

PERMIT SYSTEM TO MANAGE AND COORDINATE ROADWORKS

Responsible Cabinet Member - Councillor Nick Wallis
Leisure and Local Environment Portfolio

Responsible Director –
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SUMMARY REPORT

Purpose of the Report

1. To seek approval to develop a Permit Scheme and consult on the proposed scheme to improve the management, coordination and operation of road works.

Summary

2. All highways authorities have a duty under the New Roads and Street Works Act 1991 (NRSWA) and the Traffic Management Act 2004 (TMA) to effectively coordinate all activities on the highway to ensure the safe and expeditious movement of traffic, pedestrians and vulnerable road users.
3. The Council and many other Highway Authorities across the Country presently effectively coordinate of roadworks through a noticing system. However, a permit-based system is an alternative approach available to Councils.
4. The Secretary of State for Transport wrote to all Local Authorities indicating that *“Government believes that operating a street works permit scheme is a far more effective way of proactively managing street and road works on the local road networks than operating under the older, more passive street works noticing system.”*
5. The Secretary of State also asked Councils to consider introducing such a scheme by 31 March 2019; preferring the Council to make the change willingly and for it to be done in way that best suits the local area rather than the Secretary of State giving direction to introduce a permit scheme.
6. The timescales posed by the Secretary of State made for the transition to a Permit System were extremely challenging and this was reflected back by Council’s across the Country resulting in a revised date of January 2020 being agreed by the Secretary of State.
7. The key features of a permit scheme are explained in more detail in the main report. Essentially all works are assessed on an individual basis and the Council can apply conditions to the permit. This is a more detailed applications and assessment process that is much more resource intensive. A fee can be charged

for processing and managing the application can cover the anticipated additional costs associated with a permit scheme compared to the current arrangements.

8. The Council is working collaborately with North East and Tees Valley Authorities to develop a common scheme for efficiency and consistency across the region. This will include cost benefit analysis, consultation and implementation plan. A further report will be brought back to Cabinet once this work has concluded.
9. The anticipated benefits operating a permit scheme are detailed in the main report but the main benefit will be increased resource and a new way to manage activities on the public highway, providing a powerful tool for effective coordination, minimising the inconvenience to the travelling public, businesses and local residents, whilst allowing works promoters the necessary time and space to complete their work.

Recommendations

10. It is recommended that:

- (a) Cabinet approve the development of a Permit Scheme and the consultation on the proposed scheme to improve the management, coordination and operation of road works.
- (b) Cabinet receive a further report upon the completion of feasibility and consultation which will include the business case, resource requirements and agree the detail of the scheme to be implemented, including the level of charges.

Reasons

11. The recommendations are supported by the following reasons:

- (a) To fulfil duties under the New Roads and Street Works Act 1991(NRSWA) and the Traffic Management Act 2004 (TMA)
- (b) Improve the management and coordination of roadworks
- (c) Comply with requests from the Secretary of State to introduce a Permit Scheme.

Background Papers

1. Traffic Management Act 2004
2. New Roads and Street Works Act 1991
3. The Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters (Third Edition, July 2007)
4. The Street Works (Fixed Penalty) Regulations 2007

S17 Crime and Disorder	There are no specific implications in relation to Crime and Disorder.
Health and Well Being	The duty reflects the strategic objectives in the Local Transport Plan, one of these being to improve the health of the community through reducing congestion and vehicle emissions arising from vehicles queuing in road works.
Sustainability	There are no specific implications in relation to sustainability.
Diversity	The permit system will improve the ability to manage, control and coordinate roadworks and consider the impacts of diversity in terms of access during works.
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	The permit system will better manage and coordinate roadworks reduce congestion, time spent in road works that cost the economy and ease traffic flow, all of which contributes in different ways to the themes in the strategy.

MAIN REPORT

Information and Analysis

Background

12. All highways authorities have a duty under the New Roads and Street Works Act 1991(NRSWA) and the Traffic Management Act 2004 (TMA) to effectively coordinate all activities on the highway to ensure the safe and expeditious movement of traffic, pedestrians and vulnerable road users.
13. The Council presently manages the coordination of roadworks through a noticing system. Whereby, a small dedicated streetwork's team manage notices submitted to the Council. These are then assessed and coordinated to manage the impact on highway users. The Council currently coordinates over 7,000 notices per year.
14. The Traffic Management Act (TMA) 2004 makes provision for Highways Authorities to introduce a permit scheme in order to manage disruption on the network more effectively for all road users and the view of Government is that Local Authorities will move to this approach. A permit scheme requires more detail to be submitted and allows the Council to place conditions on the works.

