
TRAFFIC MANAGEMENT ACT 2004

Responsible Cabinet Member - Councillor David Lyonette, Transport Portfolio

Responsible Director - Cliff Brown, Director of Community Services

SUMMARY REPORT

Purpose of the Report

1. To update Cabinet on progress implementing the requirements of the Traffic Management Act 2004 (TMA) and to help meet their ambitions to tackle congestion wherever possible.
2. To seek Cabinet approval for the completed sections of the Network Management Plan and associated appendices, specifically the designation of traffic sensitive streets, the network management hierarchy and pairing of roads.
3. To advise Member of the powers available to serve notices and issue Fixed Penalty Notices under the New Roads and Street Works Act 1991 and grant Delegated Power to the Director of Community Services to use these powers if necessary.

Summary

4. One of the Councils key objectives is to manage congestion. The TMA received royal assent in July 2004. It places a network management duty on all Local Traffic Authorities (LTAs). The TMA contains many powers, all aimed at managing congestion.
5. The TMA places the following duty on the Council. "It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable, having regard to their obligations, policies and objectives, the following objectives:
 - (a) Securing the expeditious movement of traffic on the authority's road network; and
 - (b) Facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority."
6. Network Management Plans (NMP) are a method for demonstrating delivery of this duty. The TMA has been introduced on a phased basis since 2004 and as such the NMP is a dynamic plan that will continue to develop over time. One of the Councils key objectives is to manage congestion and the NMP is a management tool in delivering this objective. The latest version of the plan is attached as **Appendix A**.

7. As part of the NMP a review of the designation of streets has been carried out and new designations have been produced in relation to traffic sensitivity, network management hierarchy and for the pairing of roads so that when roadworks are taking place, similar works are not allowed on any alternate route or paired road. These are essential elements of the plan to assist in the management of congestion and coordination of road works.
8. A series of new regulations and guidance have been introduced in association with the implementation of the TMA and to support the existing legislative framework in the New Roads and Street Works Act 1991 (NRSWA).
9. One of the new sets of regulations are the Street Works (Fixed Penalty) Regulations 2007. These enable the Street Authority to issue Fixed Penalty Notices (FPNs) for certain offences relating to noticing under the NRSWA. In order to administer the FPN process efficiently and effectively it is proposed that the Director of Community Services' delegated powers include the authority to serve notices and issue Fixed Penalty Notices under the New Roads and Streetworks Act 1991.

Recommendation

10. It is recommended that:
 - (a) Cabinet note the contents of the report.
 - (b) The report be referred to the Economy and Environment Scrutiny Committee.
 - (c) Cabinet approves the completed sections of the Network Management Plan and its associated appendices, in particular the designation of traffic sensitive streets and that the proposed network management hierarchy and the pairing of roads schedule be consulted upon with stakeholders.
 - (d) Delegated power is granted to the Director of Community Services or his/her nominated officers to carry out all the powers and duties under the New Roads and Streetworks Act 1991 and the Traffic Management Act 2004 where deemed appropriate and necessary.

Reasons

11. The recommendations are supported by the following reasons:
 - (a) To support the Councils objective of managing congestion.
 - (b) The Traffic Management Act 2004 places a network management duty on all Local Traffic Authorities and its associated legislation has necessitated changes to processes operated by the Council.
 - (c) If the recommendation is approved it will enable the efficient implementation of the Council's statutory obligations in relation to the administration of street works.

Cliff Brown
Director of Community Services

Background Papers

- (i) Traffic Management Act 2004.
- (ii) New Roads and Street Works Act 1991.
- (iii) The Street Works (Register, Notices, Directions and Designations) (England) 2007 Regulations.
- (iv) The Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters (Third Edition, July 2007)
- (v) The Street Works (Fixed Penalty) Regulations 2007.

