

AGENDA

Regulatory Sub Committee

Date: **Tuesday 29 January 2013**

Time: **2.00 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

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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

Chairman

Vice-Chairman

Councillor PL Bettington

Councillor JW Hope MBE

Councillor C Nicholls

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 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 TO DIVERT FOOTPATH H06 IN THE PARISH OF HOLMER** 1 - 6
To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HO6 in the parish of Holmer.
6. **APPLICATION TO DIVERT BRIDLEPATH WV5 IN THE PARISH OF WOLFERLOW** 7 - 12
To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of bridlepath WV5 in the parish of Wolferlow.
7. **APPLICATION TO DIVERT FOOTPATH HER50 IN HEREFORD** 13 - 18
To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HER50, Hereford.
8. **EXCLUSION OF THE PUBLIC AND PRESS**
In the opinion of the Proper Officer, the following item will not be, or is likely not to be, open to the public and press at the time it is considered.

RECOMMENDATION:

that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
 - 1 Information relating to any individual.
 - 2 Information which is likely to reveal the identity of an individual.
9. **REVIEW OF THE SUSPENSION OF A DUAL DRIVER HACKNEY CARRIAGE/PRIVATE HIRE DRIVER'S LICENCE** 19 - 28
To determine whether a driver continues to be a fit and proper person to hold a dual driver's licence and review the suspension upheld by the Officer Panel held on 18 December 2012.

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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.
- 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.
- 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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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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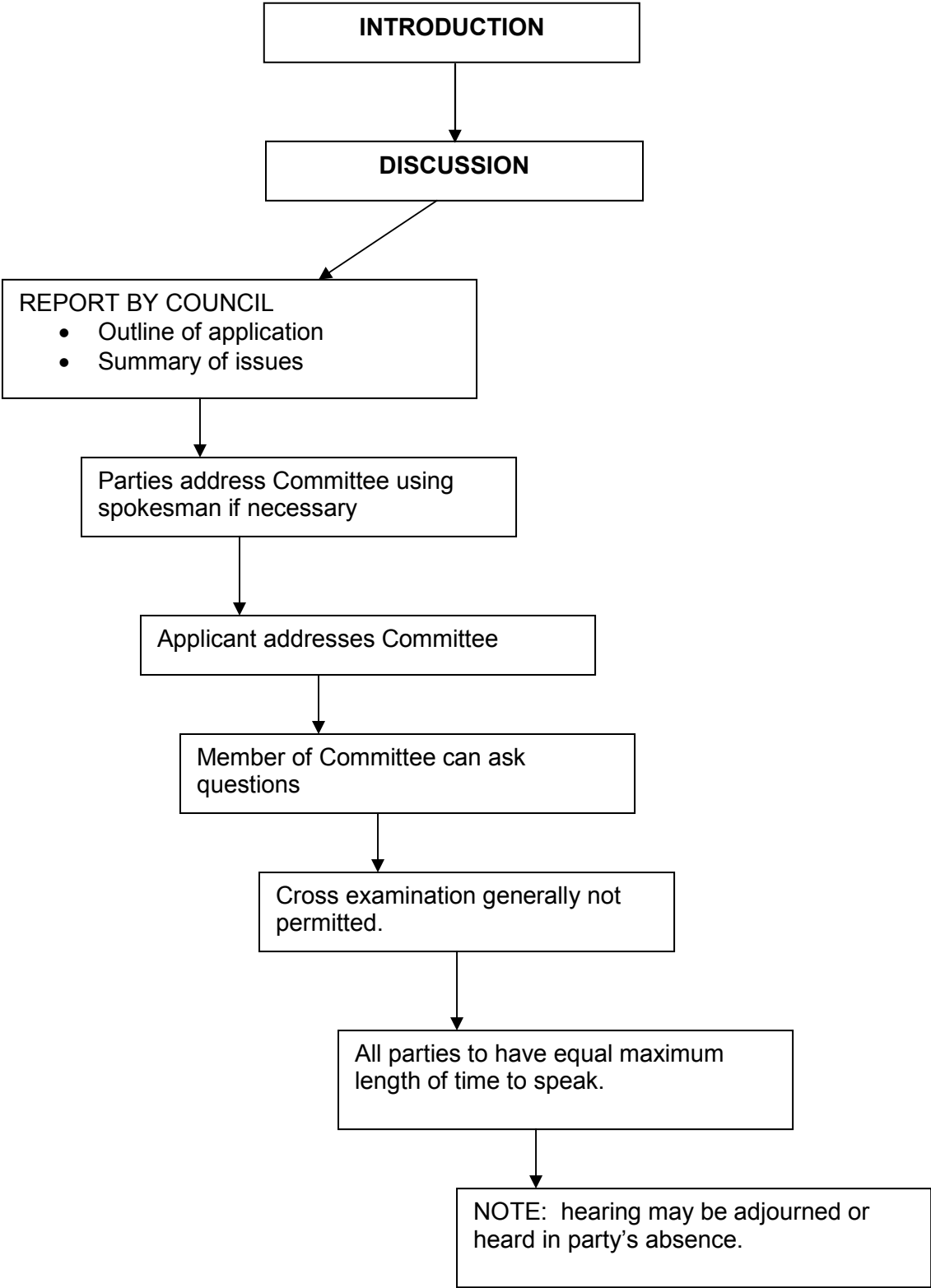
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	29 JANUARY 2013
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HO6 (PART) IN THE PARISH OF HOLMER
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Burghill, Holmer and Lyde

