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Temporary Road Closure Order Guidance

Section 21 Town Police Clauses Act 1847

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Legal Services

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1. Introduction

- 1.1 Allerdale Borough Council has the statutory power to issue a Temporary Road Closure Order in accordance with Section 21 of the Town Police Clauses Act 1847 in limited circumstances. This guidance should be read by an event organiser prior to any application for such an Order. The Council reserves the right to reject any application that is incomplete or is contrary to the powers afforded to it under Section 21 of the Town Police Clauses Act 1847.
- 1.2 If any event is to be held on the highway (i.e. on a public road) the first priority of the event organiser must be to obtain the necessary permission from the relevant local authority. In the borough of Allerdale, the relevant local authority shall be either Cumbria County Council (as the local highway authority) or Allerdale Borough Council (as the local planning authority).
- 1.3 A temporary road closure can be very disruptive to both local residents and local businesses. Accordingly, the event organiser must give very serious consideration to the possibility of the proposed event being held other than on the highway and/or with minimal impact to that highway.
- 1.4 Some temporary road closures are brought about by temporary traffic regulation orders that may only be made by Cumbria County Council, as the local highway authority, in accordance with the Road Traffic Regulation Act 1984 (sometimes referred to as a “County Council Order”).
- 1.5 Other temporary road closures are brought about by temporary traffic regulation orders that may only be made by Allerdale Borough Council, as the local planning authority, in accordance with the Town Police Clauses Act 1847 (sometimes referred to as a “Borough Council Order”).
- 1.6 The relevant legislation is not always obvious but is, broadly, as follows:-

sporting and leisure events on the highway shall require the use of the Road Traffic Regulation Act 1984 (for example, cycle races, triathlons, live music stages);

while events involving processions shall require the use of the Town Police Clauses Act 1847 (for example, carnivals, Remembrance Day parades).
- 1.7 If Cumbria Highways advise the temporary road closure for that particular type of event should be an order made in accordance with the Road Traffic Regulation Act 1984 (i.e. a County Council Order), the event organiser may then proceed to submit a formal application etc. to Cumbria Highways, which shall be processed and considered in accordance with statutory procedures.

- 1.8 It is also important that a temporary road closure for an event does not clash with any planned highway maintenance works and/or any other events/road closures in the vicinity.
- 1.9 Applicants are urged to contact the County Council as soon as possible in the planning process to determine the nature of the order required.

2. Following Contact with Cumbria County Council

- 2.1 If Cumbria Highways advise the temporary road closure for that particular type of event should be an order made in accordance with the Town Police Clauses Act 1847 (i.e. a Borough Council Order) the event organiser should then proceed to contact Allerdale Borough Council.
- 2.2 It is important for the event organiser to note:

Cumbria Highways' advice in relation to the suitability of an order made in accordance with the Town Police Clauses Act 1847 is not determinative of the issue and not binding on Allerdale Borough Council;

Allerdale Borough Council must carry out its own assessment and determination of the situation prior to making an order under the Town Police Clauses Act 1847; and

Allerdale Borough Council's decision to make an order can be the subject of a formal legal challenge by a third party (e.g. by a resident or business affected by the closure, or by a member of the public) by way of judicial review proceedings in the High Court. The event organiser would be an 'interested party' in such legal proceedings.

3. The Legislation

- 3.1 Section 21 of the Town Police Clauses Act 1847 ("s21 TPCA") provides for orders to be made "... in all times of public processions, rejoicings, or illuminations and in any case when the streets are thronged or liable to be obstructed....".
- 3.2 Accordingly, s21 TPCA only allows Allerdale Borough Council to make temporary road closure orders to facilitate 'rolling-road' events such as parades, carnivals and processions as well as more 'static' community events such as the 'Christmas lights switch-on' and street parties. While some of these event types are self-explanatory others are less so. For example, a street party may only take place in a purely residential road, and not on a main road or bus route. Moreover, a street party is restricted to the residents of a particular street

(and neighbouring streets) and does not encompass a 'public event' of family entertainment with live music and/or the sale of alcohol.

NOTE: An order granted under s21 TPCA does not permit the event organiser to erect any stalls for the sale of goods or other static structures on the highway for the purposes of providing entertainment or live music.

4. Administrative Costs

- 4.1 Allerdale Borough Council's current fee for considering an application for a temporary road closure order under s21 TPCA is £121.00 (One Hundred and Twenty One Pounds).
- 4.2 For the avoidance of doubt, the different level of fees charged by Cumbria County Council and Allerdale Borough Council in relation to the cost of processing applications, carrying out consultations and making the different orders under s16A RTRA 1984 and s21 TPCA 1847 and shall not be a consideration in determining the type of road closure order required.

