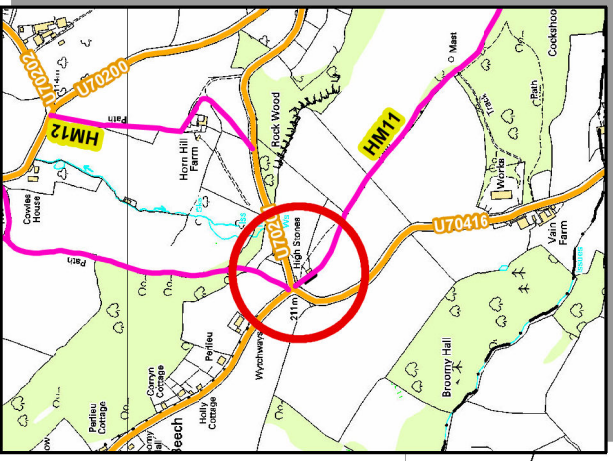
Order Plan, D408/189-11 and Order and Schedule

Background Papers

- None identified



FOOTPATH HM11
PROPOSED DIVERSION
 A - - - - D - - - - B
PROPOSED EXTINGUISHMENT
 C - - - - B

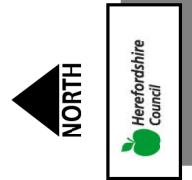


PUBLIC FOOTPATH
 PUBLIC BRIDLEWAY
 RESTRICTED BYWAY
 BYWAY OPEN TO ALL TRAFFIC
 PARISH BOUNDARY

HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL-FOOTPATH HM11 (PART)
PARISH OF HOPE MANSELL
PUBLIC PATH DIVERSION ORDER 2012

DWG No.: D408/189-11
SCALE 1: 500 @ A4

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	8 MAY 2012
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH WBK5 (PART) IN THE PARISH OF WELSH BICKNOR AND PROPOSED PUBLIC PATH EXTINGUISHMENT ORDER AND CREATION ORDER FOOTPATH WBK1 (PART) IN THE PARISH OF WELSH BICKNOR.
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Kerne Bridge

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath WBK5 in the parish of Welsh Bicknor and to make associated, concurrent public path extinguishment and creation orders under Highways Act 1980 sections 118 and 26, to move footpath WBK1 in the parish of Welsh Bicknor.

Key Decision

This is not a Key Decision.

Recommendation

That public path orders are made under Section 119, 118 and 26 of the Highways Act 1980, as illustrated on drawing numbers: D411/405-1 and D411/405-5

Key Points Summary

- An application was made to move footpaths WBK1 and WBK5 by Mrs Rhoda Barnett, acting on behalf of the landowner, Mr J Vaughan of Courtfield Estate.
- The application was to divert WBK5 and associated concurrent orders to extinguish and create WBK1 in order to create a link from the footpath (currently a cul-de-sac) to the Common.
- The proposals were sent out to pre-order consultation to which there were a number of objections.

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

- The Parish Council agreed to the diversion of WBK5 only if the proposals to WBK1 were agreed by the landowner.
- The landowner will not support the proposals for WBK1 without the proposed diversion of WBK5.

Alternative Options

- 1 Under the Highways Act 1980, the Council has the power to make public path 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 orders should be made because it is felt that they meet the criteria set out in the Highways Act 1980 and the Council's Public path order policy and although objections to the proposals have been received, they are felt to be in the wider public interest.

