

## **Department for Transport, Local Government and the Regions** ***Consultation on Possible Changes to the Use Classes Order*** ***and Temporary Uses Provisions***

### **Response from the Motoring Organisations' Land Access and Recreation Association (LARA)**

#### **Background to LARA**

The Motoring Organisations' Land Access and Recreation Association (LARA) was formed in 1986 as a national forum through which the leading motor sport and recreation organisations could discuss common matters of concern and make connections with, and representations to, all national and regional Governmental bodies, environmental and recreational organisations, and the media. LARA is not a governing body of the sport; it exists to assist and, where appropriate represent, its member organisations. The background to LARA and its terms of reference are contained within its *Forward Plan 2000 – 2004*, extracts from which are in Appendix I.

#### **Motor sport and Permitted Development Rights**

Motor sport – both car and motorcycle – depends on Permitted Development Rights (PDR) for access to the necessary land. Some types of motor sport take place on permanent sites that have planning permission – typically race circuits like Brands Hatch – but a great deal more in terms of number of events and number of participants takes place on sites used temporarily and occasionally, and which revert to a principal use between events. Typical examples are motorcycle trials held on areas of rough land or disused quarries, and autocross racing, frequently using stubble fields after harvest. Access to these sites generates a small but significant additional income for the landowners, but equally makes available land to the organising clubs at an affordable price.

- Events operating under PDRs are mostly low-key and non-profit generating.
- A motor club will tend to move around a number of sites during the year.
- There are no alternative sites with planning permission available at an economic price.
- There would be reluctance from the owners of these sites to become involved in the formal process of getting planning permission leading to loss of sites even where there is a reasonable prospect of planning permission being granted.

#### **How much motor sport operates under PDRs?**

In order to furnish this response with supportable data, LARA undertook a survey of motor sport events held under PDRs on the weekend of 9<sup>th</sup> and 10<sup>th</sup> March 2002. This weekend was chosen as the first reasonably busy weekend of the 2002 season, whilst allowing us to collect and collate the data in time to make this response. Later weekends would tend to be busier. LARA's member organisations sent to their club secretaries a questionnaire (Appendix II) to be completed and returned giving details of the location of the event (including the planning authority area), the number of participants (drivers and passengers) and the number of other 'helpers': organisers, mechanics, marshals, etc. A tabulation of these returns is at Appendix III. In summary there were:

66 events. 4,821 'drivers'. 6,011 'helpers'. Total 10,832 persons actively engaged.

This was an early-season weekend, but LARA member organisations suggest that the numbers involved could reasonably be taken as low-to-average for any weekend from the beginning of March to the end of October, with the winter weekends returning 40% of the spring and summer figures. Foot and Mouth Disease severely disrupted motor sport's year 2001 so 1999 and 2000 are the latest years for which there are reliable figures:

The Motor Sports Association (car sport, including 4x4) had 2207 permitted events in 2000 with 64,757 people starting. The MSA also permitted 385 '*concours*' and similar non-sporting events.

The Amateur Motor Cycle Association (mainly moto-cross, some trials and enduro) had circa 500 events in 2000.

The Auto-Cycle Union had, in 1999, 3061 permitted events in moto-cross, trials and enduro, almost all of which were held under PDRs.

Other motor sport organisations had (LARA estimate) 500 events held under PDRs.

Total: 6653 events under PDRs per year

Of these events, we estimate an average 'repeat use' of sites at 5 per year, indicating some 1331 sites in use under PDRs per year. The sites in use will change and 'turn over' each year at a rate of perhaps 20% indicating that if planning permission was required, and all temporary sites applied for, after approximately 1331 applications at first, there might be 266 additional applications every year after.

- Motor sport operating under PDRs has thousands of events and almost half a million 'person units' of active participation, not including spectators, every year.
- Almost all this sporting activity passes off without giving rise to complaints.
- Many events have been run – sometimes on the same site – for decades, suggesting that, far from being a problem, they are popular and welcome in the countryside.

### **Motor sport under PDRs and problems reported to planning authorities**

For the same weekend (9/10 March 2002) as was used for the survey of motor events, LARA sent a questionnaire (Appendix IV) to every planning authority in England and Wales asking for details of any complaint received by the following Wednesday concerning motor sport events. It is clear from planning officers that complaints come in immediately after the cause for concern, or generally not at all. We sent out questionnaires to:

236 District Councils  
11 National Parks  
32 London Boroughs  
82 Unitary Councils  
22 Wales Councils  
(total 383)

We had a total of 115 replies (30%) of which 21 replies (5%) from planning authorities reported problems arising from 'motor sport' (Appendix V) of which only 4 (1%) appear to be possibly motor sport events (more likely practice sites). The rest expressly stated 'no problem'. No reply indicates no problem reported.

- No complaint is reported that connects to any motor sport event in our survey of 66 events on 9<sup>th</sup> and 10<sup>th</sup> March.
- Most complaints and concerns raised by planning authorities relate to repeated instances of illegal use of land by (mainly) motorcyclists: 'cowboys', or 'scramblers'.
- Several planning authorities wrongly use the term 'motor sport event' to describe such illegal use.