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S17 Crime and Disorder	There are no specific implications in relation to Crime and Disorder.
Health and Well Being	The specific management duty reflects the six strategic objectives in the Second Local Transport Plan, with one of these being to improve the health of the community through increasing levels of sustainable travel and improving access to health, leisure and food.
Sustainability	Another objective of the Second Local Transport Plan is to provide the framework for sustainable development of new and existing businesses, housing and services in Darlington and to provide and promote travel choice to all. The Network Management Plan will provide the framework to support this objective.
Diversity	An Equalities Impact Assessment will be undertaken on the elements of the plan.
Wards Affected	All.
Groups Affected	All.
Budget and Policy Framework	The report does not affect the Council's budget or Policy Framework.
Key Decision	This is a key decision.
Urgent Decision	This is not an urgent decision
One Darlington: Perfectly Placed	Transport has a key role to play across the themes of the vision and can contribute to achieving all of them. However, for the most part they will be managed under the Greener Darlington theme. The Network Management Plan supports the Council's Transport Strategy in relation to supporting economic regeneration; improving accessibility to services and providing travel options; tackling congestion and its associated effects on local communities; continuing to tackle road safety and delivering travel needs in partnership with stakeholders. This Transport Strategy seeks to provide a more reliable and secure environment for movement around the highway network.

MAIN REPORT

Information and Analysis

Background

12. The Traffic Management Act 2004 (TMA) received royal assent in July 2004. It places a network management duty on all Local Traffic Authorities (LTAs) and Section 16(1) of the Act states:

‘It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable, having regard to their obligations, policies and objectives, the following objectives:

- (a) Securing the expeditious movement of traffic on the authority’s road network; and
 - (b) Facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.’
13. The Act also required that every LTA must appoint a Traffic Manager, commencing in January 2005. It is the responsibility of the LTA and the Traffic Manager that the Council delivers a coordinated, planned and effective response to the network management duty across the whole organisation, and to ensure that agreed actions are implemented.
14. One of the Councils key objectives is to manage congestion and the Network Management Plan (NMP) is a key element in delivering this objective. In order to facilitate the proper performance of the duty, a NMP has been produced to a template developed in consultation with the North of England Traffic Managers’ Group. This plan includes information on Traffic Sensitive Streets, Network Management Hierarchy and Pairing of Roads. These are essential elements of the plan to assist in the management of congestion and coordination of road works.

New Regulations and Guidance Associated with the TMA

15. The TMA has been introduced on a phased basis since 2004 and as such the NMP is a dynamic plan which will develop over time. Three new documents were introduced in 2007 that are associated with the implementation of the TMA. These are to support the existing legislative framework in the New Roads and Street Works Act 1991 (NRSWA):
- (a) The Street Works (Register, Notices, Directions and Designations) (England) 2007 Regulations.
 - (b) The Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters (Third Edition, July 2007).
 - (c) The Street Works (Fixed Penalty) Regulations 2007.

The majority of the provisions came into force on the 1 April 2008 and the Council has an Action Plan in place for the introduction of these provisions in line with the statutory timetable.

16. The coordination of street works revolves around a process of monitoring notices from numerous sources advising of when works are likely to start and their duration. These notices must be updated and served at the relevant times to allow effective coordination. The new regulations aim to improve this noticing process and allow sufficient time to better coordinate road works.
17. All works are classified into one of four categories: Major/Standard/Minor or Immediate. This classification is largely determined by whether the works are planned or unplanned and the duration of the works. Each category has a different notice period ranging from three months for Major works to two hours after commencement for immediate works. The immediate works category is designed for emergency situations such as a gas escape or where a supply has been interrupted or is threatened.
18. By monitoring incoming notices the Council is able to assess the likely impact of works and if necessary give directions to alter their timing. Such assessments apply to all works, including those carried out on behalf of the Council. It is an important principle that all works are assessed equally to ensure parity. The Council must not give favoured treatment to its own works over any other statutory promoter. Restrictions can be placed on roads where major events are taking place. Also an embargo is placed on major roads into Darlington during December to assist retail and Christmas shopping.
19. In summary, the changes brought about by the new legislation are:
 - (a) an expanded and enhanced GIS based register of works;
 - (b) new criteria for the designation of Traffic Sensitive Streets;
 - (c) requirement to register Council roadworks;
 - (d) extension of sample inspections to include Council roadworks;
 - (e) fixed penalty notice provisions for noticing offences; and
 - (f) extended embargos for carrying out works in resurfaced/reconstructed streets.

