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**To:** Cabinet -14 September 2009

**Subject:** Local Act for amendment of Road Traffic Regulation Act 1984 – The Kent County Council (Filming on Highways) Bill

**Classification:** Unrestricted

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**Summary:** Informs Members of the proposal to introduce a Local Act to amend the Road Traffic Regulation Act 1984 in order to facilitate filming on Kent highways and to seek endorsement of the draft Bill.

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## Introduction

- 1 Since its launch in 2006, the Kent Film Office has been responsible for attracting over £13 million into the local economy through filming within the county.
- 2 The Kent Film Office regularly receives requests to close roads for the purpose of filming on the highways and to alleviate the effect of modern traffic noise on period productions. Currently Kent Police does not support road closures or traffic regulation for filming using the provisions of the existing legislation.
- 3 At present, filming on the road is usually achieved by productions either hiring off-duty police officers to hold traffic for a limited amount of time during takes or by approaching districts that are willing to close roads for a limited amount of time for filming. Both options are not without problems, for example when holding traffic, police can only request that drivers stop but cannot legally require them to do so. If a driver asks to be let through they must be allowed to do so, thus interrupting the flow of filming, which can be very costly. These scenarios also have health and safety implications, in that traffic is passing through areas peopled by workers concentrating on their tasks and not the traffic flow. Passing traffic is also distracted by filming activity and thus potential for accidents is increased.
- 4 Occasionally, local district or borough councils have been willing to put in place a road closure for filming based on the Town Police Clauses Act 1847 (“the TCPA”). However, this has only been done in exceptional cases, and they have not been comfortable in doing so, as this makes them vulnerable to a legal challenge. As Kent Police are not supportive

of such road closures only requests for filming with virtually no impact on the highways are currently being implemented. A number of districts concur with the advice of the force solicitor and will not consider using the TPCA for filming.

- 5 The current legislation governing temporary road closures is the Road Traffic Regulation Act 1984 (“the RTRA 1984”). This provides for the closure of roads for “relevant events”, which are defined as “any sporting event, social event or entertainment which is held on a road”. There is considerable uncertainty in respect of whether filming falls within this definition and there is therefore a risk if challenge if powers under this section were exercised for the purpose of closing roads for filming.
- 6 There are further restrictions in that an order under the RTRA 1984 may only remain in force to a maximum of three days (unless before the order is made, the Secretary of State has agreed that it should continue in force for a longer period) and an Order may only be made for a specific road or part of such a road once per year. This restriction is not limited to closing the road for a particular purpose and therefore prevents a road being closed for any other purpose in that year. As this will include, for example community events, local communities are often reluctant to agree to road closures for filming in prime locations.
- 7 The financial advantages of being able to close roads for filming are potentially vast. This year a road closure was implemented for filming in Chilham. It is estimated that this brought in approximately £64,000 in direct spend during the week that they filmed there.
- 8 The Film Office has lost major filming projects due to the inability to close roads for lack of police or district agreement, in particular period films where modern traffic presents the obvious complications.
- 9 Districts which allow road closures under the existing TPCA powers, like Thanet, Canterbury and Ashford, see proportionally higher levels of filming activity than those that do not support this. KCC currently has no powers at local level with regard to these decisions.
- 10 The London Local Authorities and Transport for London Act 2008 contains provisions that amend the RTRA 1984 in order to facilitate the closure of the highway for filming purposes. In summary these provisions:
  - (a) confirm that filming is a “relevant event”
  - (b) lengthen the maximum time that a road may be closed for filming from three days to seven daysand
  - (c) increase the number of times that a particular road may be closed in any one year (from once per year to up to six times per year).

## **Procedural Matters**

- 11 The County Council has sought the advice of Parliamentary Agents who have produced a draft Bill (a copy of which is annexed to this report), and which is currently subject to consultation. The Bill contains the provisions outlined above together with an additional provision which will confer upon the County Council the power to authorise any person making a film to temporarily place objects on the highway.
- 12 In order to promote the Bill, KCC must comply with the provisions of Section 239 of the local Government 1972. Primarily, KCC must pass the necessary resolutions. The first resolution confirms that KCC considers it expedient to promote the Bill. The second resolution (at a later meeting) confirms the first resolution and the deposit of the bill in Parliament.
- 13 The procedure to be followed is as follows:
- a – Public Notice of each meeting must be given by advertisement in one or more local newspapers (in addition to our ordinary notice requirements) The notice must be signed by the proper officer and be published by 15 September to ensure the requisite 30 clear days notice.
  - b – A report seeking approval to pursue the Bill will go to County Council on 15 October 2009 (promotion of a private Bill is a full Council rather than Cabinet responsibility).The report will set out the need case for closing highways for filming and how this will be accomplished by the promotion of a private Bill (rather than by other means).
  - c – The County Council meeting on 15 October 2009 will consider approval for pursuing the Bill. A full majority of the whole County Council will be required to pursue the Bill. A majority of those present and voting is not sufficient.
  - d – If the first resolution is made at the 15 October 2009 meeting, the Bill is to be deposited in Parliament by 27 November 2009. If it is not deposited on this date, KCC will have to wait until 27 November 2010 to deposit the Bill. This is because private Bills can only be deposited once a year, on or before the 27 November.
  - e – A second County Council resolution must also be confirmed by a majority at a further meeting convened and held not earlier than 14 days after the deposit of the Bill, confirming that the Council wishes to proceed.
  - f - There will be various stages of the Bill through Parliament which will be facilitated by our Parliamentary Agents. If successful, it is likely to be enacted by Spring 2011.