5. Application Process

- 5.1 There are no regulations setting out the process that must be followed before making an order under s21 TPCA. However, because of the potentially disruptive nature of temporary road closures, prior to deciding whether or not to make such an order Allerdale Borough Council shall consult
 - (a) Cumbria County Council
 - (b) the local police and emergency services
 - (c) local passenger transport groups
 - (d) local parish/town council clerks and
 - (e) local ward councillors etc., as appropriate.

Event organisers should note, this is not intended to be an exhaustive list of consultees, which may be varied as required in accordance with the circumstances of a particular application.

6. Notification of Local Residents and Businesses

- 6.1 Although Allerdale Borough Council shall carry out the consultation, event organisers are required to show they have already given advance notice of the proposed event to all the residents and/or businesses etc. situated on the roads that are to be the subject of the application for a temporary road closure.

7. Specified Form and Information

- 7.1 Paper applications will no longer be considered by the Council other than in extenuating circumstances.
- 7.2 Event organisers are required to provide all the specified information, including a detailed plan/map showing the precise areas/lengths of highways concerned. Hand drawn plans that are indicative only and not drawn to scale are strongly discouraged and may be rejected, thereby delaying any further consideration of an application. (Note: For those without the necessary facilities, plan/map drawing services are available online.)
- 7.3 The Event Organiser is required to hold public liability insurance in the minimum sum of £5 million. The public liability insurance must be valid for the date of the event and must cover all of the activities related to the event at all locations on the highway. If the proposed event is a fireworks display then specific insurance cover is required.
- 7.4 A Risk Assessment will need to be undertaken and submitted with the application; the same should be event specific and sufficiently detailed to allow the Council to sufficiently understand and assess the risks.

Advice on risk assessments may be obtained from the HSE website (www.hse.gov.uk).

- 7.5 As outlined in further detail in this Guidance, the event organiser shall instruct a person with a “Chapter 8 Accreditation” as only a person with such accreditation can place signs and cones on the highway. The details of appropriate traffic management contractors are available online.
- 7.6 The Council reserves the right to reject any incomplete application.

8. Timescales

- 8.1 The Council reserves the right to reject any application that is not made at least 6 weeks prior to the date of the event.
- 8.2 As detailed in this guidance, the extent of any necessary traffic management measures shall be an important factor in determining the type of temporary road closure order required. When this is coupled with the fact Cumbria County Council require not less than ten (10) weeks to make a County Council Order, it is important for event organisers to be aware that if they:-

(a) fail to properly and accurately identify the traffic management requirements for their proposed event, and/or

(b) fail to promptly consult Cumbria Highways, there is a risk Allerdale Borough Council may be unable to make an appropriate order in accordance with s21 TPCA (i.e. a Borough Council Order) and it may be too late for Cumbria County Council to make an order in accordance with s16A RTRA (i.e. a County Council Order).

9. Initial Assessment

9.1 If Allerdale Borough Council considers the nature of the proposed event appears to be such that the authority is unable to properly make a temporary road closure order under s21 TPCA (e.g. because the event is a triathlon and, being a sporting event, requires a County Council Order) the authority shall proceed to:

(a) forward a letter to the event organiser, within 5 working days, explaining the reason why the authority considers it is unable to act; and

(b) return the application fee to the event organiser.

9.2 If Allerdale Borough Council considers the nature of the proposed event appears to be such that the authority may be able to make a temporary road closure order under s21 TPCA the authority shall proceed to:

(a) prepare a 'Notice of Intention' to make an order and commence the consultation process and

(b) contact the event organiser advising that the authority's initial assessment is an order may be made, but subject to the outcome of its consultations and formal determination; and requiring the event organiser to ensure that copies of the 'Notice of Intention' are put on public display along the relevant highways.

9.3 It is important for event organisers to note, once Allerdale Borough Council has commenced the consultation process the application fee is non-returnable even if the authority's final determination is an order under s21 TPCA should not be made.

10. Formal Decision

Is an order to be made?

