

**CABINET  
7 JANUARY 2020**

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**PERMIT SYSTEM TO MANAGE AND COORDINATE ROADWORKS**

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**Responsible Cabinet Member – Councillor Heather Scott  
Leader and Local Services Portfolio**

**Responsible Director – Ian Williams, Director of Economic Growth and  
Neighbourhood Services**

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**SUMMARY REPORT**

**Purpose of the Report**

1. To update Members on the development of a Permit Scheme to manage and coordinate roadworks.

**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 roadworks through a noticing system. However, a permit-based system is an alternative approach available to Councils.
4. At its meeting of 8 January 2019 Cabinet considered the development and consultation on a permit scheme to manage and coordinate roadworks. This was at the request of the Secretary of State for Transport who wrote to all local authorities indicating that they should move to a system of this nature rather than being directed to do so. The deadline imposed to move to a permit system was not feasible and was amended following representations to 31 March 2020.
5. 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 application and assessment process that is much more resource intensive. A fee can be charged for processing and managing the application and can cover the anticipated additional costs associated with a permit scheme compared to the current arrangements.
6. The Council has worked collaboratively with North East and Tees Valley Authorities to develop a common scheme that will be managed by the individual authorities.
7. This report seeks to update members on the scheme including the cost benefit analysis, consultation and implementation.

8. The scheme was developed with key stakeholders and then formally consulted upon regionally with stakeholders between 15 August and 15 November 2019, this resulted in some minor alterations to the proposed scheme.
9. The cost benefit analysis work has been undertaken utilising a calculator provided by Department for Transport and consultants employed by the North East Authorities. The Council manages around 7000 notices per year. The more detailed and complex nature of the individual application process for a permit has identified a need for additional staff resources and modifications to existing systems. The assessment identified the need to increase from 0.75 full time equivalent staff to two full time equivalent staff managing permit applications.
10. The scheme allows fees to be charged to offset operating costs. Under the permit scheme regulations, the authority is allowed to charge statutory undertakers a fee to review, issue and vary (where applicable) a permit. The charges proposed have been based on Department for Transport information and are included at **Appendix 1**. The charges are considered proportionate to cover the cost to the Authority for administering the permit scheme. Cabinet are recommended to approve the schedule of fees at Appendix 1.
11. The annual operating cost of the scheme is calculated to be £297,978. However, this includes the current operating costs. The additional annual revenue generated is calculated to be £170,949 for permit charges only and not the Fixed Penalty Notices. This revenue is expected to cover the additional costs and will be kept under review.
12. The anticipated benefits of 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.
13. Subject to Member approval of the recommendations in this report the scheme is anticipated to commence in March 2020. The other North East authorities are proposing to commence between February and April 2020.

## **Recommendations**

14. It is recommended that:
  - (a) Cabinet approve the introduction of the Permit Scheme that has been developed and the additional resources required to operate the scheme.
  - (b) Approve the schedule of Fees and Charges as set out in Appendix 1.

## **Reasons**

15. 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. Cabinet Report 8 January 2019
2. Traffic Management Act 2004
3. New Roads and Street Works Act 1991
4. The Code of Practice for the Coordination of Street Works and Works for Road Purposes and Related Matters (Third Edition, July 2007)
5. The Street Works (Fixed Penalty) Regulations 2007

Dave Winstanley: extension 6618

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

16. 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.
17. 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.
18. 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.
19. 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.*"
20. 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.
21. 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 March 2020, which still remains challenging.
22. 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 which comes into force April 2020. 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.
23. In January 2019 Cabinet approved the development and consultation on a permit scheme. This report updates members on the development of a scheme.

## Key Features of a Permit Scheme

24. 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.
25. Provides the Council with the opportunity to better evaluate each proposed works and enable the Authority to reject incorrect or incomplete permit applications.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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.
31. 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.
32. 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) Variations to permits or conditions attached e.g. extending the duration of works or changes to the traffic management.
33. 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.

34. 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.
35. 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**

36. The potential benefits of the scheme are:
  - (a) 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.
  - (b) 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.
  - (c) 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.
  - (d) 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.
  - (e) Fixed Penalty Notices are already in place under the current system with levels set by the Department for Transport. The fixed penalty notices income 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 additionally resource the scheme. Should there be any surplus funds from penalties it could be used to support Highways and Transportation services as described above.
  - (f) Ability to direct joint working with utilities when appropriate and aim to achieve a better standard of work.
  - (g) Better ability to manage occupancy of the highway; therefore, durations of works could be reduced.

- (h) A permit scheme could also further reduce highway occupation as return visits to a site would be minimised.
- (i) Better quality of information from utilities which would enable us to inspect more of their works.
- (j) Improved coordination through a reduction in cancellations.
- (k) 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.
- (l) 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.
- (m) 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 can be improved as the delays can be kept to a minimum. Carbon dioxide emissions could also be reduced as traffic will spend less time idling in traffic queues

### **Feasibility and Implementation of a Permit Scheme**

- 37. It is not currently mandatory for Local Highway Authorities (LHA) to operate a Permit Scheme. However, the request from the Secretary of State in 2018 provided clear direction. Prior to 2015, an application to the Secretary of State was required if an 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.
- 38. 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, the scheme has been developed, assessed and consulted upon prior to introduction.
- 39. Feasibility work has been undertaken 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 March 2020.