Introduction and Background

- 3 Before an order is made to divert, create or extinguish 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 Mrs Rhoda Barnett, made the application on behalf of the landowner (Mr J Vaughan) on 16th of May 2011. The reasons given for making the application were to enhance the security and privacy of Laundry Cottage and Courtfield House (WBK 5) and to provide a new circular route for local residents and legal access to the common of Coppett Hill,(WBK 1). The current route of WBK1 is a cul-de-sac and does not link with the common.
- 5 The applicant has carried out all pre-order consultation. The proposal has received objections from the Open Spaces Society and the Ramblers' Association.
- 6 The Open Spaces Society (OSS) has objected to the extinguishment of footpath WBK1 as, in their view, the legal test for an extinguishment order, that the path is not needed for public use, has not been met. He also objects to the diversion of footpath WBK5 as it is his opinion that higher rights may exist on the path which would remain in the current location if the footpath were moved. He suggests that the landowner could divert the path as a bridleway. The Byways and Bridleways Trust correspondent, although not objecting to the proposals, also suggested that higher rights may exist on footpath WBK5.
- 7 The OSS correspondent has provided some evidence to suggest that there may be higher rights on WBK5, however, the Rights of Way Manager did not feel there was sufficient evidence to justify rejecting this application.
- 8 The landowner is aware of this issue and has stated that he wishes to proceed with the diversion in spite of the issue of higher rights, he is aware that if higher rights are proven, they will remain *in situ*.
- 9 The landowner has stated clearly that he will only agree to the confirmation of the creation/extinguishment of WBK1 if the order for WBK5 is also confirmed at the same time.

- 10 Similarly, The Goodrich and Welsh Bicknor Group Parish Council will only agree to the confirmation of the diversion of WBK5, if WBK1 creation/extinguishment is confirmed at the same time.
- 11 It is necessary for all three of these orders to be able to stand independently of each other. However, should objections be lodged to any of the orders and it be necessary to submit it to the Secretary of State for determination, the Council would submit all the orders together and ask that either all are confirmed or none.
- 12 The applicant has agreed to pay for advertising and to reimburse, in full, the Council's costs incurred in making the diversion order.
- 13 The local member, Cllr. Jarvis supports the application.
- 13 The proposed diversion of WBK5 meets the specified criteria as set out in Council policy and 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 paths.
 - The proposal is not substantially less convenient to the public.
- 14 The proposed creation of WBK1 meets the specified criteria as set out in Council policy and section 26 of the Highways Act 1980.
- 15 The test for an extinguishment is that the footpath is 'not needed for public use' which is a difficult test to prove. However, by virtue of section 118(5) Highways Act 1980 the effect of the creation order in providing an alternative path can be taken into account in considering whether the existing path is needed for use. It could be considered, that if the creation of the route for WBK1 was capable of confirmation, then the existing route of WBK1 would not be 'needed' as it is a cul-de-sac and therefore an inferior route to the proposed route which will link with Coppett Hill common.

Community Impact

- 16 The proposals have been sent to the Local Member and the Parish Council, they both agree to the proposals.

Financial Implications

- 17 The applicant has agreed to pay all costs necessary for the making of this order.

Legal Implications

- 18 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

- 19 There is a high risk that these orders will be opposed as the OSS and Rambler's Association have expressed their objections already at pre-order consultation stage. This will mean that any objected order made will have to be referred to the Secretary of State for a decision. As it is likely that there will be more than one objection and more than one path is involved, this could possibly lead to a public inquiry. This will increase demands on both officer time and

financial resources. Committee needs to consider the benefit of the link that will be made to Coppett Hill which would evidently be popular with local residents (as requested by the Parish Council) and the benefit to the landowner, with the likelihood of a public inquiry and the costs which would be associated with this which would have to be met by Herefordshire Council.

Consultees

20

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. J G Jarvis
- Goodrich and Welsh Bicknor Group Parish Council.
- Statutory Undertakers.

