

TONBRIDGE & MALLING BOROUGH COUNCIL

OVERVIEW AND SCRUTINY COMMITTEE

16 August 2018

Report of the Chief Executive

Part 1- Public

For decision

1 ROAD CLOSURES REVIEW – INITIAL REPORT

To set out the legal, financial and operational issues involved when considering future road closures for events in the Borough.

1.1 Background

1.1.1 There are approximately 40 community events held around the Borough each year of which require road closures. Events include: Scout and Guide parades, Palm Sunday processions, St Georges Day parades, May Day celebrations, carnivals, street parties for local events, to assist with pedestrians exiting fireworks celebrations, Remembrance parades, services and wreath laying, Winter Festivals, Christmas Fayres/Light switch on/Carols.

1.1.2 There are two sets of powers available to allow temporary road closures:

(a) The Town Police Clauses Act 1847

(b) The Road Traffic Regulation Act 1984

1.1.3 The purpose of this review is to explore:

(a) whether the use of the Town Police Clauses Act remains the most appropriate legislation to utilise for all local events;

(b) if not, what would be the implications for the Borough Council and event organisers should the Road Traffic Regulation Act be required to be used as the alternative.

1.2 The Police Town Clauses Act 1847

1.2.1 The Town Police Clauses Act 1847 (“TPCA”) remains the main legislation available to be used by the Borough Council for road closures whereas the Road Traffic Regulation Act is a power exercisable only by the Local Highway Authority

(KCC). The Borough Council continues to utilise provisions of the TPCA to facilitate these local road closures.

1.2.2 The wording of the TPCA at Section 21, states:

“The Commissioners may from time to time make orders for the route to be observed by all carts, carriages, horses, and persons, and for preventing obstruction of the streets, within the limits of the special Act, in all time of public processions, rejoicing, or illuminations, and in any case when the streets are thronged or liable to be obstructed and may also give directions to the constables for keeping order and preventing obstruction of the streets in the neighbourhood of theatres and other places of public resort.”

1.2.3 Therefore, the Council, as the ‘commissioners’ may make an order to control traffic in an area where there is a special occasion which is likely to result in ‘thronging’. The event must be of a special kind, within the category of which public processions, rejoicings and illuminations are specific instances¹, as distinct from the everyday life of a town or place and an "occasion" when the streets, for reasons other than the normal day-to-day usage, are likely to contain more than the usual amount of traffic.

1.2.4 The *Brownsea Haven* ruling means that the events which may be covered by a s.21 Order are limited to events which are similar in nature to those occasions which are specified in that Section (the “*ejusdem generis*” rule).

1.2.5 There is no specific legal provision regarding the duration of such occasions, however the very nature of “processions, rejoicing[s] or illuminations” and the like are generally likely to be short-term (e.g. a Remembrance Parade). Longer duration “events” are less likely to fall within the category of the type of occasions covered by this provision.

1.2.6 The events currently supported by the TPCA closures are generally charitable in nature and contribute to community life across the Borough. The Borough Council currently makes no charge for processing road closures orders under the TPCA and officers contribute further by assisting with advice to event organisers, drawings for locations of signage and lending signs and cones.

1.2.7 Only the Borough Council have the legal power to use the TPCA, but KCC (as Highway Authority) and the Police have a number of legal obligations, powers or duties in relation to the public highway, prevention of crime and disorder and to preserve public safety.

1.2.8 The process is currently:

- The event organiser provides their event management information to TMBC

¹ As set out by the Court of Appeal in *Brownsea Haven Properties v Poole Corporation* (16 December 1957)

- TMBC forward the event information to KCC, Police and TMBC Safety Advisory Group
- TMBC provide the event organiser with a draft Order for them to check and confirm it matches their requirements.

1.2.9 The Borough Council will only complete the legal Order once we have received support for an event from KCC. Event organisers are responsible for meeting any conditions that KCC or the Police set. Once KCC support has been received, The Borough Council processes a Final Order and displays this at the site of the road closure. It should be noted that no organisation 'gives permission' for an event to take place on the public highway. Responsibility for the running of any event lies with the event organiser.

1.2.10 Overall, the process adopted has proved adequate and has enabled many local community events to take place successfully.

1.3 Road Traffic Regulation Act 1984

1.3.1 The Road Traffic Regulation Act 1984 ("RTRA") provisions tend to focus on more extensive periods of road closures, or in circumstances where the "event" in question is not within the categories of events covered by the TPCA (for example, a Farmer's Market), and are less easy to implement in relation to road closures for community events. The process involved to secure a closure under that Act is more protracted and therefore there is a longer period of time needed to secure the necessary authorisations. In addition, the Highway Authority also charges a fee for its use, usually between £600 and £1,000 for each event. If it is found that the TPCA cannot be used to support these events, there would be a risk that some local events might have to be discontinued as the costs of the road closures would be prohibitive for local community groups. The Borough Council could potentially assist with such funding but there is currently no budget to support this approach, a cost which could extend to £40K per annum.

1.3.2 Some of the larger community events in Tonbridge and Malling may be possibly more suited to RTRA closures, for example, The West Malling Christmas Fayre, Snodland Carnival and Christmas celebrations, Tonbridge Town Carnival and Tonbridge Christmas Festival. However, organisers would need to apply direct to the Highway Authority for these closures and would need to pay the fee, as set out above.

1.4 Views of Kent Police

1.4.1 It is understood that Kent Police have concerns regarding the use of the TPCA for road closures for local events, particularly those that last a full day. Further consultation with the Police on this matter is recommended.

1.5 Next Steps

- 1.5.1 It is clear that, from the perspective of the Borough Council, continued use of the TPCA for local events is the most appropriate legislation to utilise. However, to take forward the review, it is suggested that, having taken account of views from Members from this initial discussion, we consult formally with both Kent County Council and Kent Police to ascertain their views in relation to local road closures.
- 1.5.2 Whilst neither body has the power to impose any restrictions on the use of the TPCA, it would be useful to understand their concerns about its continued use and how the differences of opinion could be resolved. It does cause concern and potentially risk for TMBC if we are using powers to facilitate community events where there are recorded objections from other statutory services. All parties will of course wish to put residents safety as the highest priority, and this review will assist in supporting this approach.
- 1.5.3 In addition, it is suggested that we also consult with other Kent districts to ascertain what use is made of the TPCA across the County and if this is not now in use, what procedures they undertake to deal with such road closures.
- 1.5.4 A further report with final recommendations will be reported to our next meeting of the Overview and Scrutiny Committee.

1.6 RECOMMENDATION

- 1.6.1 That the contents of this report **BE NOTED** and that a further report be made to the next meeting of this Committee regarding the issues outlined in section 1.5 of this report.

Background papers:

Nil

contact: Kevin Toogood
Mark Raymond
Andy Edwards

Julie Beilby
Chief Executive