

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE
Monday, 13 January 2020

REPORT AUTHOR: **County Councillor Aled Davies**
Deputy Leader and Portfolio Holder for Finance,
Countryside and Transport

SUBJECT: **Revised Protocol for authorising motor vehicle events
affecting footpaths, bridleways and restricted byways
under s.33 Road Traffic Act 1988**

REPORT FOR: **Decision**

1. Summary

1.1 The Council recognises that motorsport events bring benefits to the local economy and that mid-Wales has a reputation as an excellent venue for hosting such events. These motorsport events will frequently need to utilise footpaths, bridleways and restricted byways as part of their routes.

1.2 The Council has a direct role in providing section 33 Road Traffic Act 1988 (s.33 RTA88) authorisations to motorsport events that cross or pass along public footpaths, bridleways and restricted byways. That includes authorisations for the parts of the Brecon Beacons National Park area that are within Powys.

1.3 In 2012 the Cabinet approved a protocol for the authorisation of motorsport events (Appendix 1). Issues have been raised by officers, members and the motor sport industry as to the effectiveness and operation of that protocol. It was agreed that there should be a review of the protocol, so as to safeguard the future of motor sports within the county, whilst at the same time ensuring statutory compliance. The concerns about the existing protocol relate to management of public safety during an event and the associated liabilities.

1.4 The purpose of this report is to recommend revisions to the protocol which address those issues raised. The revised protocol has been drafted following the receipt of independent legal advice and discussions with Welsh Government. There has been extensive consultation with the Motorsport UK, Auto Cycle Union (ACU) and the Land Access Recreation Association (LARA) as motorsport representatives.

1.5 Races and trials of speed are subject to a separate process under section 12(A) of the Road Traffic Act 1988. This allows for the making of 'motor race Orders.' In addition to a 'motor race Order', authorisation under section 33 of the Road Traffic Act 1988 will be required for these events, if

they affect a public footpath, bridleway or restricted byway. This protocol will apply to the section 33 authorisation aspect of a race or trial of speed. Any temporary closure that is needed for a race or trial of speed will be dealt with separately.

2. Proposal

- 2.1 A timetable and guidance note will be issued to guide prospective organisers in procedures for making their applications. An application form will be made available on the Council website (appendix 3.)
- 2.2 Organisers will need to comply with a number of requirements and procedures, as set out in appendix 4.
- 2.3 If authorisation is granted under section 33 of the Road Traffic Act 1988, in the majority of circumstances the Council will suspend public use of the public right(s) of way affected. However, the Council will exercise its discretion, as this may not always be necessary; an example would be where a public right of way is coincident with a county road that remains open for public use during an event, where drivers and pedestrians would normally expect to encounter each other. The public rights of way will be temporarily closed to the public under Section 14(2) Road Traffic Regulation Act 1984. This prevents other highway users from using the highway at the same time as the motorsport event.
- 2.4 There will be a stepped fee structure for these authorisations. The fee level will be determined by:
 - The number of public rights of way impacted by the event; and
 - Whether the applicant undertakes to erect and remove the statutory notices.

These costs are set out in paragraph 2.4 below; the fees will be reviewed periodically and revised in the light of current costs.

2.5 Application fee if the Council erects and remove s.14 RTRA84 notices.

	s.14 Costs	s.33RTA Costs	Total Costs
Band One	£240	£30	£270
Band Two	£750	£30	£780

Application fee if the Organisers erect and remove s.14 RTRA84 notices.

	s.14 Costs	s.33RTA Costs	Total Costs
Band One	£50	£30	£80
Band Two	£117	£30	£147

Band One: Where no more than two public rights of way are affected.

Band Two: Where three or more public rights of way are affected.

- 2.6 The s.33 RTA88 authorisation will contain conditions (as set out in Appendix 3) that will be reviewed from time to time.
- 2.7 In the event of a breach of the conditions, then the following will apply:
 - (i) A report will be made to Motorsport UK; or
 - (ii) In the event that Motorsport UK is not the authorising body, to the authorising body first and then to Motorsport UK if the issue is not satisfactorily resolved.
 - (iii) A report will be made to the Portfolio Holder, who will decide on the appropriate action or approach to future applications.

3. Options Considered / Available

- 3.1 The options are that:

One - The Council could choose not to review the current protocol relating to authorising motoring events under section 33 of the Road Traffic Act 1988. This option would not resolve the issues being brought forward by Officers and motorsport organisers, and it would not streamline and provide clarity on the processes involved; or

Two - The Council could review the protocol as described above.