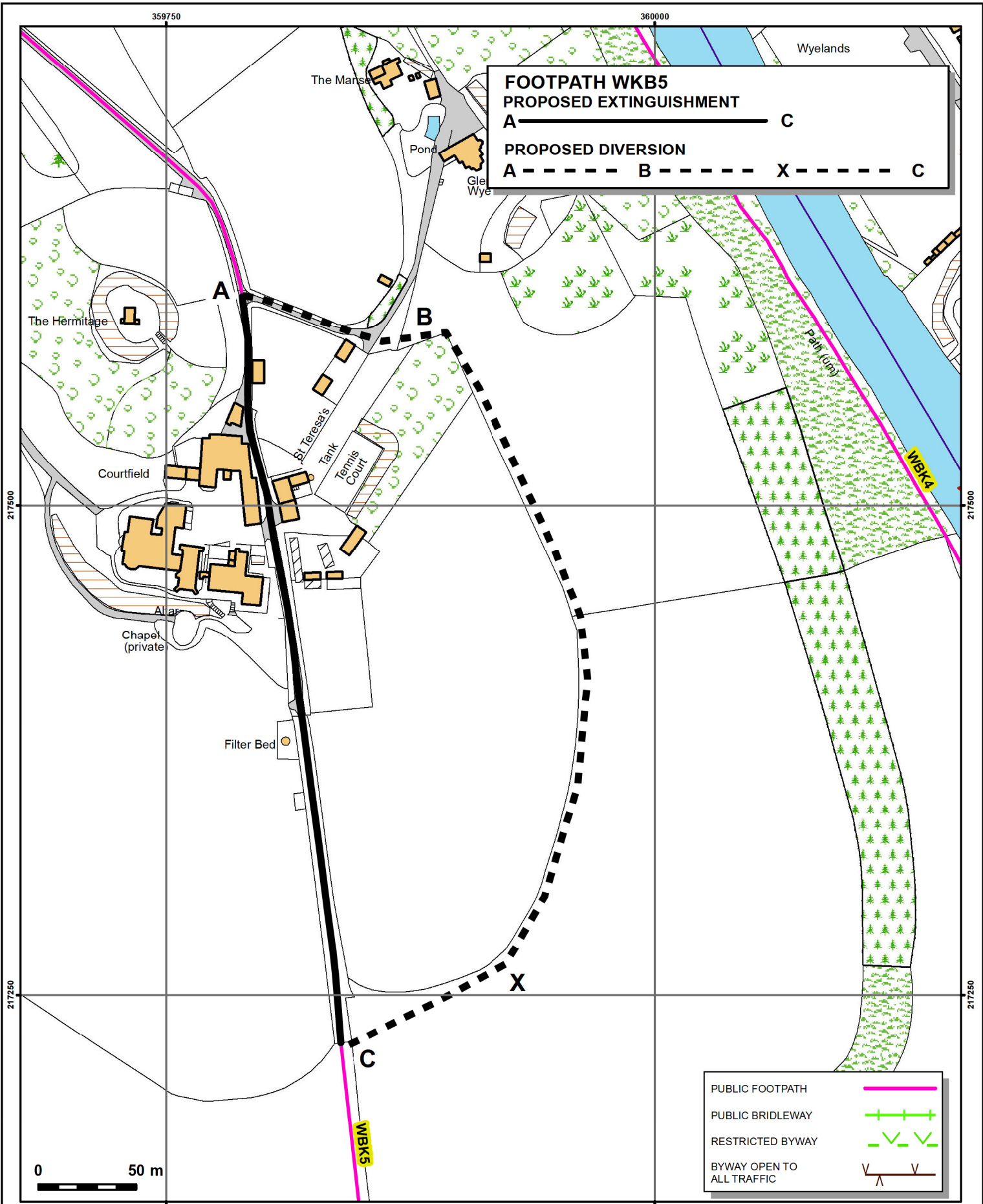
Appendices

21 Order Plan, drawing number: Dwg No: D411/402-1 (Creation & Extinguishment)

Order plan, drawing number: Dwg No: D411/402-5 (Diversion)


Background Papers


- None identified.





