

**Forward Plan reference number:** Not applicable

<b>Report title:</b> Application for Motor Racing Order	
<b>Report to:</b> Councillor Kevin Bentley, Deputy Leader and Cabinet Member for Infrastructure	
<b>Report author:</b> Andrew Cook, Director, Highways and Transportation	
<b>Date:</b> 18 <sup>th</sup> November 2019	<b>For:</b> Decision
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<b>County Divisions affected:</b> All divisions in Tendring District	

## **1. Purpose of Report**

- 1.1 To ask the Cabinet Member to consider the approval for the production of a Motor Race Order (MRO) to be made following Chelmsford Motor Club's application to allow the Corbeau Seats Tendring Motor Rally to go ahead on Sunday 26 April 2020.

## **2. Recommendations**

- 2.1 Agree to make a motor racing order to enable the Corbeau Seats Tendring Motor Rally to go ahead on Sunday 26<sup>th</sup> April 2020 in the form appended to this report.

## **3. Summary of issue**

- 3.1 Road racing on the public highway is normally unlawful. The Road Traffic Act 1988 has been amended to create a controlled process which can make road races lawful in certain circumstances. Road races must be approved by the highway authority and a relevant motorsport governing body. Such bodies must be approved by regulations made by the secretary of state.
- 3.2 The process for a lawful road race is as follows:
- The promotor of an event applies for a MRO to an approved governing body.
  - The governing body undertakes public consultation
  - The governing body issues a permit for the race.
  - The promotor, having received a permit, makes an application for a MRO to the highway authority at least six months before the event.

- The highway authority decides whether or not to make a motor racing order (MRO).
- 3.3 If a MRO is made then the event is lawful and a number of road traffic and other offences do not apply to people who participate in the event, so long as they act in accordance with the order.
- 3.4 The highway authority may not make the motor race order unless it is satisfied that--
- (a) Adequate arrangements have been made to allow the views of the local community to be taken into account,
  - (b) The person proposing to promote the event has shown that the event is commercially viable, and
  - (c) Effective arrangements have been made to involve local residents, the police and other emergency services in the planning and implementation of the event.
- 3.5 In deciding whether or not to make an order the highway authority must consider anything it thinks relevant and it must also consider:
- (a) the likely impact of the event on the local community, and
  - (b) the potential local economic and other benefits (in respect of tourism or otherwise),
- 3.6 Chelmsford Motor Club (CMC) held an event in 2018 which is believed to have been the first ever event authorised by a motor racing order. The event went well. A second event was held in 2019 which also went well.
- 3.7 Based on the success of the last two events the club wishes to hold a further repeat event. It should be noted that due to the success of the previous two years the 2020 rally will form a stage of the British Rally Championship (BRC), a link to the BRC website detailing the inclusion is here <https://www.britishrallychampionship.co.uk/news/2020-british-rally-championship-calendar-announced/> and a copy can be found at appendix 5. On 17 October 2019 ECC received an application for a MRO for.:
- A five staged time trial Motor Rally event of which four stages will be on the public highway. An additional stage has been added to the Rally from 2019 which will be held on the Saturday evening in Clacton but will not be on the public highway so will not be included within the MRO.
  - The on highway time trial Motor Rally stages will take place on 26 April 2020 in various locations in the Tendring District, which is the day the Motor Race Order applies.
  - The event also includes a Team HQ area in Clacton. The Teams with their cars and support equipment commence arrival into Clacton from mid-day Friday 24 April. The Team HQ area on the Esplanade and adjacent car park is open for the public to observe the cars and watch the Teams prepare their cars for the Rally on Saturday evening and Sunday. For this reason various roads will be closed adjacent to the Team HQ areas for the

safety of the public from mid-day Friday 24 April 2019 until midnight on Sunday 26 April 2020.

- The event is authorised by a permit issued by Motorsport UK to Chelmsford Motor Club for them to hold the event.
- There will be approximately 120 competitors
- Each team will be based on the Eastern Esplanade of Clacton-on-Sea,
- Each competitor will on the Sunday:
  - drive on the normal highway to the start of the first stage,
  - there they will undertake a time trial on a closed road section, they will then drive on the normal highway again to the second stage and so on until all four stages have been completed they then return to their base in Clacton.

This circuit will be completed three times during the day.

3.8 There are no changes proposed to the form of last year's MRO.

3.9 A map showing the route is at Appendix 3.

#### **4. Options**

4.1 Authorise an MRO to be made with respect to the above application based upon the 2019 document (Appendix 2). The MRO sets out terms which Essex Highways believe will enable the event to take place in a reasonably safe way. It should be noted that it is not possible to entirely eliminate risks from an event of this nature but the view of Essex Highways is that the terms of the proposed order reduce the risk to an acceptable level.