15. In Summer 2018 the Secretary of State for Transport wrote to all Local Authorities indicating that “*Government believes that operating a street works permit scheme is a far more effective way of proactively managing street and road works on the local road networks than operating under the older, more passive street works noticing system.*”
16. The Secretary of State also asked Councils to consider introducing such a scheme by 31 March 2019; preferring the Council to make the change willingly and for it to be done in way that best suits the local area rather than the Secretary of State giving direction to introduce a scheme.
17. The timescales posed by the Secretary of State were extremely challenging and this was reflected back from Councils across the Country resulting in a revised date of 31 March 2020. The Council is aiming for January 2020, which still remains challenging.
18. Continuing the current model of delivery is not advisable for two reasons:
 - (a) Guidance and possible direction from the Secretary of State
 - (b) The fact that the current approach relies on a national noticing ICT system, which is being replaced by a new system Streetworks Manager system. The new system is being developed to work with permit schemes. Whilst, the intention is that it will work with the current system, development and support will focus on permit schemes, this could present a risk if the Council does not move to a permit system.

Key Features of a Permit Scheme

19. Permit Schemes provide an alternative to the current notification system so, rather than a works promoter informing the Highway Authority of their intention to carry out works, a permit will be required in advance.
20. Provides the Council with the opportunity to better evaluate each proposed works and enable the Authority to reject incorrect or incomplete permit applications.
21. Work promoters will effectively book occupation of the street for specific periods and purposes rather than the current system of informing the Authority of its intention to occupy the street.
22. All permit applications will need to be responded to within a given response time as per the regulations and should the time limit elapse without comment the Permit is deemed to have been approved and the works can proceed.
23. Permit Schemes differ from the existing approach in a number of ways and will apply to our own works as well as those of Utility Companies and parity will be demonstrated through annual Key Performance indicators.

24. Works promoters will have to apply for a permit before commencing the work on the street with the exception of emergency and urgent works. Emergency works are defined as works that are required to end, or prevent circumstances, either existing or imminent that might cause damage to people or property. Within two hours of the works starting, the Utility must contact the Council, apply for a permit and provide details of the activity.
25. Urgent activities are defined as, to prevent or put an end to an unplanned interruption of any supply, to avoid substantial loss to the Utility in relation to an existing service, to reconnect supplies or services where the Utility would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period. Again, within two hours of the works starting, the Utility must contact the Council, apply for a permit and provide details of the activity.
26. Certain conditions can be attached to a permit, such as timing of activities and the way works are carried out, with more punitive fines for either working without a permit or in breach of permit conditions.
27. The Traffic Management Act, section 37(7), enables fees for permits to be charged to Utilities as follows:
 - (a) Applications for permits
 - (b) Issuing of permits
 - (c) Applications for variations to permits or conditions attached
 - (d) Variations to permits or conditions attached e.g. extending the duration of works or changes to the traffic management.
28. There are no charges applied to the current Noticing system and it should be noted that Permit Schemes are not intended to generate revenue income; however the Authority may cover its costs in delivering the scheme.
29. A Permit Scheme's primary function is to reduce disruption on the network and the regulations state that Permit income is to be only applied to the prescribed cost of operating the Scheme.
30. All other aspects of NRSWA remain unchanged and run in conjunction with Permit Schemes, including Section 74 overstay charges for unreasonable or prolonged occupation of the street. Section 74 overstay charges will also apply to works requiring a permit.

Potential Benefits of a Permit Scheme

31. This will provide a new way to manage activities on the public highway, providing a powerful tool for effective coordination, minimising the inconvenience to the travelling public, businesses and local residents, whilst allowing works promoters the necessary time and space to complete their work. The potential benefits of a permit scheme are:

- (a) The Council would set out detailed conditions that suit the local environment and community on an individual permit basis. This can help ensure greater control over the use of the road network. For example, promote working outside peak hours; instruct where the materials can be stored and what traffic management is appropriate for the site.
- (b) Developing, introducing and operating a 'permit scheme' that applies to works both carried out on behalf of utility companies, the Council and others enables greater ability to manage and coordinate works; to reduce disruption and protect the operation and fabric of the highway network more effectively.
- (c) There are financial consequences for failure to comply with the conditions of the permit:
 - (i) Works without a permit could face a fine of up to £5,000.
 - (ii) Not to meet a permit condition a fine up to £2,500. This would encourage good compliance with the conditions set in the Permit.
- (d) The fixed penalty notices generated by the permit scheme can be used for “implementing policies for the promotion and encouragement of safe, integrated, efficient and economic transport facilities and services within the specified area”. The Council will utilise funds received to operate and additional resource the scheme. Should there be any surplus funds from penalties it could be used to support Highways and Transportation services.
- (e) Ability to direct joint working with utilities when appropriate and aim to achieve a better standard of work.
- (f) Better ability to manage occupancy of the highway; therefore, durations of works could be reduced.
- (g) A permit scheme could also further reduce highway occupation as return visits to a site would be minimised.
- (h) Better quality of information from utilities which would enable us to inspect more of their works.
- (i) Improved co-ordination through a reduction in cancellations.
- (j) Charges for permits can be utilised to support scheme costs including staff, IT, monitoring, coordination and training; all costs that are currently borne by the authority.
- (k) Successful performance of a scheme can maximise the safe and efficient use of road space which will minimise inconvenience to all road users, improving safety of those using the highway network with particular emphasis on people with disabilities and cyclists.