**FOOTPATH WKB5
PROPOSED EXTINGUISHMENT**
 A ————— C

PROPOSED DIVERSION
 A - - - - - B - - - - - X - - - - - C

PUBLIC FOOTPATH 

PUBLIC BRIDLEWAY 

RESTRICTED BYWAY 

BYWAY OPEN TO ALL TRAFFIC 

0 50 m



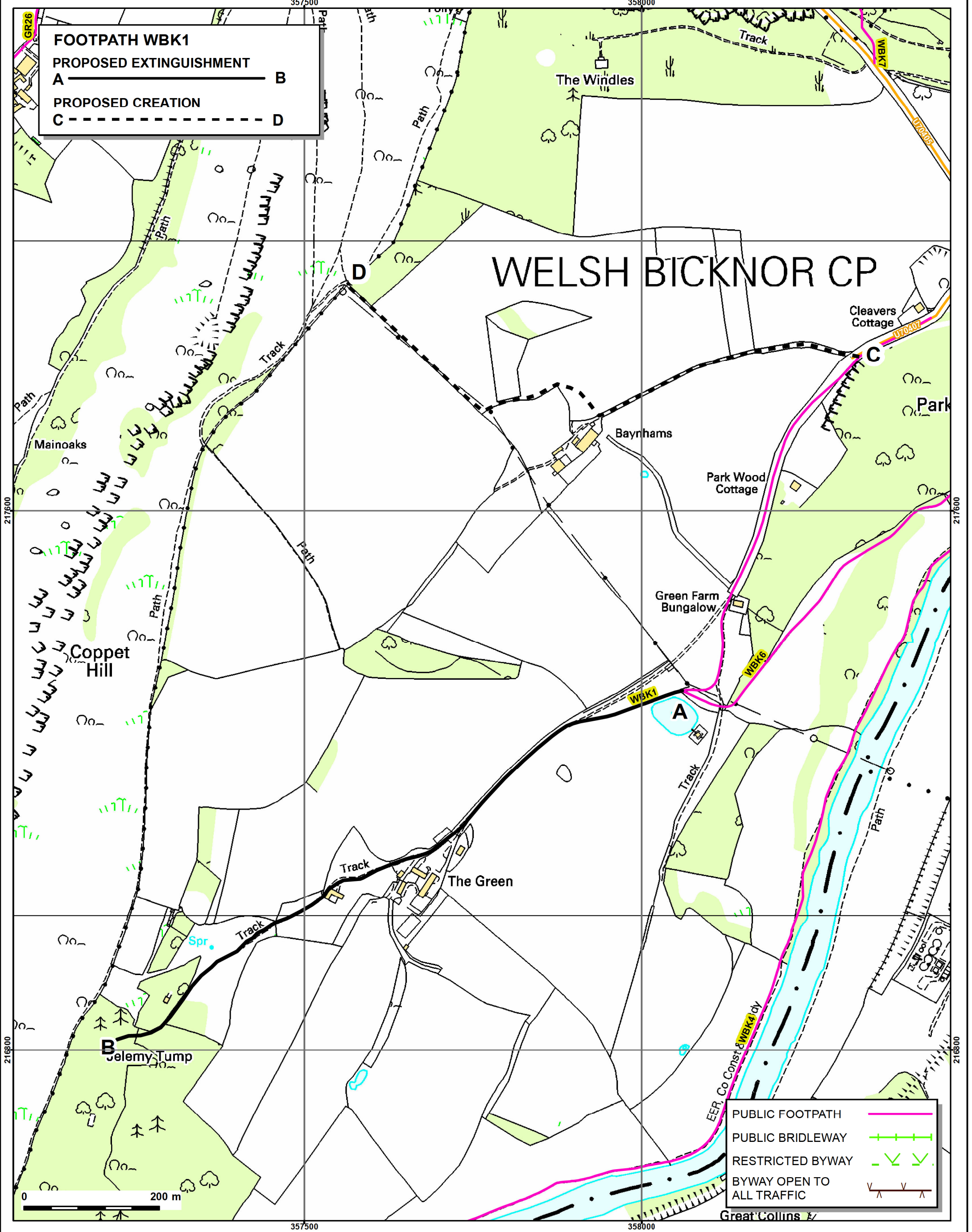
**HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL- FOOTPATH WKB5 (PART)
PARISH OF WELSH BICKNOR
PUBLIC PATH DIVERSION ORDER 2012**