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HO6 in the parish of Holmer.

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: D427/186-6(iii)

Key Points Summary

- A diversion is proposed in the interest of the public.
- The reason for the diversion is to avoid the footpath exiting onto Attwood Lane, which was considered to be dangerous for users of the path.
- A pre-order consultation has been carried out, to which there were no objections.
- The diversion will be funded by developer contributions through section 106.

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 s119 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, it is necessary to gain a decision from the Regulatory Sub-Committee as they have the delegated authority to make this decision.

Key Considerations

- 4 A diversion is proposed in the interests of the public in order to remove the danger of exiting from footpath HO6 onto the busy Attwood Road. The diversion will alter the end of the footpath so that it exits onto the adjacent cycle-track instead, making it safer for users.
- 5 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement.
- 6 The costs of the diversion will be met through developer contributions (s106).
- 7 The local member, Cllr. S J Robertson fully supports the application.
- 8 The proposed diversion 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 public.
 - The proposal does alter the point of termination of the paths but to a point which is not less convenient and is on a connecting highway.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 A comprehensive pre-order consultation has been carried out, to which the Parish Council replied that they support the proposals.

Financial Implications

- 10 The costs of the diversion (approximately £2000) will be met by developer contribution through s106.

Legal Implications

- 11 Under S119 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

- 12 If an order is made as proposed, there is a risk that it may receive objections, which would necessitate it's referral to the Secretary of State for a decision, thus placing an increased demand on officer time and resources. However, this risk is minimal as there have been no

objections at pre-order consultation stage.

Equality Implications

- 13 The existing route has a stile at point B (on the order plan), the proposed route will not have any 'furniture'. As such, the proposal is considered to comply with the requirements of the Equality Act 2010.

Consultees

14

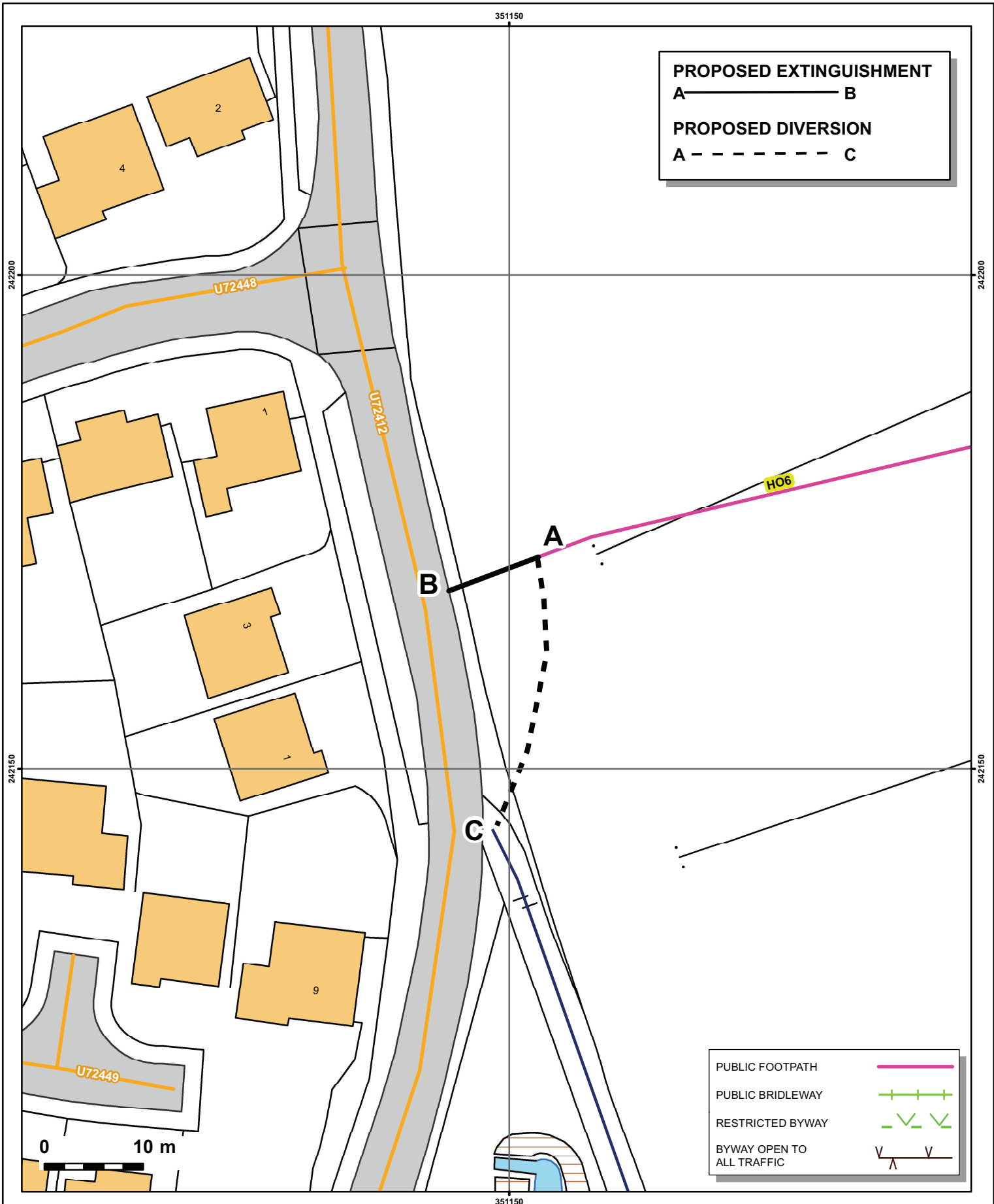
- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. S J Robertson
- Holmer and Shelwick Parish Council.
- Statutory Undertakers.