### **The Baker Associates Report**

The *Baker Associates Report* is plainly mainly concerned with two aspects of planning control that are giving widespread cause for concern: the Use Classes Order (concerning mainly the shop trade), and the upsurge in 'car boot sales' held under PDRs. Car boot sales are reputed to be used to 'fence' stolen goods and launder illicit money, and can cause traffic and litter problems on the urban fringe.

Baker Associates had only a 10% initial response and had to resort to telephone follow-up (questions posed are not given) to achieve a final response total of only 25%. Baker Associates polled 390 planning authorities (LARA's mailing list is probably slightly out of date – we polled 383) and had 98 responses after the telephone interrogation. Of this 98, 30% reported problems with temporary uses: 29 cases (table in Baker's Annex 3 – p2). Of these 29 cases, 14% reported problems with 'motor sports': 4 cases.

- Baker Associates is predicating an assertion that motor sports under PDRs are a problem on only 4 cases – one High Court case and 3 'personal communications' with planning officers: Baker's footnotes 23-26 inclusive – and there is no factual information that these 'problems' are, in truth, genuine motor sport events and not just 'cowboy' activity.
- Baker Associates ends its own report with the conclusion "Leave Class B of the GPDO as it is: The relatively minor number of complaints from authorities reveal that the system is working satisfactorily."

## The range of DTLR-suggested options examined

<p>Option 1</p> <p><b>8.11</b> <a href="#">Option 1</a> is to retain the current temporary use provisions. Local planning authorities can already remove specified permitted development rights by means of a direction under Article 4 of the General Permitted Development Order. Under an Article 4 direction, the removal of permitted development rights can be tailored to the particular needs of a site or area and can therefore be kept to a necessary minimum.</p> <p><b>8.12</b> However, there are difficulties in adopting this approach. Most significantly, there may be an ongoing liability on the local planning authority to pay compensation where a subsequent application for planning permission is refused or granted subject to conditions. If Government amends the General Permitted Development Order to remove certain permitted development rights (which would be the case under the following options) compensation may still be payable, but it is limited to the first twelve months after the change is introduced.</p>	<p>We strongly favour this Option. There is no good evidence that organised motor sport events operating under PDRs cause more than the occasional problem, and these can be dealt with by existing planning safeguards like Article 4 Directions and Enforcement Notices.</p> <p>There may well be the occasional intractable case, but the overall number of cases of illegal use of land – the <i>real</i> problem issue – would certainly rise significantly if legitimate motor sport is seriously restricted by unnecessary new rules. This trade-off has to be considered.</p>
<p>Option 2</p> <p><b>8.13</b> The researchers acknowledged that there was a great deal of activity that took advantage of the permitted development rights which causes no harm to issues of acknowledged planning importance and indeed which might be desirable. However, having considered a range of options, the researchers concluded that only the complete removal of temporary use provisions would really address the problems adequately. They therefore recommended that the temporary use provisions be removed for all temporary uses currently under Class B of Part 4 of the GPDO, and be replaced with a requirement that events organisers seek planning permission for a site on which they might wish to hold activities from time to time.</p>	<p>There is no good evidence that legitimate motor sport events present any significant problem. The Baker Report conclusion regarding motor sport is based on an extremely small national sample providing unsubstantiated reports of 'problems'.</p> <p>If there is a genuine problem with 'car boot sales' because of crime then this should be addressed by more appropriate means: trading standards, the police, Customs and Excise, etc.</p> <p>The loss to society of the many and varied legitimate activities enabled by PDRs would far outweigh any good achieved.</p>

<p>Option 3</p> <p><b>8.14</b> In order to address the specific problems identified, but to retain the benefits of temporary use provisions, an alternative option would be to remove permitted development rights for temporary markets, all motor sports, and clay pigeon shooting.</p> <p><b>8.15</b> This option would provide local planning authorities with the opportunity to consider the planning implications for those activities which cause the most local controversy and disruption. However, both this option and <a href="#">option 2</a> would also remove permitted development rights for farmers markets, which are strongly supported by Government.</p> <p><b>8.16</b> These options would not, of course, stop such activities taking place, since an organiser could still apply for planning permission. This might be on the basis of a certain number of activities on a specific site within a year. This would have the advantage of allowing the local planning authority to impose any necessary conditions, including on the duration of the planning permission, without being too burdensome on both the organiser and the authority.</p>	<p>We repeat our response to Option 2 above. Motor sport is not a proven villain. The Baker Associates Report is seriously flawed.</p>
<p>Option 4</p> <p><b>8.18</b> It has been suggested that reducing the number of days on which temporary uses can occur would help to reduce the impact. <a href="#">Option 4</a> is therefore to reduce the number of days on which temporary markets, all motor sports, and clay pigeon shooting can operate without planning permission to 7 days in any one year. Whilst this would halve the number of occasions on which such activity could take place, it would not allow local planning authorities to control the potentially adverse effects on those days when the markets etc were operating. In addition, it would not help to solve the problem where an organiser has access to a number of separate sites within a small location.</p>	<p>This would have merits only if it can be shown that its application is appropriate because of demonstrable problems arising from the current number of days. Motor sport organisers are pragmatic people – they know when a site is potentially sensitive to over-use and apply common-sense self-regulation. There is no evidence of problems and equally no evidence that a reduction in number of days is beneficial.</p>