- (d) The collaborative approach was for the implementation phase of the scheme and any ongoing common amendments, with each authority managing its own scheme separately.
40. The introduction of a Permit Scheme will be more resource intensive to operate. However, there will be a fee structure to the external works promoters for the permit aimed at allowing the Authority to adequately resource the administration of a scheme. The proposed level of charges has been set accordingly and is detailed at **Appendix 1**.
41. Some of the key elements of the permit scheme are as follows:
- (a) Definition of the scheme objectives.
    - (i) Manage and maintain the local highway network for the safe and efficient use of road space, whilst allowing promoters access to maintain their services and assets.
    - (ii) To reduce the length of occupation of highway works and thus ongoing disruption to the public.
    - (iii) To improve the information available to the public to help provide and inform reliable journey times.
    - (iv) Encourage collaborative activities between all activity promoters
    - (v) To ensure parity of treatment for all activity promoters particularly between statutory undertakers and highway authority works and activities.
  - (b) A comprehensive review of the current highway network designations in relation to traffic sensitivity, network management hierarchy and the pairing of roads has been undertaken.
  - (c) Full details of the scheme will be published on the Council's website
  - (d) Cost Benefit Analysis – to assess additional resource requirements and the charging structure and level of charges.
  - (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) Assessment of ICT and Legal Resource implications in terms of implementation and ongoing costs.
42. It is recommended that Cabinet approve the Permit Scheme as developed, the resources required to operate the scheme and the schedule of charges as identified at Appendix 1.

### **Financial Implications**

43. In developing the scheme, a cost benefit analysis has been undertaken to understand the financial implications. It is anticipated that the costs of moving to a Permit Scheme will be more than the current resource and budget provision. However, there is provision within scheme for fees to recover costs of the service. The business case assessment has identified these financial implications.
44. The scheme will require additional specialist advice, software, equipment and increased staff which will be recovered from fees generated. The permit scheme is monitored over a period of three years to ensure the costs of the scheme is covered.



45. The cost benefit analysis work has been undertaken utilising a calculator provided by Department for Transport and consultants employed by the North East Authorities. The more detailed and complex nature of the individual application process has identified a need for additional staff resources. The assessment has identified the need to increase from 0.75 full time equivalent staff to two full time equivalent staff. The scheme introduced the ability to charge fees to offset costs of running the scheme and the fees proposed have been based on Department for Transport's figures. Under the permit scheme regulations (Regulation 30) the Authority is allowed to charge statutory undertakers a fee to review, issue and vary (where applicable) a permit. Charges are considered proportionate to the cost to the Authority for administering that permit. The charges proposed that are recommended for approval are included at Appendix 1.
46. 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.
47. The estimated total annual operating cost of the new scheme is calculated at £297,978. To aid understanding included in this total figure is an amount associated with permit applications for utility companies which can be recovered. The DFT calculator estimates this amount to be £171K. The level of the permit fee has been set with an expectation of being cost neutral on the recoverable elements of the scheme. The business case and permit fee accounts will be kept under annual review.
48. The total cost figure includes amounts associated with new staff, resources and systems associated with operating the proposed permit scheme and also includes the costs currently incurred operating the current noticing system that will transfer into the new system. The Council is able to separately recover initial set-up costs for the permits systems and these costs are being identified in separate accounts, but the Council cannot recover costs associated with local authority permit applications.
49. Permit schemes fee income must not be used with the intention of generating surplus revenue and income must only be used to meet the costs of the scheme.

### **Legal Implications**

50. The legal implications of introducing a scheme have been considered. 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.

**APPENDIX 1****Permit Scheme – Schedule of Fees**

	<b>Road Category 0-2 or Traffic-sensitive</b>	<b>Road Category 3-4 and non-traffic sensitive</b>
Provisional Advance Authorisation	£90	£70
Major works - over ten days or traffic regulation order required	£231	£142
Major works - four to ten days and no traffic regulation order required	£130	£75
Major works - up to three days and no traffic regulation order required	£65	£45
Standard works	£130	£75
Minor works	£65	£45
Immediate works	£60	£40

**Permit Variation Fees**

- £45 for activities on category 0, 1 and 2 streets, and on 3 and 4 traffic sensitive streets.
- £35 for activities on category 3 and 4 non traffic sensitive streets.
- If a Permit variation moves an activity into a higher fee category, the Promoter will be required to pay the difference in Permit fee.
- No fee is payable if a Permit variation is initiated by the Permit Authority.

**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.

**Fixed Penalty Notices**

The levels are set by the Department for Transport and have a varying level depending on the nature of the non-compliance.