Appendices

- 15 Order Plan, drawing number: D427/186-6(iii) and Order and Schedule.

Background Papers

- None identified.



**HIGHWAYS ACT 1980, SECTION 119
 HEREFORDSHIRE COUNCIL-PUBLIC FOOTPATH HO6(PART)
 PARISH OF HOLMER & SHELWICK
 PUBLIC PATH DIVERSION ORDER 2012**



**DWG No.: D427/186 - 6
 SCALE 1: 500 @ A4**

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	29 JANUARY 2013
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER BRIDLEWAY WV5 (PART) IN THE PARISH OF WOLFERLOW
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Bringsty

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of bridlepath WV5 in the parish of Wolferlow.

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: D425/423-5

Key Points Summary

- A proposal for a diversion was received from the Parish Footpaths Officer, Tom Fisher.
- The legal line of WV5 is currently unavailable due to being out of repair.
- The proposed route has been used by the public for a number of years.
- The landowners have given their consent to the proposals.
- The diversion is considered to be in the public interest and is therefore to be funded by the public rights of way department.
- A pre-order consultation has been carried out, to which one objection was received from the Open Spaces Society.

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 s119 of the Highways Act and the Council's Public path order policy and although an objection to the proposals has been received, it is felt to be in the wider public interest.

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 it holds the delegated authority to make this decision.

Key Considerations

- 4 Mr Fisher, who is the Parish Footpaths Officer, proposed the diversion. The reason given for making the application was to open up the bridleway for public use as it is currently unavailable.
- 5 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement, however one objection has been received from the Open Spaces Society.
- 6 The objection received was due to the path passing *'either through or very close to dramatically unsightly dumped farm detritus and passes along a farm access track to gain access to this unsightly mess'*. The objector offered an alternative route, however this has been declined by the landowner as it would not be in the interests of his current farming practices. It is felt that the order can be successfully defended if the matter went to the Planning Inspectorate for a decision as the 'detritus' is not a permanent feature and therefore could be moved.
- 7 The proposed diversion is deemed to be in the public's interest and will therefore be carried out by the public rights of way department at no cost to the landowner. This is because to re-instate the existing right of way is estimated to cost around £2657.70 (for clearance of route). There would also be additional annual expenditure required to trim seasonal vegetation on the existing route which is not required on the proposed route much of which follows a surfaced track. The cost for a diversion is around £2000 and is therefore, a more cost effective method of opening up WV5.
- 8 The local member, Cllr. G R Swinford, has no objections to the proposals.
- 9 The proposed diversion meets the specified criteria as set out in Council policy and section 119 of the Highways Act 1980 in particular that:
- The proposal is considered to be in the interests of the public..
 - The proposal does not alter the point of termination of the paths.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 10 A pre-order consultation has been carried out, to which the Parish Council replied that they

support the proposals.