Amey Herefordshire
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**DWG No.: D411/402-5
SCALE 1:2,500@A4**

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FOOTPATH WBK1
PROPOSED EXTINGUISHMENT
A ————— **B**
PROPOSED CREATION
C - - - - - **D**

WELSH BICKNOR CP

PUBLIC FOOTPATH —————
PUBLIC BRIDLEWAY —+—+—+—
RESTRICTED BYWAY —v—v—v—
BYWAY OPEN TO ALL TRAFFIC —v—v—v—

HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL - FOOTPATH WBK1 (PART)
PARISH OF WELSH BICKNOR
PUBLIC PATH EXTINGUISHMENT/CREATION ORDER 2012

DWG No.: D411/402-1
SCALE 1:5,000@A3

Amey Herefordshire
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MEETING:	REGULATORY – SUB-COMMITTEE
DATE:	8 MAY 2012
TITLE OF REPORT:	REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 12TH APRIL 2012 FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: THE GOLDEN FLEECE, 1 ST. OWENS STREET, HEREFORD, HR1 2JB – LICENSING ACT 2003
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PEOPLE'S SERVICES DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Central

Purpose

To consider a representation against the interim steps imposed on 12th April 2012 made by Flint Bishop LLP on behalf of Marston's PLC the holders of the premises licence for 'The Golden Fleece, 1 St.Owen Street, Hereford, HR1 2JB'.

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 11th April 2012.
- Hearing held on 12th April 2012 within the required 48 hours.

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

- 11th April 2012 - Copies of application and certificate sent to the premise licence holder and responsible authorities.
- Representation against the Interim Steps received on 4th May 2012 (Appendix f).
- Hearing today (with required 48 hours)

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;
 - take no further action and leave the interim steps as imposed on 12th April still on the licence

Reasons for Recommendations

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

Background Information

3

Applicant	Adam Thomas – Superintendent West Mercia Constabulary	
	Represented by: - James Mooney – Police Licensing Officer	
Premise Licence Holder	Marston's Plc Marston's House, Woverhampton, West Midlands, WV1 4JT	
Solicitor	Andrew Cochrane, Flint Bishop LLP, Derby	
Type of application: Representation against the interim steps	Date received: 4/5/2012	Interim Steps Hearing 48 hours 8/5/2012

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 12th April 2012 where the committee considered an application made by the Chief Constable of the West Mercia Police. The premises licence holder was not represented at the hearing. At that hearing the committee took the following interim steps:

- That the present Designated Premises Supervisor, Nathan Dimbylow be removed forthwith
- The premises licence be suspended

5 The grounds for the review are contained within the background papers. Also attached is the decision notice of 12th April 2012. (Appendix C).

6 **Current Licence**

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

An exhibition of a film, An indoor sporting event, A performance of live music, Any playing of recorded music, Provision of facilities for Making music & Dancing, Sale by retail of alcohol

Monday-Wednesday: 10:00 - 00:00

Thursday-Saturday: 10:00 - 00:30

Sunday: 12:00 - 23:00

Provision of late night refreshment

Monday-Sunday: 23:00 - 00:00

7 **Representation**

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

The police have provided further representation in respect of the review. (Appendix D)

The police, trading standards and the premises licence holders solicitor have meant and have agreed that the premises licence should be amended and that the old conditions should be removed and replaced with a new set of conditions which have been agreed with all parties. Appendix d).

Key Considerations

8 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

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

Legal Implications

- 10 There is no right of appeal against the representation against the interim steps.
- 11 Any interim steps in place at the final review hearing will remain in force during the period set aside for the appeal or until the appeal is disposed off.

Consultees

- 12 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.
- 13 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

- 14 a. Application Form for Expedited Review
- b. Certificate
- c. Decision notice 12th April 2012
- d. Further police representation
- e. Set of agreed conditions
- f. Application against the Interim Steps

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.