Enhanced GIS based Register of Works

20. From April 2008 all works recorded in the Street Works Register are required to have grid co-ordinates. These are then automatically plotted onto a map. This is of assistance in the co-ordination process as it allows conflicts to be highlighted much easier than is possible in a text based system.
21. It is the intention that this information be made available to the public via a website in the future. This could be in conjunction with other Authorities to provide a region-wide picture. The map based Register would replace the existing Roadworks Report which is currently updated weekly on the website.

Traffic Sensitive Streets

22. A street authority may designate certain streets as 'traffic sensitive'. This designation highlights that works in these streets would be likely to be particularly disruptive. New criteria for designation have been introduced and if one or more of the nine criteria apply, a street authority may designate a street as traffic-sensitive to part of the street, to part of a length of a street and to certain times of day, days of the week, or days of the year. The criteria that are most appropriate to the streets in Darlington are:
- (a) The street is one on which, at any time, the street authority estimates traffic flow to be greater than 500 vehicles per hour, per lane of carriageway, excluding bus or cycle lanes.
 - (b) The street carries in both directions, more than eight buses per hour.
 - (c) The street is designated for pre-salting by the street authority as part of its programme for winter maintenance.
 - (d) The street is on a tourist route or within an area where international, national, or significant major local events take place.

Other criteria relate to congestion charges areas, percentage of heavy commercial vehicles, significant pedestrian flows and proximity to critical junctions.

23. The procedure for designation requires consultation with statutory undertakers, emergency services and transport authorities. Consultation has taken place and the proposed designations are appended in the Network Management Plan at **Appendix 12** of that document. Approval is sought for these new designations.

Requirement to Register Council Road Works

24. The highway network is one of Darlington's most valuable physical assets. The present value is estimated in excess of £545m (not including land value). Needless to say this asset needs considerable maintenance.
25. Since April 2008 there has been a requirement to register an increased amount of the Council's own works. The requirements of the TMA has placed a significant procedural obligation and resource implication to notify these works, which has had to be accounted for within the MTFP.
26. During the period April-December 2008 16,917 notices relating to 6,215 works were recorded in the Street Works Register. Of these notices 52% referred to works being carried out on behalf of the Council. It should be noted that many of these jobs were of a very minor nature such as pothole repairs which can be completed very quickly and so the number of notices is not necessarily an accurate measure of the level of disruption caused by works.

Sample Inspections to Include Council Road Works

27. In parallel with the increased requirement to register its own works the Council has implemented a sample inspection regime which mirrors that for utility works. In common with other Highway Authorities in the region these inspections cover only the Signing, Lighting and Guarding of works in progress and not reinstatements (this is because the completed works are checked as part of the routine inspection system).

Network Management Hierarchy

28. It is important that network is defined carefully in terms of network management. It is not appropriate, or practical, to apply the same level of network management to the whole of the network and therefore a hierarchical approach has been taken. Currently the network has a number of different hierarchy classifications traffic sensitivity, road classification and reinstatement requirements. Whilst these hierarchies reflect different but equally important criteria, it is considered that in order to best discharge the network management duty, the network needs to be considered in the context of the location and use. In this way, and accounting for the Council's major transport policies, a network management hierarchy has been established that reflects a usage hierarchy in terms of all traffic, including pedestrians and cyclists.
29. The hierarchy that has been developed for network management divides the network into three categories – high/medium/low. The different designations are colour coded; high = red; medium = amber; low = green, where:
 - (a) red: roads where works/incidents/events would have a serious detrimental impact on the efficiency of the network if not coordinated;
 - (b) amber: roads where works/incidents/events would have a reduced detrimental impact on the efficiency of the network if not coordinated but are considered to be of lower priority; and
 - (c) green: roads where works/incidents/events would have little detrimental impact on the efficiency of the network if not coordinated.
30. The proposed hierarchy is appended in the Network Management Plan at **Appendix 5** of that document.
31. It is the Council's intention to actively pursue the duty on that part of the network with a 'high' designation during the first year, in order to develop a sensible and practical approach to managing the network. It is then intended to review the hierarchy annually, to refine the designations to meet changing aspirations and to reflect any best practice derived from the regional cooperation with the other North of England LTAs.
32. In developing the hierarchy consideration has been given to the Council's wider objectives and policies. It also recognises the needs of our partners and stakeholders, for example the Police and public transport operators. If Members approve the proposed hierarchy then consultation will be undertaken with stakeholders. Liaison has also taken place with our neighbouring authorities to ensure actions taken by ourselves do not have a detrimental effect on the network of others, and vice versa. This has also ensured that, as far as is reasonably practicable, cross boundary consistency exists with the networks of adjacent