Financial Implications

- 11 The proposed diversion is considered to be in the public interest and will be funded by the Public Rights of Way department.

Legal Implications

- 12 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

- 13 The risk of making an order as proposed is that it is likely that the Open Spaces Society will object to the order which will require the matter to be referred to the Secretary of State for a decision. This could result in a public inquiry which will place increased demands on officer time and resources.

Equality Implications

- 14 The proposed new route has gentle gradients and follows a farm track for part of the route. Where the proposed route passes a boundary line, the access will be through gates to British standard. The existing route has similar gradients to the proposed, however, follows the track for a shorter distance than the proposed route. As such, the proposal is considered to comply with the requirements of the Equality Act 2010.

Consultees

15

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Member – Cllr. G R Swinford
- North Bromyard Group Parish Council.
- Statutory Undertakers.

Appendices

- 16 Order Plan, drawing number: D425/423-5 and Order and Schedule.

Background Papers

- None identified.



**HIGHWAYS ACT 1980, SECTION 119
 HEREFORDSHIRE COUNCIL - BRIDLEWAY WV5 (PART)
 PARISH OF WOLFERLOW
 PUBLIC PATH DIVERSION ORDER 2012**



**DWG No.: D425/423-5
 SCALE 1:2,500 @ A4**

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MEETING:	REGULATORY SUB-COMMITTEE
DATE:	29 JANUARY 2013
TITLE OF REPORT:	HIGHWAYS ACT 1980, SECTION 119. PROPOSED PUBLIC PATH DIVERSION ORDER FOOTPATH HER50 (PART), HEREFORD
PORTFOLIO AREA:	HIGHWAYS AND TRANSPORTATION

CLASSIFICATION: Open

Wards Affected

Belmont

Purpose

To consider an application under the Highways Act 1980, section 119, to make a public path diversion order to divert part of footpath HER50, Hereford.

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: D428/HER-50

Key Points Summary

- Herefordshire Council applied for the diversion in April 2012.
- The diversion is proposed in order to realign the right of way with the newly created path through Belmont Haywood Country Park.
- There are no objections to the proposals.

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 any objections

received at pre-order consultation stage have been over-come.

Introduction and Background

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

Key Considerations

- 4 Herefordshire Council, who is the landowner, made the application in April 2012 in order to realign the legal public right of way with the new track created through Belmont Haywood Country Park.
- 5 Pre-order consultation has been carried out by the Public Rights of Way department. The proposal has general agreement although the Open Spaces Society correspondent was concerned with initial proposals that the footpath would pass through the car-park. This has been amended and a path created around the outside of the car-park to separate vehicles and pedestrians.
- 6 The costs of the diversion are to be met by Herefordshire Council.
- 7 The local members, Cllr. Bridges, Cllr. Edwards and Cllr. Powell support 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 alters the point of termination of the path but only to another point that is substantially as convenient.
 - The proposal is not substantially less convenient to the public.

Community Impact

- 9 A comprehensive pre-order consultation has been carried out and has no outstanding objections. Hereford City Council was consulted and does not hold any objections to the proposals.

Financial Implications

- 10 The costs of the diversion are to be met by Herefordshire Council as part of the s.106 agreement and are likely to be in the region of £2000. The s.106 monitoring officer has agreed the use of the funds.

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

Risk Management

- 12 There is a risk that if an order is made as proposed it may receive objections, however, this risk is minimal as there were no objections received at pre-order consultation stage.

Equality Implications

- 13 The proposed new route is relatively flat, surfaced and the gates have Radar key access, as such, the proposal is considered to comply with the requirements of the Equality Act 2010.

Consultees

14

- Prescribed organisations as per Defra Rights Of Way Circular 1/09.
- Local Members – Cllr. A N Bridges, Cllr. P J Edwards and Cllr. G A Powell
- Hereford City Council
- Statutory Undertakers.

Appendices

- 15 Order Plan, drawing number: D428/HER-50 and Order and Schedule.

Background Papers

- None identified.



PROPOSED EXTINGUISHMENT
 A ——— B ——— C ——— D
PROPOSED DIVERSION
 G - - - - F - - - - E - - - - D

- PUBLIC FOOTPATH
- PUBLIC BRIDLEWAY
- RESTRICTED BYWAY
- BYWAY OPEN TO ALL TRAFFIC

HIGHWAYS ACT 1980, SECTION 119
HEREFORDSHIRE COUNCIL, PUBLIC FOOTPATH HER50 (PART)
HEREFORD CITY
PUBLIC PATH DIVERSION ORDER 2012
DWG No.: D428/HER-50
SCALE 1:1,250 @ A4

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