MEETING:	REGULATORY – SUB-COMMITTEE
DATE:	8 MAY 2012
TITLE OF REPORT:	REVIEW OF A PREMISES LICENCE FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW AND REPRESENTATIONS AGAINST THE INTERIM STEPS IN RESPECT OF: THE GOLDEN FLEECE, 1 ST. OWENS STREET, HEREFORD, HR1 2JB – LICENSING ACT 2003
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PEOPLE’S SERVICES DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Central

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 Golden Fleece, 1 St. Owen Street, Hereford, HR1 2JB’.

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 11th April 2012.
- Hearing held on 12th April 2012 within the required 48 hours.
- 11th April 2012 - Copies of application and certificate sent to the premise licence holder and

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

responsible authorities.

- Representation against interim steps made on 4th May 2012
- Hearing held today within required 48 hours.

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

Applicant	Adam Thomas – Superintendent West Mercia Constabulary Represented by: - James Mooney – Police Licensing Officer	
Premise Licence Holder	Marston's Plc Marston's House, Woverhampton, West Midlands, WV1 4JT	
Solicitor	Andrew Cochran, Flint Bishop LLP, Derby	
Type of application:	Date received:	Interim Steps Hearing 48 hours
Expedited Review	11/4/2012	12/4/2012
Representation against interim steps	4/5/2012	8/5/2012

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 12th April 2012 where the committee considered an application made by the Chief Constable of the West Mercia Police. The premises licence holder was not represented at the hearing. At that hearing the committee took the following interim steps:
- That the present Designated Premises Supervisor, Nathan Dimbylow be removed forthwith
 - The premises licence be suspended
- 5 The grounds for the review are contained within the background papers as is the Superintendents certification (appendix a & b). Also attached is the decision notice of 12th April 2012.
- 6 Representation was made against these interim steps on 4th May 2012 (Appendix f) and the matter appeared before the committee today.
- 7 A copy of that decision notice is available.

8 **Current Licence**

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

An exhibition of a film, An indoor sporting event, A performance of live music, Any playing of recorded music, Provision of facilities for Making music & Dancing, Sale by retail of alcohol

Monday-Wednesday: 10:00 - 00:00

Thursday-Saturday: 10:00 - 00:30

Sunday: 12:00 - 23:00

Provision of late night refreshment

Monday-Sunday: 23:00 - 00:00

9 **Representation**

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

The police have provided further representation in respect of the review. (Appendix d)

The police, trading standards and the premises licence holders solicitor have meant and have agreed that the premises licence should be amended and that the old conditions should be removed and replaced with a new set of conditions which have been agreed with all parties. (Appendix e)

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 12th April 2012
 - d. Further police representation
 - e. Agreed conditions
 - f. Representation against the interim steps

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.

West Mercia Police
Herefordshire Territorial Policing Unit
Bath Street
Hereford

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with ~~serious crime / serious disorder / both serious crime and serious disorder~~¹.

*Premises*²:
Golden Fleece
1 St Owen Street
Hereford

Premises licence number (if known):

Name of premises supervisor (if known): Nathan DIMBYLOW

I am a Superintendent Adam Thomas ³ in the West Mercia police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

The premises has been subject to a number of police interventions since the current premises supervisor has been in place. These interventions have come about as a result of a report of at least 14 incidents of disorder - including acts of violence - and nuisance.

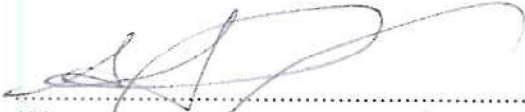
A serious incident occurred during the afternoon of Friday 06 April 2012, which has resulted in significant injuries to a member of the public. The level of violence and seriousness of this latest incident is in the opinion of West Mercia Police such that this review process is required. The standard review process is deemed inappropriate due to the nature of this latest incident.

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.