- (l) The Authority can ensure works are being carried out to ensure the impact on the network efficiency is kept at a minimum wherever possible particularly on Traffic Sensitive and Strategic routes, thus helping to keep the traffic moving. By improving coordination Public and School Transport will be improved as the delays will be kept to a minimum. Carbon dioxide emissions will also be reduced as traffic will spend less time idling in traffic queues

Feasibility and Implementation of a Permit Scheme

- 32. It is not currently mandatory for Local Highway Authorities (LHA) to operate a Permit Scheme and prior to 2015, an application to the Secretary of State was required if a LHA wanted to operate such a scheme. However, the deregulation Act 2015 removed the requirement for permit schemes to be approved by the Secretary of State.
- 33. There remains a requirement to assess the benefits/dis-benefits of a scheme to those impacted and other statutory consultees, which includes the Department for Transport. Therefore, a scheme must be developed, assessed and consulted upon prior to introduction.
- 34. Feasibility work has commenced on a collaborative basis with other North East/Tees Valley Authorities developing a common permit scheme. This approach has the benefit of:
 - (a) Developing the same rules/conditions thereby making it consistent for those persons working across authorities to comply with schemes.
 - (b) Consultation on a common scheme is simpler, rather than having multiple consultations of different schemes with those impacted.
 - (c) Expedites the program for implementation along with efficiencies in the development costs for the scheme given the anticipated start date for the scheme being January 2020.
 - (d) It is envisaged the collaborative approach is for the implementation phase of a scheme and any ongoing common amendments, with each authority managing its own scheme separately.
- 35. The introduction of a Permit Scheme will be more resource intensive to operate. However, there will be a fee structure to the external works promoter for the permit aimed at allowing the Authority to adequately resource the administration of a scheme.
- 36. The feasibility of a scheme has commenced and is investigating the implications. Some of the key elements in developing the scheme are:-
 - (a) Defining the scheme objectives.
 - (b) A comprehensive review of the current highway network designations in relation to traffic sensitivity, network management hierarchy and the pairing of roads.

- (c) Development of the scheme and the associated conditions.
- (d) Cost Benefit Analysis – This will assess additional staff requirements as operating a permit scheme is more resource intensive.
- (e) Informal and Formal Consultation with those impacted and statutory consultees.
- (f) Internal implications on Council operations requiring Council Services to apply for permits when required.
- (g) Charging Structure and Levels.
- (h) Assessment ICT and Legal Resource implications in terms of implementation and ongoing costs.

37. It is recommended that Cabinet approve the development of a Permit Scheme and the consultation on the proposed scheme and Cabinet receive a further report upon the completion of feasibility and consultation which will include the business case, resource requirements and the detail of the scheme to be implemented, including the level of charges.

Financial Implications

38. In developing the scheme, a cost benefit analysis will be undertaken to fully understand the financial implications. It is anticipated that the costs of moving to a Permit Scheme will be more than the current staffing and budget provision. However, there is provision within scheme for fees to recover costs of the service. The business case assessment will identify these financial implications. The Assistant Director for Resources will be consulted on the financial implications.

39. The feasibility and development work is estimated to be in the region of £15k to £25k and provision is from existing budgets.

40. The development of the scheme may identify additional specialist advice, software, equipment and increased staff to manage the Permit Scheme. However, this is anticipated to be recovered from fees generated and this will be assessed as part of the cost benefit analysis. The permit scheme is monitored over a period of three years to ensure the costs of the scheme is covered.

41. The fees proposed will be based on Department for Transport's template (DfT cost matrix). There are maximum rates set by DfT and it is expected fees would not need to exceed these, table attached (see **Appendix 1**).

Legal Implications

42. The feasibility and development will assess the legal implications of introducing a scheme. However, given the indication from the Secretary of State that there is a likely to direct to implement a scheme it is better to develop a local scheme that best suits Darlington.

Maximum fee structure for each category of works and for a hierarchy of main and minor roads – Road category refers to the reinstatement category of the street under the New Roads and Street Works Act 1991		
Road Category 0, 1 and 2 or Traffic-sensitive		Road Category 3 and 4 and non-traffic-sensitive
Provision Advance (it is suggested this fee applies only where value has been added in processing the works)	£105	£75
Major works – over ten days and all major works requiring a traffic regulation order.	£240	£150
Major works – four to ten days	£130	£75
Major works – up to three days	£65	£45
Activity Standard	£130	£75
Activity Minor	£65	£45
Immediate Activity	£60	£40
Permit Variation	£45	£35

Circumstances Where No Fee is Payable

A promoter cannot be charged a fee where:

- (a) The promoter is a highway authority;
- (b) A permit is deemed to be granted because the authority failed to respond to an application in the time required;
- (c) A permit variation is initiated by the permit authority

Use of Income

Permit schemes must not be used with the intention of generating surplus revenue. Income must only be used to meet the costs of the scheme.

Keeping Accounts

Permit schemes costs and income should be kept separately from other income streams, such as over-runs and fixed penalties. This means the industry regulators' requirements to see a clear separation between costs to undertakers that are avoidable and costs that are not.