

## DERBYSHIRE COUNTY COUNCIL

### MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND INFRASTRUCTURE

12 September 2019

Report of the Executive Director – Economy, Transport and Environment

#### USE OF PUBLIC RIGHTS OF WAY FOR THE 2019 EDINBURGH TRIAL

(1) **Purpose of Report** To seek the Cabinet Member's approval for the Executive Director – Economy, Transport and Environment to issue authorisation under Section 33 of the Road Traffic Act 1988 for the holding of a set of trails between motor vehicles along public rights of way, on 5 October 2019.

(2) **Information and Analysis** The County Council has received a request for the Motor Cycle Club to be authorised to hold trials along seven public footpaths located in or close to the National Park, including Litton Public Footpath 7 (known as "Litton Slack"), as part of the 2019 Edinburgh Trial (the Trial) which is to take place on 5 October 2019.

The promotion or taking part in a motor vehicle trial on a public footpath, public bridleway or restricted byway requires a prior authorisation by the County Council, under Section 33 of the Road Traffic Act 1988. This can only happen if the Council is satisfied that the relevant landowner(s) and occupier(s) have given consent in writing to the use. Whenever a request is made and it is clear that the landowners and occupiers have so consented, a decision must therefore be made on whether to authorise the Trial using the public right of way, taking into account all relevant circumstances, including any impacts the Trial may have on the environment, use of rights of way and the amenity of local communities. The County Council may give such authorisation subject to compliance with such conditions as it thinks fit.

The Edinburgh Trial was inaugurated by the Motor Cycle Club in 1904. It became established as a test of motoring skill and endurance between London and Edinburgh, and has been run every year, except for the Second World War and foot and mouth disease outbreaks. It has, for many years, been centred on the Peak District, having been amalgamated with the Club's annual Derbyshire Trial. For many years, up to 2009, it included Litton Slack, and the Cabinet Member, on 19 September 2018, approved the authorisation

of a trial which allowed this tradition to be revived for the 2018 Trial (Minute No. 83/18 refers).

The Trail will involve a significant number of competitors in vehicles comprising motorcycles and motor cars of a variety of types and ages, each with valid insurance. No four wheel drive vehicles or 'off road' tyres are allowed. It is a timed event, not a race, over a period of less than a day from start to finish.

The Council's formal policy on motorised vehicles in the countryside is still contained in the Countryside Service 'Management of Green Lanes' document which was approved for publication by Cabinet on 24 July 2012 (Minute No. 216/12 refers). Policy Statement 8 provides that "*The Council will support efficiently organised Motor Trial events where organisers can demonstrate that liaison with the Police, local communities, landowners and conservation bodies has been carried out*". This document also refers to the County Council's guidelines for motor vehicle trials, which were originally approved by the Cabinet Member – Environmental Services on 7 May 2009, as "the Code of Practice for the authorisation of Motorised Trials on Non-Classified Highways and Rights of Way" (Minute No. 110/09 refers).

The 2009 Chief Officer report to the Cabinet Member set out the 10 paragraphs and described them both as 'key requirements' and 'guidelines'. It also explained that they were "*not intended to be punitive and prevent a Trial taking place*", and were "*an attempt to formalise good practice and, more importantly, enable the County Council to reduce damage and impact on minor highways including public rights of way*". The approval of the guidelines recognised a discerning approach by the Council to authorisation, without removing the basic need for any request, under Section 33 of the Road Traffic Act 1988, to be considered having regard to all relevant circumstances. Paragraph 1 of the guidelines states:

*"No event shall take place on any Public Right of Way that does not carry vehicular rights. This precludes Public Footpath, Public Bridleway and Restricted Byway from use for Motorised Trials. Crossing a Public Footpath, Public Bridleway and Restricted Byway will be permitted. Public Rights of Way may be crossed by the trial, provided that they are marshalled."*