authorities and users have the certainty that the standards of network management roll out across the region.

Pairing of Roads

33. Pairing of roads is a term used to identify routes that may be used as an alternative if an event or activity disrupts flow on another route.
34. In terms of coordinating road works it is important that paired roads are also managed effectively. If works that interrupt traffic flow are being undertaken on the primary route it is the intention that approval will not normally be given for works that interrupt the flow to be undertaken on the 'paired' route. It will only be in exceptional circumstances that works that interrupt flow would be allowed on both the primary route and the paired road.
35. The route pairing schedule is appended to the Network Management Plan at **Appendix 9** of that document and approval is sought for the proposed schedule of routes and consultation to be undertaken with stakeholders.

Fixed Penalty Notices

36. The New Roads and Streetworks Act (NRSWA) 1991 is the statutory instrument which allows utilities to open up and lay their apparatus in the adopted highway. An integral part of the NRSWA legislation is the need for the utilities to notify the Council as Highway Authority of their works. The information is to be timely, accurate and sent electronically. Failure to comply with any of the above could lead to prosecution in a Magistrates Court.
37. New Regulations have recently been introduced to allow Highway Authorities to issue Fixed Penalty Notices (FPNs) as an alternative to court proceedings.
38. The Streetworks (Fixed Penalty) regulations provide for certain offences under Part 3 of the NRSWA to become FPNs.
39. The objectives of the FPN system are to:
 - (a) encourage accurate and timely notice data;
 - (b) improve the coordination of works;
 - (c) improve data quality for all works promoters; and
 - (d) contribute to the aim of the Traffic Management Act 2004 – minimising disruption arising from road and streetworks.
40. FPNs will be applicable to all those working in the adopted highway under NRSWA. There are seven possible offences and although they all relate to failures in noticing the works, it is unlikely that an FPN would be issued without a site inspection of the works.
41. Under the new regulations, the level of penalty has been set at £120 per offence, or £80 if paid within 29 days of issue.

42. Council roadworks notices are monitored with notional FPNs registered to measure compliance with the notification requirements.
43. In order to administer the FPN process efficiently and effectively, it is proposed that Delegated Power is granted to the Director of Community Services or his/her nominated officers to carry out all the powers and duties under the New Roads and Street works Act 1991 and the Traffic Management Act 2004 where deemed appropriate and necessary.

Extended Embargos for Carrying Out Works in Resurfaced / Reconstructed Streets

44. Section 58 of the New Roads and Street Works Act 1991 allows a Highway Authority to impose a restriction on what works can be carried out following substantial roadworks. The purpose of this provision is to tackle the public perception that newly resurfaced roads are then dug up by utility companies. Prior to April 2008 a one year restriction could be put in place. Now, however, the restriction can be five years following reconstruction work or three years following resurfacing works. There are limitations to this provision to allow customer connections, emergencies and other works which could not be planned in advance.