(Signed)

10/04/2012

(Date)

N/Sept 0573

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Herefordshire Council Licensing Authority

PO Box 233

Hereford. HR1 2ZF

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I James Mooney [on behalf of] the chief officer of police for the West Mercia police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Golden Fleece Public House
1 St Owen Street,
Hereford. HR1 2JB**

Post town: Hereford

Post code (if known): **HR1 2JB**

2. Premises licence details:

Name of premises licence holder (if known): Marstons Brewery

Number of premises licence holder (if known):

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

The premises is a city centre public house. Its customer base is mainly the older members of the community. The premises is a busy and popular day time and early evening venue.

Since May 2011 there has been a steady increase in reports of disorder and nuisance connected to the premises. Some of the incidents have occurred inside the premises and others by customers outside and in the vicinity.

The incidents increased from the middle of October 2011, with the police attending the area on a number of occasions in order to deal with crime and disorder connected with the premises. The majority of the incidents were of a minor nature and concerned in the main customers who had fallen out with each other or other people whilst they were strongly under the influence of alcohol. Due to the regularity of the incidents, on the 20 January 2012, the police Licensing Officer Mr Mooney attended the premises in order to discuss the concerns of the police with the designated premises supervisor (DPS) Nathan Dimbylow.

It was obvious from discussions that Mr Dimbylow was having difficulties in dealing with some of his customers as he indicated that there had been an increase in 'drunks' coming into the public house and he 'did not know what to do'. Suitable advice was given to Mr Dimbylow with a clear expectation that he would take all necessary steps to promote the licensing objectives and reduce the number of disorder incidents being reported.

In addition to this visit, additional police visits were arranged to the premises in order to give the staff and the customers reassurance. For a period of about 3 weeks no issues were reported, unfortunately after this period the incidents started again. These matters concerned the drunken behaviour of customers who were acting in a disorderly manner at or near the premises. Some of these matters have resulted in arrests for crime or disorder.

At about 1530hrs on Friday 06 April 2012, a serious assault took place at the premises, this matter is subject to a police investigation with two males currently on police bail.


Briefly the circumstances are that a male became involved in an argument with two men inside the premises, this resulted in some 'pushing and shoving' and the throwing of beer at each other. The dispute moved to the area immediately at the front of the premises, where one male was knocked to the ground causing significant life threatening injuries. At the time of this incident the premises was open with a number of customers. It is believed that the DPS Nathan Dimbylow was not in the public part of the premises at the time of this incident and that he was not working.

It is the view of West Mercia Police that this premises is connected with

serious crime and disorder due to the number of incidents that have occurred especially since Nathan Dimbylow took over as the DPS. The cumulative impact caused by the number of incidents that have occurred since mid 2011 have had a serious impact on the level of crime and disorder at or near this location.

The serious incident that occurred on 06 April 2012, indicates a significant flaw in the ability of the premises licence holder and the DPS to manage the premises in an effective and safe manner in order to promote the licensing objectives.

It is the view of West Mercia Police that this latest incident is a serious crime matter which can result in a prison custodial sentence of three years or more on first conviction

Signature of applicant: 

Date: 11 April 2012

Capacity: Police Licensing Officer

Contact details for matters concerning this application:

Address:

Hereford Police Station

Bath Street

Hereford. HR1 1HT

Telephone number(s): 01432 347102

Email: james.mooney@westmercia.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

HEREFORDSHIRE COUNCIL
**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)**

PREMISES	The Golden Fleece
PREMISES LICENCE HOLDER	Marston's PLC
DESIGNATED PREMISES SUPERVISOR	Mr Nathan Dimbylow
APPLICANT'S NAME	West Mercia Police
APPLICATION TYPE	Summary Review
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor FM Norman Councillor GA Powell
DATE OF MEETING	12 April 2012

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from James Mooney, representing West Mercia Police. The Committee noted that the premises licence holder was not present but received confirmation from the Licensing Officer that the papers had been served on Marston's PLC by email on 11 April 2012.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Council's Licensing Policy. The Members made the following decisions in order to promote the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance..