4.2 Do not authorise an MRO to be made, in which case the event cannot lawfully go ahead. This would avoid the risks associated with the event and the moderate inconvenience that some residents will experience (although most residents do not appear to object to the proposed event) but Essex would lose the opportunity to host this event with the associated economic and publicity benefits as well as the enjoyment that the event will bring to those participating or watching it.

#### **5. Issues for consideration**

##### **5.1 Analysis**

5.1.1 In order to make a Motor Race Order the Highway Authority has to consider the following points:

- (a) Adequate arrangements have been made to allow the views of the local community to be taken into account.

**Evidence and analysis** – The CMC and Tendring District Council have created a Safety Advisory Group (SAG). The SAG has provided information to ECC that extensive consultation has been undertaken

with both organisations and the general public. This has included consultations and discussions with the district council, parish council, bus operators, Highways England, the police and other emergency services and social care providers. The CMC have reported that they have engaged with all residents living on the route of the rally.

There have been a small number of complaints regarding the event, a total of 6 residents in the whole area object to the event, positive responses regarding the rally have increased over the past two years to approximately 70% with the rest having no particular comment. CMC have confirmed that whilst noise levels will be higher than that of normal traffic all vehicles must comply with noise regulations as set out in the Motorsport UK's yearbook 2019. Additionally each stage will last between 1 and 1 ½ hours (with intervals between each vehicle) thus minimising the impact of higher noise levels and the impact will be on just one day.

It is felt that the CMC has demonstrated a good understanding of the need to consult and liaise with the local and professional community and has undertaken this, responding to specific local concerns.

- (b) The person proposing to promote the event has shown that the event is commercially viable,

**Evidence and Analysis** – Financial information has been given to Essex County Council showing the costs of holding the event approximately £110,000, Motorsport UK and insurance costs of approximately £80 per entry, charity donations were made to Essex Air Ambulance £2000, RNLI £2000, Riding for the Disabled £2000 in 2019, entry fees charged of approximately £600 per entry and sponsorship income which is commercially sensitive to CMC. CMC state that the rally is not a profit making exercise, none of the officials are paid and the 2018 and 2019 rallies have broken even. This shows that the projected income exceeds the cost of running the event as Charity donations are able to be made.

- (c) Effective arrangements have been made to involve local residents, the police and other emergency services in the planning and implementation of the event.

**Evidence and Analysis** – A Safety Advisory Group (SAG) has been set up by Tendring District Council consisting of all the emergency services, social care providers, coastguard, environmental services, and Essex highways. This group will meet frequently and fortnightly basis in the lead up to the event.

The consensus of opinion from all of the statutory bodies is that the event was well organised last year and continues to be this year and Essex Police have designated the event as a low risk event.

The CMC have again also committed to produce a comprehensive residents' handbook which will be delivered to each resident on the route and adjacent roads, this contains information about the event and a comprehensive question and answer section. Social Care will be discussed with all residents. Liaison with the Social Care officials has been part of the consultation process directly and also at the regular SAG meetings held by Tendring District Council.

Through involvement in the SAG officers consider that sufficient opportunity has been given to involve key stakeholders in the planning of the event and its operation. Through the SAG and also through the detailed event management plan that has been produced, issues such as damage to the highway, spectator safety, the use of qualified marshals to advise and help both visitors and residents, road closures, diversions, emergency access, medical support for the event and residents, insurance liability, Bronze and Silver command on the day of the event, security/terrorism threats and the environmental (noise) impact of vehicles have been discussed and detailed. All documents will be reviewed by the SAG and staff from Essex highways and are available for review/scrutiny.

5.1.2 In deciding whether or not to make an order the highway authority must also consider anything it thinks relevant and it must also consider:

(a) The likely impact of the event on the local community,

**Evidence and Analysis** – the impact of the event on the local community will include restrictions due to road closures; the CMC have detailed how these will be managed to minimise disruption to resident's usual activities. This has also been discussed through SAG and will be detailed in the resident's handbook being produced by the CMC. Residents will be able to access "closed" sections of the network (and therefore access or exit their properties) during the event, under the guidance of marshals, in line with the process set out in the residents' handbook. Additionally, access to emergency services must be available at all times. Through the SAG, particular attention has been given to those residents requiring support from external agencies (such as social care) to ensure that these services are not interrupted.

(b) the potential local economic and other benefits (in respect of tourism or otherwise),

**Evidence and analysis** – last year CMC and Tendring District Council assessed the predicted spend from the public due to the event to be somewhere between £250,000 and £500,000 and this is similar if not more for this year. It is only possible to estimate the number of spectators that will attend the event, however motor sports events of a similar size and standing elsewhere in the country have attracted between 5,000 and 20,000 spectators. These figures were met for the event in 2018 with a slightly reduced figure for 2019 mainly due to

adverse weather conditions, it is expected that similar figures will be achieved for 2020. This figure is consistent with the research done by Sheffield Hallam University when the legislation was passing through Parliament.

