

Derbyshire County Council

Meeting of Cabinet Member – Environmental Services

7 May 2009

Report of the Strategic Director – Environmental Services

Motor Trials on Roads and Public Rights of Way

(1) **Purpose of Report** To seek approval from the Cabinet Member for the implementation of a Code of Practice in respect of the management of Motor Trials which take place on non-classified highways and public rights of way.

(2) **Information and Analysis** Motor Trials have taken place across the County for many years. To date, they have been approved by officers based on information submitted by the respective organisation and generally permitted to run on a trust basis without regard to the impact they may have on the landscape and the routes over which they run. They have generally been left to run without any inspection of the routes following the Trial and rely on reports from the public if there is any apparent damage to the route. There are up to 10 events per annum with six regular events taking place each year.

The relationship with these organisations has been good, however, it is recommended that the Council formalise its standing if only to establish and be capable of publishing guidelines for applicants. The regulations for the promotion of these events require the organisers to gain the permission of the County Council as the Highway Authority as well as the permission of the landowner. These Trials may be quite long covering a large part of the County, as in the case of the Edinburgh Trial, whatever the length, they are designed to test the vehicle and the driver over sections of highway that are considered “challenging”, i.e. they are steep or the ground conditions are such that they may be difficult to negotiate with a vehicle. The construction of the routes used will therefore be subject to increased stress and possible damage. This sport uses a range of vehicles, many may be vintage vehicles, and the ethos is one of challenge not speed.

The question of desirability in respect of the use of unsurfaced non-classified highways and rights of way has raised its head, particularly in light of the current work with the Peak District National Park Authority (PDNPA) on the sustainability of routes subject to use by off-road drivers.

The PDNPA and officers of this Council do not wish to unnecessarily restrict what is a well established recreational pursuit, but we must ensure highways and motorised recreational activities are managed in a consistent way.

It is anticipated that a revised policy in respect of the management of motorised vehicle use in the countryside will be published later this year following consultation. This Code of Practice will form part of that revised policy.

For this reason guidelines have been drawn together to ensure that the County Council ensures that its assets are protected and managed for the benefit of the majority of users.

The regulation of motoring events on public ways is covered under legal considerations below.

The legislation allows the County Council to apply any (reasonable) conditions to allow the event to take place. Consideration, through discussion with the PDNPA, has resulted in 10 key requirements that must be satisfied before an event is approved.

- 1 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 they are marshalled.
- 2 Byways Open to All Traffic and Non-Classified Highways may be used provided they are sustainable and without a Traffic Regulation Order preventing use by the classes of vehicle prohibited.
- 3 Organisers will be required to demonstrate that they have notified Parish/Town Councils of their activities to ensure that the local community is kept informed. Notification shall also be provided in writing.
- 4 Organisers will be required to demonstrate that they have the written consent of the owner and occupier of the land prior to the Trial taking place.
- 5 Organisers will be required to indemnify the County Council in the event of any accident occurring which involves members of the public and participants during the Trial.

- 6 Organisers must restore sections, repair any damage to the route or infrastructure caused damaged by the event, within two weeks of the event. The County Council reserves the right to repair any damage to a route which occurs as a consequence of the Trial and recharge the organisers for the cost of these works.
- 7 Organisers should avoid Trials at night where the route is close by a settlement without having notified the local residents.
- 8 That any Trial should be run in accordance with the requirements of the Road Traffic Regulation Act 1988.
- 9 That a risk assessment shall be carried out on each route to assess the likely impact on other users and to mitigate against accidents. Consideration shall be given to requesting a Temporary Traffic Regulation Order in the event that public safety may be compromised whilst the event is underway. Normal charges will apply and will be charged to the applicant when incurred.
- 10 Should an organisation fail to conform with these requirements the County Council will not authorise any future events until such time as the organisation can demonstrate compliance.

These 10 key requirements are not intended to be punitive and prevent a Trial taking place. They are 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.

(3) Financial Considerations It is anticipated that it will be necessary to investigate applications thoroughly to protect the County Council's highway network. This may include liaison and site visits. Based on the number of applications received and the nature of past events it is considered that an average of three hours work is required to process an application. This equates to a charge of £123 per application. Any time above this will be absorbed as part of the Council's service.

Mention is made above of the requirement to consider a Temporary Traffic Regulation Order. Standard charges will apply in the event of a closure being required. At the date of this report an Order costs £340 plus advertising. These costs will be charged to the applicant when incurred.

(4) Legal Considerations Section 13 of the Road Traffic Act 1988 states:-

- (1) A person who promotes or takes part in a competition or trial (other than a race or trial of speed) involving the use of motorised vehicles on a public way is guilty of an offence unless the competition or trial
 - (a) is authorised; and
 - (b) is conducted in accordance with any conditions imposed, by or under regulations under this section.

Section 33 of the Road Traffic Act 1988 states:-

- (1) A person must not promote or take part in a trial of any description between motor vehicles on a footpath or bridleway unless the holding of the trial has been authorised under this section by the local authority.
- (2) A local authority shall not give an authorisation under this section unless satisfied that consent in writing to the use of any length of footpath or bridleway for the purposes of the trial has been given by the owner and by the occupier of the land over which that length of footpath or bridleway runs, and any such authorisation may be given subject to compliance with such conditions as the authority think fit.
- (3) A person who -
 - (a) contravenes subsection (1) above; or
 - (b) fails to comply with any conditions subject to which an authorisation under this section has been granted, is guilty of an offence.
- (4) The holding of a trial authorised under this section is not affected by any statutory provision prohibiting or restricting the use of footpaths or bridleways or a specified footpath or bridleway; but this section does not prejudice any right or remedy of a person as having any interest in land.
- (5) In this section "local authority"-
 - (a) in relation to England and Wales, means the council of a county, metropolitan district or London borough; and
 - (b) in relation to Scotland, means a regional or islands council.

The substance of these two sections provides the County Council with the power to control motorised events.

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

(6) **Background Papers** None.

(7) **Key Decision** No.

(8) **Officer Recommendation** That the Cabinet Member approves the Code of Practice for the authorisation of Motorised Trials on Non-Classified Highways and Rights of Way.