DECISION

- 1 That the premises licence for the Golden Fleece be suspended forthwith subject to a full review.
- 2 That Mr Nathan Dimbylow be removed as the Designated Premises Supervisor of the premises forthwith

REASON

- 1 The Committee has found that there has been serious disorder at the premises and has made its decision having heard evidence from West Mercia Police and in accordance with the guidance issued under Section 53A of the Licensing Act 2003 as amended. The Committee therefore decided that to promote the licensing objectives of the prevention of crime and disorder, public safety and the prevention of public nuisance, the licence should be suspended.

HEREFORDSHIRE COUNCIL**REGULATORY COMMITTEE DECISION NOTICE
(THE LICENSING ACT 2003)****ADDITIONAL INFORMATION**

- 1 The Committee is required to review the premises licence in full within 28 days of the application for a summary licence review made on 11 April 2012.
- 2 The Licensee may make representations to the licensing authority in respect of the interim steps at any stage prior to the review. These representations must be heard by Committee within 48 hours (When calculating the 48 hour period any non-working day will be disregarded).
- 3 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

From: Mooney,James [james.mooney@westmercia.pnn.police.uk]
Sent: 23 April 2012 09:38
To: Licensing; Spriggs, Fred
Subject: Golden Fleece Public House, St Owen Street, Hereford

NOT PROTECTIVELY MARKED

As you are aware West Mercia Police submitted an expedited review application concerning the **Golden Fleece Public House, St Owen Street, Hereford**. Interim steps have been put in place and it is likely that a full licensing review hearing will be held later this month.

In order to progress this matter, West Mercia Police would seek to apply the following as a means of resolving this matter through the regulatory sub committee -

1. Permanent removal of Nathan Dimbylow as the designated premises supervisor (DPS) for the premises

To apply the following conditions to the premises licence -

1. 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 sale/ 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.An incident log must be kept at the premises, and made immediately available on request to an authorised Trading Standards Officer of Herefordshire Council or 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

3. All bar staff engaged in the sale of alcohol to be trained in Responsible Alcohol Retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Trading Standards. (All existing staff shall be trained within one month of the date that this condition appears on this licence. All new staff shall be trained within one month of taking up employment. All staff shall be re-trained six monthly thereafter. Training records shall be kept on the premises which shall show the name of the training course attended, the date of the training, the name of the person

undertaking the training and shall be produced to the police , an authorised Trading Standards Officer of Herefordshire Council or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) on demand.

4. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the Licensing Authority, an authorised Trading Standards Officer of Herefordshire Council or Police. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least once every 5 metres behind any bar advertising the scheme operated

5. The DPS will employ SIA doorstaff at times when a risk assessment dictates door supervision to be necessary.

6. The Premises Licence Holder or DPS or a person nominated by them in writing for the purpose, shall maintain a register of door supervisors (when required) which shall be kept on the premises showing the names and addresses of the door supervisors, their badge numbers and shall be signed by the door supervisors as they commence and conclude duty. The register shall be made available on demand for inspection by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), or the Police or an authorised officer of the SIA

7. The premises shall be an active member of the HAND Scheme (Pub Watch) while such a scheme or similar exists.

8. A Hereford City centre 'Pub Radio' shall be held at the premises. A responsible person shall log on at the control centre at the commencement of licensable activities. A responsible person shall monitor the radio throughout the period which the premises are open for licensable activities. Any information likely to have an impact on any of the licensing objectives shall be transmitted on the radio immediately.

9. The premises licence holder will ensure that all staff understand their responsibilities to co-operate with the Licensing Authority, any other responsible authority and the Police as to any visit made to the premises by an authorised person or the police as a result of any complaint made regarding the premises.

It is our view that these conditions are proportionate and necessary with regards to the issues that are connected to the premises which have resulted in the review application. These conditions are both achievable and enforceable.

Regards

Jim Mooney
 Police Licensing Officer - South Hub
 Territorial Policing Unit - Herefordshire
 West Mercia Police
 01432 347102 (direct line)
 07792 366 462 (work)
herefordandworcesterlicensing@westmercia.pnn.police.uk

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