4. Preferred Choice and Reasons

- 4.1 The preferred choice is Option Two as it provides a reasonable balance, to ensure that motorsport and motoring events are able to take place safely, whilst ensuring the Council is able to discharge its legal obligations when authorising events under section 33 of the Road Traffic Act 1988. There will be a 6-month grace period following the adoption of the new protocol, to allow event organisers time to plan for and implement the changes. The implementation date will be 6 months from the date of a Cabinet decision to adopt the protocol.
- 4.2 Queen's Counsel advice was sought in relation to these proposals. It should be noted that the Queen's Counsel (QC) advised that temporary closure of the affected public rights of way could be achieved under either section 16(A) or section 14(2) of the Road Traffic Regulation Act 1984. The QC expressed a preference for use of s.16(A) closures, but did not advise against use of closures under section 14(2). The proposal to use section 14(2) has been fully considered and is supported by the Solicitor to the Council.
- 4.3 The Queen's Counsel also advised that there should be evidence that the event is "properly authorised" by Motorsport UK, before authorisation could be issued under section 33 of the Road Traffic Act 1988. As this raised significant concerns with event organisers, it is instead proposed that a condition of consent is put in place, whereby the onus is on event

organisers to provide “route authorisation” either before the event, or within three working days after the event. This approach has been fully considered and is supported by the Solicitor to the Council.

5. Impact Assessment

5.1 Is an impact assessment required? Yes

5.2 If yes is it attached? Yes

6. Corporate Improvement Plan

6.1 Motoring events that require section 33 of the Road Traffic Act 1988 authorisation can have local, regional or international importance, providing a direct link to developing a vibrant economy.

Use of public rights of way also has a link to developing a vibrant economy, through tourism and contributes to improved physical and mental wellbeing. The protocol aims to reach a balance between allowing motorsport events to be managed effectively, and ensuring that users of the public rights of way network have safe alternative routes to follow during an event.

7. Local Member(s)

7.1 This report covers the whole county.

8. Other Front Line Services

Does the recommendation impact on other services run by the Council or on behalf of the Council?

Yes – This impacts on the Highways, Transport and Recycling service due to the crossover with the Motor Race Orders process. The Traffic and Travel Manager has been consulted and no concerns have been raised.

9. Communications

Have Communications seen a copy of this report? Yes

Have they made a comment? Yes - Communications comment: The report is of public interest and requires proactive communications action to publicise the recommendation/decision.

10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)

(Comments from Legal and Finance officers must be set out here along with comments from Corporate Property, HR and ICT if applicable)

- 10.1 Legal
- 10.2 Finance
- 10.3 Corporate Property (if appropriate)
- 10.4 HR (if appropriate)
- 10.5 ICT (if appropriate)

11. Scrutiny

To be completed by the report author

Has this report been scrutinised? Yes / No?

If Yes what version or date of report has been scrutinised?

Please insert the comments.

What changes have been made since the date of Scrutiny and explain why Scrutiny recommendations have been accepted or rejected?

11.1

12. Data Protection

12.1 The comments of the Data Protection Officer are that:

The personal data of applicants and respondents will be processed to deliver the proposed service, and as such appropriate notices and documentation will be developed to ensure compliance with data protection legislation.

13. Statutory Officers

(The views of both the Strategic Director Resources (Section 151 Officer) and the Monitoring Officer must be set out below)

14. Members' Interests

(To be completed by the Monitoring Officer)

The Monitoring Officer advises that Members may have an interest in this item if

or

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

15. Future Status of the Report

(This section must be completed if the report is a confidential/exempt report)

Members are invited to consider the future status of this report and whether it can be made available to the press and public either

immediately following the meeting or at some specified point in the future.

The view of the Monitoring Officer is that:

Recommendation:	Reason for Recommendation:
That the revised protocol, as set out above and in appendices 1-4 to this report be adopted.	To safeguard the future of motor sports within the county, whilst at the same time ensuring statutory compliance and managing public safety during an event.

Relevant Policy (ies):	
Within Policy:	N

Relevant Local Member(s):	(Countywide)
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Person(s) To Implement Decision:	Countryside Services and Outdoor Recreation team
Date By When Decision To Be Implemented:	Within 6 months of Cabinet decision

Is a review of the impact of the decision required?	Y
If yes, date of review	December 2020
Person responsible for the review	Sian Barnes
Date review to be presented to Portfolio Holder/ Cabinet for information or further action	11th February 2021

Contact Officer:	Sian Barnes, Acting Professional Lead, Countryside Access and Recreation
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Background Papers used to prepare Report:

- Appendix 1 – Cabinet report 17th April 2012, Protocol for authorising motor vehicle events affecting footpaths, bridleways and restricted byways.
- Appendix 2 – Application form for authorisation under section 33 Road Traffic Act 1988
- Appendix 3 – Conditions of consent
- Appendix 4 – Requirements and procedures for seeking section 33 consent
- Appendix 5 – Summary of responses to consultation with path user groups and motorsport organisations and representatives
- Appendix 6 – Impact Assessment