### **Report Structure**

- 14 The decision to deposit a Bill with Parliament is within the authority of the County Council. A further report setting out the need case for road closures for filming in Kent and how this will be accomplished by the promotion of the Bill (rather than by other means) will be presented to the next meeting of the full County Council on 15 October 2009.

### **Policy Framework**

- 15 The Bill will enable the Kent Film Office to continue its progress to raise the profile of the county as a major venue for film, television and the wider creative industries and benefit the Kent economy as set out in Target 8 of the Towards 2010 document. The powers under the Bill will offer legal certainty in respect of road closures for filming and would enable the Kent Film Office to work within the protection of the law.
- 16 Economically, it would put Kent in a unique position as the only UK region outside of London with these powers. This would make Kent extremely competitive with the capital and indeed parts of Europe, where such legislation also exists.
- 17 It would also help to deliver Priority One of the Kent Film and Television Strategy: 'The Film Office is critical to delivering the Kent Film Strategy. It will build on its recent successes across a broad spectrum of activity in establishing internal and external mechanisms that will provide effective support, information and advice to the film and television industry. Actions include
- Delivering the economic potential of the film and television industry into Kent increasing the number and the scale of film productions in the county
  - Examining and exploiting the prospects of income generation through the Kent Film Office'
- 18 The Bill would facilitate the Kent Film Office not only to encourage more filming into the county, but also to offer the county to more high level – high impact filming.
- 19 The Bill will also have implications for other events as it will enable roads to be closed more than once in a year. This will allow for large scale events, such as the Tour de France to take place on the same length of road within the same year. This means all sporting and community events will benefit from the bill and might even offer further opportunities for Kent's role in the 2012 Olympics.

## **Implications**

- 20 Financial - Costs for the Bill, which are estimated at £58,000 will be paid by KCC. This includes the parliamentary agents fees and disbursements. It is hoped that these will be recouped through filming spend into the county, as well as spend around other large scale events made possible through this Bill. It is intended that costs incurred by road closures will be recouped directly from the production companies requesting the road closure under existing powers. This may include costs for implementing diversions, signage and staff time.
- 21 Legal – The Bill will lead to a change in Legislation which will be applicable within the Kent County Council administrative area only.
- 22 Human Rights - Before a Bill is laid before Parliament it must be certified as being compliant with the European Convention on Human Rights. This will be evidenced by an opinion by the Parliamentary Agents.

- 23 Reputation – A framework for granting road closures has already been prepared and partially set out within the A-Z Filming Guidelines under the Kent Filming Partnership. Road closures will be granted in close consultation with Kent Highway Services, Kent Police and other emergency services. Production companies will be obliged to cover costs, provide risk assessments, consult with local residents and businesses and put in place procedures for emergencies before a film order permitting closure of a road is granted.

### **Consultations**

24. There has been internal consultation in respect of both the principle and the provisions of the draft Bill. The external consultation commenced on 1 August and runs for a period of one month. Copies of the Bill have been sent to Kent Police, the district Councils, statutory undertakers, Royal Mail and the AA and RAC.
- 25 Details of the consultation have been published on the County Council website.
- 26 Consultation with Government Departments and Kent Members of Parliament is being carried out by the Parliamentary Agents.

### **Conclusion**

- 27 Cabinet is asked to approve the recommendations, to enable the Kent Film Office to proceed with the Bill to close roads for the purpose of filming. Once the Bill is enacted by Parliament, it will make Kent unique as the only film friendly county in the UK where filming in the highway is permitted in this way. This will potentially attract more high level filming to the county and increase the amount of direct spend from filming, which directly benefits residents and businesses in Kent.

- 28 Other options considered were:

A - to continue to close roads either by stop/go method or via districts under the TCPA . However, this method relies on the co-operation of the districts and/or Kent Police. In the past the Kent Film Office has lost major filming projects because we were unable to close roads.

B - We have also considered asking other councils whether they would participate in the Bill. Whilst there may be some economies of scale if each additional Council were to proceed with the same Bill as KCC, these would be outweighed by the loss of competitive advantage from being the only Council with these powers. In addition, there would be potential for the Bill to be delayed if other Councils were not able to meet the prescriptive timetable for the submission of the Bill to Parliament and there would be an increase the risk of challenges, which may not be directly relevant to the County Council.

### **Recommendations**

29. Cabinet is asked to recommend to the Council that this Council pursue the introduction of the attached Bill which is in a form similar to the relevant

provisions in the London Local Authorities and Transport for London Act 2008 that amends the relevant provisions of the Road Traffic Regulation Act 1984 and includes an additional provision in respect of placing objects on the highway

**Background Documents:**

- 1- London Local Authorities and Transport for London Act 2008
- 2 – The Draft Kent County Council Filming on Highways Bill

**Other Useful Information:**

Kent Film and Television Strategy

Kent Filming Partnership Agreement

**Author Contact Details**

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