A literal reading of the first two sentences of this paragraph, in isolation, may suggest total opposition to trial events over any types of way with a highway status of footpath, bridleway or restrictive byway. However, this would be in contradiction of the Council ever giving authorisations under Section 33 of the Road Traffic Act 1988, which is neither tenable, nor consistent with these guidelines as a whole. The real and valid concern behind Paragraph 1 is general unsuitability for motoring events of footpaths, bridleways and restricted byways which run along routes which are "purely non-motorised", in

the sense of not normally being available for any private use with a motor vehicle (even for agricultural forestry or conservation work). These routes tend to be narrow pathways which are inaccessible by most types of motor vehicle other than motorcycle. Litton Footpath 7 (Litton Slack) is not a footpath along such a route, being through an area of farmed open grassland, though it is on a steep gradient.

A review of this policy will take place when resources permit.

With ongoing monitoring and the subsequent recovery of the sites following last year's Trial there appears to be no reason to withhold consent. The Trial is being efficiently organised. The Organisers have gained the consent of the various landowners and notified the Peak District National Park Authority (PDNPA). The Heritage and Culture Team within the PDNPA has raised concerns about the possibility of long-term damage to the use of Litton Footpath 7 (Litton Slack) which also passes through a Site of Special Scientific Interest (SSSI). The 2018 Trial took place following a period of wet weather. Although there was visible scarring of the surface at Litton Slack from last year's event, the surface has recovered and no exceptional concerns or long-term issues have been reported to, or found by officers. In this instance, the event organisers are willing to accompany officers on inspections of the path, both before and after the event. These inspections will take place to assess whether there are any remedial works necessary following the trial. Any such works would be carried out at the expense of the Motor Cycle Club.

Having regard to all the circumstances, it is not considered that authorising these trials (subject to compliance with any conditions that the Executive Director finds appropriate) would have any significant dis-benefits for the environment, for rights of way use, for public amenity, or otherwise.

(3) **Financial Considerations** If the trials are authorised and any Temporary Closures in the form of a Special Event Order are required, under the terms of the authorisation, a set fee of £340 per Order, plus advertising costs will be met by the Motor Cycle Club.

(4) **Legal Considerations** Section 33 of the Road Traffic Act 1988 prohibits persons from promoting or taking part in trials of any description between motor vehicles on footpaths, bridleways and restricted byways, except where the County Council is satisfied that the owner(s) and occupier(s) of the relevant land have given consent in writing to the relevant use and the Council gives prior authorisation for holding the trial (which may be subject to compliance with such conditions as the Council sees fit). A request for authorisation of a trial should not be refused without sound reason(s).

There is no specific delegation within the scheme of delegation in the Council's constitution regarding the giving of Section 33 authorisations. The giving of an authorisation for a short trial with appropriate conditions can be regarded as exercising a routine matter of day-to-day administration and operational management, provided it does not raise any budgeting or policy issues, so that it is within the scope of the general Chief Officer delegations in the scheme of delegations.

However, in this case, given the location of the footpaths affected in the National Park and the SSSI value of the land in the case of Litton Slack, it is considered to be appropriate to seek the approval of the Cabinet Member to proceed with the authorisation.

### **Other Considerations**

In preparing this report the relevance of the following factors have been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, social value and transport considerations.

- (5) **Key Decision** No.
- (6) **Call-in** Is it required that call-in be waived on respect of the decisions proposed in the report? No.
- (7) **Background Papers** Held on file within the Economy, Transport and Environment Department.
- (8) **OFFICER'S RECOMMENDATION** That the Cabinet Member approves for the Executive Director – Economy, Transport and Environment, on behalf of the County Council, issuing authorisation of Section 33 of the Road Traffic Act 1988, for the running of trials between motor vehicles as requested by the organisers of the 2019 Edinburgh Trial event, subject to any conditions such as he may see fit.

**Mike Ashworth**  
**Executive Director – Economy, Transport and Environment**