<p><b>Option 5</b></p> <p><b>8.19</b> <a href="#">Option 5</a> would be to introduce a size threshold above which permitted development rights would be removed for temporary markets, all motor sports, and clay pigeon shooting. Different thresholds would need to be established for each activity. For example, a suitable size threshold for car boot sales could, perhaps, be based on the number of stalls, or "car boots", or the expected number of people attending such markets. This would allow local planning authorities to control the larger activities which could be expected to have the greatest adverse impact. However, it would have difficulties in terms of enforcement, as well as in ensuring that whatever threshold was set did not catch fetes or other one off charitable events.</p>	<p>How is 'size' to be defined? Most motor sport operated under PDRs is 'clubman' level – it attracts participants and their immediate helpers, but few if any spectators. Larger events in terms of participants may well be held over a much larger site (or number of sites) thus actually reducing any potential adverse impact.</p> <p>Existing controls (A4Ds, etc.) are sufficient to cope where problems arise and are likely to recur.</p>
<p><b>Option 6</b></p> <p><b>8.20</b> <a href="#">Option 6</a> would be to introduce a notification procedure. Some local planning authorities have recommended a simplified notification system, whereby event organisers could ask the authority if they needed planning permission in advance. If the authority felt that the event would cause no harm they could go ahead with it, whereas if there were any potential effects the authority could require planning permission. A significant problem with this idea is that if planning permission was required for a one off event it could take a long time to be authorised, putting the event into jeopardy. In cases where planning permission was refused, there would also be a need to ensure that any subsequent appeals were dealt with speedily. This option would reduce the level of certainty and clarity. Problems may also arise in deciding what action, if any, should be taken if the local authority is not informed of an event taking place.</p>	<p>Many motor sport clubs already discuss events with planning authorities, especially in more sensitive areas like National Parks. This Option would have the merit of distinguishing the legitimate and continuing motor clubs from the 'cowboys' and fly-by-night operators (of which there are few). It could also assist in demonstrating that almost all reported problems arise out of illegal activity, not legitimate sports events.</p> <p>A notification system could be achieved by a code of practice by LARA member organisations, rather than by any compulsory means.</p>

### Other matters

- The proposals would bring a significant and ongoing workload for planning authorities and club officials. Is this valid when weighed against any small benefit that might come from any change to PDRs?
- The proposals go strongly against the philosophy of deregulation. New and additional rules should only be introduced where there is a proven need. There is no proven need here.
- The proposals will hit farm and countryside diversification. Farmers welcome motor sport as providing a small but worthwhile additional income from a temporary change of use. Furthermore, the benevolence of many landowners helps cement a positive relationship between town and country dwellers and fosters a positive attitude to land uses.
- There are already adequate planning safeguards in place. Where genuine problems arise the planning authorities already have the tools to do the job: LARA knows – we have the case histories.
- These low-key motor sport events bring pleasure and active recreation to a great many people every year. These people have rights and expectations too. With almost half a million 'person units' of participation every year there is bound to be an occasional problem, but no more than with any type of recreation – football, cycling, riding, hiking, music festivals, etc.
- Unreasonable additional regulation of legitimate motor sports will inevitably have the effect of increasing the level of illegal 'cowboy' use of land. Participants suddenly losing their long-time legitimate recreation will react badly – some will simply say 'enough is enough' and just go out anyway. The police cannot cope now, and the loss of the organised and disciplined clubs – in whose interest it is to influence good behaviour – will exacerbate the situation. If anyone thinks things are bad now, a loss of PDR events will make it much worse.

### Summary

- The *Baker Associates Report* is seriously flawed as regards motor sport. The sample is small, the findings anecdotal and probably confused, and the Report's own findings are in direct conflict with its recommendations.
- Motor sport – and farmers' markets, clay shooting, and many of the myriad other activities staged under PDRs – are generally not bad neighbours. This is a crowded island with more than enough NIMBYs seeking to annexe their own acre. There must be a balance between proper regulation of land uses and a system that permits and encourages ordinary people to organise events for their own and others' enjoyment and exercise.
- Permitted Development Rights strike an excellent balance between no regulation and rigid regulation; if they had not been in place for almost four decades someone would have to invent them.
- There is no proven case for changing the current system of permitted development rights in respect of motor sports.
- In summary, motor sports' response to the DTLR consultation is "There is no significant problem. Permitted Development Rights work well, reducing pointless bureaucracy and workload on volunteers. No case has been made for change. Leave PDRs as they are."

Ends.