

Agenda Item No. 4(a)

**DERBYSHIRE COUNTY COUNCIL**

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

**19 September 2018**

Report of the Strategic Director – Economy, Transport and Environment

**USE OF LITTON PUBLIC FOOTPATH NO.7 BY THE EDINBURGH TRIAL**

(1) **Purpose of Report** To seek approval to the giving of authorisation for motor vehicle use of Litton Public Footpath No.7 for the Edinburgh Trial on Saturday 6 October 2018, subject to compliance with conditions.

(2) **Information and Analysis** The Edinburgh Trial was inaugurated by the Motor Cycling Club (MCC) in 1904 and became established as a test of motoring skill and endurance between London and Edinburgh. It 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. This historical trial event for many years up to 2009 used Litton Public Footpath 7, known as "Litton Slack". According to the Club, the Litton Slack section was first used in 1922. The organisers are seeking formal authority from the Council to allow this tradition to be revived for the trial event this year.

The 2018 Edinburgh Trial is to take place on 6 October. It 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. 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 the provisions of Section 33 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 relevant Council Policy on motorised vehicles in the countryside is contained in the Countryside Service 'Management of Green Lanes' document which was approved for publication by the Cabinet in 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 in 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 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 the 1988 Act, which is neither tenable, nor consistent with these guidelines as a whole. The real and valid concern behind Paragraph 1 is a 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). In practice, most of these routes would be narrow pathways which would tend to be inaccessible by most types of motor vehicle other than motorcycle. Litton Footpath 7 is not a footpath along such a route, being through an area of farmed open grassland.

In the context of the recent request by MCC organisers, the historic background to the Edinburgh Trial as noted above, and the content of the guidelines, it has been considered prudent to assess whether there are any

dis-benefits resulting from the running of a trial as proposed along this section of public footpath, and to report accordingly to the Cabinet Member - Highways, Transport and Infrastructure.

In all cases the consent of the landowner is required and in this instance that has been provided.

The section of Litton Footpath 7 would be used in the traditional uphill direction. It is on a steep gradient and runs through an area of open grassland which is designated as a Site of Special Scientific Interest, as indicated on the attached plan. Both Natural England and the Peak District National Park Authority have been consulted about the proposal, and neither object to it.

Having regard to all the circumstances, the Council is satisfied that the trail event over a section of Footpath 7 for which authorisation is sought in this instance will not have any significant dis-benefits for the environment, rights of way use, the structure of the path, or public amenity, provided that the consent is granted subject to compliance with conditions to be finalised so as to provide the following safeguards:

1. A pre-trial survey will take place with the event organisers to assess the current condition and stability of the route.
2. The trial shall not use the route if there is an excessively wet period prior to the date of the trial.

A post-trial survey will take place to assess whether there are any remedial works necessary following the passage of the trial. Any repairs will be carried out at the expense of the trial organisers and the works inspected.

(3) **Financial Considerations** A standard charge representing three hours of officer time is required to be paid. This reflects an average of three hours for investigating and processing the request, including carrying out liaison and site visits. Any more officer time which is needed will be absorbed as part of the Council's services.

(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).

There is no specific delegation within the scheme of delegation in 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, bearing in mind the location of the footpath affected within the National Park and the SSSI value of the land through which it runs, it is considered to be appropriate to seek the approval of the Cabinet Member to proceeding with the authorisation.

### **Other Considerations**

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

(5) **Key Decision** No.

(6) **Call-in** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on file within the Economy, Transport and Environment Department. Officer contact details - Peter J White, Extension 39673.

(8) **OFFICER'S RECOMMENDATIONS** That the Cabinet Member approves the issuing by the Strategic Director – Economy, Transport and Environment, on behalf of the County Council, of an authorisation under Section 33 of the Road Traffic Act 1988 for holding of a motoring trial on Litton Public Footpath No.7, as part of the Edinburgh Trial event on 6 October 2018, subject to compliance with such conditions as the Strategic Director may specify as he considers necessary.

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