Intervention

45. The Traffic Management Act 2004: Network Management Duty is the only area of highways activity and regulation where the Secretary of State has reserved powers to intervene if an LTA fails or is failing to adequately perform the duty. Intervention is a rule-based performance indicator which, if met, would result in the Environmental block CPA rating being restricted to a maximum of 2 stars.
46. The TMA creates the provisions for the Secretary of State to monitor the performance of the Network Management Duty by LTAs. Intervention is a stages process, starting with information gathering, issuing an Intervention Notice and issuing an Intervention Order. An Intervention Order may be accompanied by the appointment of a Traffic Director. Provision is made for the Secretary of State to issue guidance on the criteria for intervention and for the Secretary of State to recover costs from the Local Authority. The process is not timetabled in the Order. The Department for Transport (DfT) has made it clear, however, that it could be compressed into a few weeks, if the need arose.
47. The mechanism by which DfT will gather evidence as to whether the Network Management Duty is being adequately performed will be the Local Transport Plan Delivery Report. DfT have informally indicated that the Network Management Plan will be a suitable vehicle for providing that evidence and the Plan will be appended to the Delivery Report. In assessing evidence of whether a local authority is adequately performing the Network Management Duty, DfT will address a range of over 40 questions under several headings and the Network Management Plan has been set out to provide an easily identifiable response to these questions.

Further Development Work

48. The dynamic nature of the NMP has previously been mentioned. The areas in the NMP that require further development work are:-
 - (a) Arrangements with neighbouring authorities need to be developed.

We are currently in discussion with Durham County Council, North Yorkshire County Council, Stockton on Tees Borough Council and the Highways Agency in relation to cross border arrangements for routine safety inspections, winter services, gulley cleansing, street lighting maintenance etc. Legal Agreements will be drawn up to formalise these arrangements.

(b) Network Hierarchies

Aside from the Network Management Hierarchies and the Traffic Sensitivity there is a requirement to review the categorisation of all highways in relation to their reinstatement designation. This must be carried out in line with guidance in the 'Specification for the Reinstatement of Openings in Highways'.

(c) Performance Targets and Measures

The Government is currently reviewing how best to measure performance. Only NI167 (congestion) is available at present and the data required to measure this is not available. We will be however gathering our own information in relation to the many facets of the network management duty to ensure that we will be able to measure our performance if and when targets are set.

(d) Improvement Plan

Actions and target dates are included within the network management plan to address the areas that the Government considers are required to properly perform the network management duty. The Improvement Plan will pull together all outstanding activities to ensure the duty is performed satisfactorily.

(e) Tactical Diversion Routes

Tactical Diversion routes are agreed with the Highways Agency to manage planned and unplanned events on their network where they need to divert traffic from their network onto Darlington's network. The Highway Agency is looking at these routes with a view to seeking approval to strengthen the signing on the routes to improve their effectiveness in unplanned situations.

Within Darlington a similar exercise is planned to improve resilience and preparedness for emergency situations. This will be developed in line with the pairing of roads register, known congestion hot spots and constrictions on the highway, such as low bridges and weight limits. A comprehensive system of diversions will be developed to cope with scenarios on the network.

(f) Regular review and analysis of network congestion 'hot spots'

An officer led Network Management Strategy Group is to be developed to focus on congestion. This Group will include representatives from Transport Policy, Highways Maintenance and the Traffic Manager as the core with other officers called in where appropriate.

- (g) The development of modelling techniques of the highway network to analyse scenarios and stress levels of the network is being commissioned for the inner ring road and other congestion 'hot spots' to help develop solutions and management techniques.

- (h) Technology

Advances in technology are an essential element in managing the network effectively and efficiently. Assessments of existing technology and available technology will be developed. For example pinch points will be identified and plotted on the mapping system and this will provide greater co-ordination opportunities when conflicts occur. We are also investigating including skip licences and scaffolding in the Street Works Register. The enhancement and introduction of more advanced Intelligent Transport Systems including the upgrading of the current Urban Traffic Control (traffic signal) software application will assist in delivering a more efficient network.

Outcome of Consultation

- 49. The draft Network Management Plan has been included as an annex within the Local Transport Plan 2 and included in the consultation process that this document underwent.
- 50. The designation of traffic sensitive streets is criteria based. However, the procedure for designation requires consultation with statutory undertakers, emergency services and transport authorities. Consultation has taken place with these groups to produce the proposed designation of traffic sensitive streets.
- 51. The Network Management Hierarchy and Pairing of Roads schedule has been developed to recognise the needs of our partners and stakeholders, for example the Police and public transport operators. Subject to Cabinet approval officers will consult with these groups on the proposed hierarchy and schedule of paired roads.