10.1 If, following consultations and consideration of any comments and/or objections received, Allerdale Borough Council's Head of Governance (acting in accordance with delegated authority) determines a temporary road closure order under s21 TPCA should be made, then:-

(a) an order (based on the details set out in the 'Notice of Intention') shall be prepared and formally executed by Allerdale Borough Council ("the Order");

(b) a copy of the Order shall be forwarded to the event organiser together with instructions as to how it should be publicly displayed etc;

(c) a copy of the Order shall be forwarded to all the consultees (and any other individuals or organisations etc. that submitted comments or objections) as confirmation the temporary road closure has been made; and

(d) a copy of the Order shall be placed on Allerdale Borough Council's web site until such time as the event has taken place.

10.2 Allerdale Borough Council reserves the right to refuse to make an order. The reason for refusal could be one or more of the following:- the event organiser has not given the authority enough time to process the application; the authority considers there is a more suitable alternative location for the event; the road closure covers heavily trafficked roads; large numbers of people are likely to attend the event; there is a risk to public safety and the necessity for a road closure is questionable; the event organiser's risk assessment identifies unacceptable risks; the requested closure closes the road for too long; there is likely to be too much disruption to traffic flow; there is no satisfactory diversion around the road closure; there is no satisfactory emergency services access to the road closure; there are objections that cannot be resolved; the proposal includes a proposal to erect stalls for the sale of goods or other static structures on the highway; the event organiser has insufficient public liability insurance (i.e. the insurance is less than the required minimum of £5 million); the event organiser has unsatisfactory public liability insurance (i.e. the insurance does not cover all the potential risks associated with that particular event.).

Note: This is not intended to be an exhaustive list. All applications shall be considered on their merits and other grounds for refusal may be relevant."

11. Signage During the Road Closure

11.1 The Event Organiser is responsible for ensuring adequate signage of the temporary road closure (and any diversion routes) both prior to and during the event, and for the prompt removal of the signage and re-opening of the road after the event.

11.2 The Event Organiser is also responsible for traffic management and consideration should be given to the provision of an appropriate number of marshals. For the avoidance of doubt, such marshals do not have the legal power to direct and/or stop traffic. If such active traffic management is required the Event Organiser should contact the police in order to arrange for the attendance of officers in uniform, which may have additional costs.

11.3 All signs must be in accordance with the requirements of the Traffic Signs Manual Chapter 8: Traffic Safety Measures and Signs for Road Works and Temporary Situations Part 1 (Design) (2nd edition 2009) (Published for the Department for Transport, ISBN: 978 0 11 553051 7).

11.4 Only a person with a 'Chapter 8 accreditation' can place signs and cones on the highway. The details of appropriate traffic management contractors are available online.

12. Acknowledgement

The Event Organiser acknowledges a temporary road closure in accordance with section 21 the Town Police Clauses Act 1847 shall ONLY BE MADE SUBJECT TO:-

- (a) reasonable pedestrian access being available at all times;
- (b) vehicular access for emergency services being available at all times;
- (c) separate applications being made for any necessary licences or permits for entertainment, charitable collections etc. (if any);
- (d) all road closure and diversion signs being in accordance with the requirements of the Traffic Signs Manual Chapter 8: Traffic Safety Measures and Signs for Road Works and Temporary Situations Part 1 (Design) (2nd edition 2009) and being erected by a contractor qualified in accordance with the Traffic Signs Manual Chapter 8: Traffic Safety Measures and Signs for Road Works and Temporary Situations Part 2 (Operations) (2nd edition 2009);
- (e) the Event Organiser being responsible for all the costs associated with the provision of any public notices;
- (f) the Event Organiser being responsible for any and all costs associated with the provision of appropriate traffic signs, barriers and/or cones etc., including their removal after the event;
- (g) the Event Organiser having the primary duty of care for public safety, with responsibility for taking all reasonable measures to ensure the safety of the public, and no claims in respect of any accident, damage or injury sustained as a result of the event shall be entertained by Allerdale Borough Council or Cumbria County Council (as the local highway authority); and
- (h) the Event Organiser being responsible for providing notification in writing to all residents and businesses affected by the temporary road closure AND for displaying notices along the route informing the public of the closure at least seven (7) days prior to the date of the event. (Note: the notices/signs shall be no more than 0.6m² in size and shall be placed so that no part is less than 450mm from the edge of the carriageway, not less than 2300mm above a footway and not less than 2500mm above a cycleway.)

13. Data Protection

All information submitted in this application shall only be used by Allerdale Borough Council and its employees in accordance with the Data Protection Act 2018.

Allerdale Borough Council shall not supply information to any other organisation or individual except to the extent permitted by the Data Protection Act 2018 and which is required or permitted by law in carrying out any of its proper functions.

This extends to the use of the information provided being published on public notices and shared with consultees.