## **5.2 Financial implications**

- 5.2.1 All associated officer costs involved in the pre and post event inspections of the highway closed route stages will be included in the charge to Chelmsford Motor Club. It has been agreed that any damage to the highway will be repaired at the cost of the Chelmsford Motor Club.

## **5.3 Legal implications**

- 5.3.1 If a MRO is made then provided the order is complied with there are a number of legal implications. Someone taking part in the event who is acting in accordance with the order cannot be convicted of the offence of racing and as set out in appendix 1. It will be noted that this includes some significant offences such as causing death by careless driving.
- 5.3.2 It is therefore important to ensure that all the safety requirements which the Council wishes to impose are set out in the order. Last year's order is at appendix 2, it is expected that the order for 2020 will be the same as for 2019.
- 5.3.3 It is a statutory requirement that the application for an order is made at least six months before the event and that it must be accompanied by a permit issued by a governing body (in this case the Motorsport UK). This timeframe has been met.

## **6. Equality and Diversity implications**

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc on the grounds of a protected characteristic unlawful
  - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).

- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

## **7. List of appendices**

1. List of offences disappplied by a valid motor racing order
2. 2019 Motor Race Order
3. Map of route
4. Equality Impact Assessment
5. British Rally Championship News.

## **8. List of Background papers**

Application for order and accompanying documents.  
Permit.

<b>I approve the above recommendations set out above for the reasons set out in the report.</b>	<b>Date</b>
<b>Councillor Kevin Bentley, Deputy Leader Cabinet Member for Infrastructure</b>	18 December 2019

**In consultation with:**

<b>Role</b>	<b>Date</b>
<b>Head of Network Management</b>	11 December 2019
<b>Liz Burr</b>	
<b>Executive Director for Corporate and Customer Services (S151 Officer)</b>	N/A
<b>Margaret Lee</b>	
<b>Director, Legal and Assurance (Monitoring Officer)</b>	21 March 2019
<b>Paul Turner</b>	





**Legal Provisions which are suspended for those lawfully participating in an event governed by a motor racing order when taking part in the race (ie on the closed sections of highway)**

Provision	Description
Road Traffic Regulation Act 1984 Section 18(3)	Contravention of order relating to one-way traffic on trunk roads
Section 20(5)	Contravention of order relating to use on roads of vehicles of certain classes
Section 81(1), an order under section 84(1), section 86(1), an order under section 88(1) and section 89(1)	Speed limits
Regulations under section 99 Section 104(1)	Removal of vehicles illegally parked etc Immobilisation of vehicles illegally parked
Road Traffic Act 1988 Section 1 Section 1A	Causing death by dangerous driving Causing serious injury by dangerous driving
Section 2 Section 2B	Dangerous driving Causing death by careless, or inconsiderate, driving
Section 3 Section 3ZB	Careless, and inconsiderate, driving Causing death by driving: unlicensed, disqualified or uninsured drivers
Section 12(1) Section 21(1)	Motor racing on public ways Prohibition of driving or parking on cycle tracks
Section 22 Section 22A Section 36(1)	Leaving vehicles in dangerous positions Causing danger to road-users Drivers to comply with traffic signs
The Highway Code, as it has effect under section 38 Section 40A Regulations under section 41	Using vehicle in dangerous condition etc Regulation of construction, weight, equipment and use of vehicles
Section 41A	Breach of requirement as to brakes, steering-gear or tyres
Section 41C	Breach of requirement as to speed assessment equipment detection devices
Section 42	Breach of other construction and use requirements
Section 47(1) Section 87(1)	Obligatory test certificates Drivers of motor vehicles to have driving licences
Section 103(1)(b)	Driving while disqualified

Section 143(1) and (2)	Users of motor vehicles to be insured or secured against third-party risks
Sections 164 and 165	Powers of constables to require production of driving licence, obtain information etc
Section 165A	Power to seize vehicles driven without licence or insurance
Section 170	Duty of driver to stop, report accident and give information or documents
Vehicle Excise and Registration Act 1994	
Section 1(1)(b)	Circumstances in which vehicle excise duty is chargeable on unregistered mechanically propelled vehicles
Section 29(1)	Offence of using or keeping an unlicensed vehicle

(6) The promoter of an event in respect of which a motor race order has been made is liable in damages if personal injury or damage to property is caused by anything done--

- (a) by or on behalf of the promoter in connection with the event, or
- (b) by or on behalf of a participant or an official,

unless it is proved that the promoter took reasonable steps to prevent the injury or damage occurring.

(7) For the purposes of the Law Reform (Contributory Negligence) Act 1945, the Fatal Accidents Act 1976 and the Limitation Act 1980 any injury or damage for which a person is liable under subsection (6) is to be treated as due to the fault of that person.

(8) In this section--

"the appropriate national authority" means--

- (a) in relation to England, the Secretary of State;
- (b) in relation to Wales, the Welsh Ministers;

"official" means a person who facilitates the holding of a race or trial of speed.

