

**4 July 2019****Agenda Item:7**

## **REPORT OF THE SERVICE DIRECTOR, PLACE AND COMMUNITIES**

### **INTRODUCTION OF STREETWORKS PERMIT SCHEME.**

#### **Purpose of the Report**

1. To allow Members to consider the implications of introducing a Permit Scheme for the management of streetworks and to seek approval to commence consultation on a draft proposal for such a scheme in Nottinghamshire.

#### **Background Information**

2. Under the Traffic Management Act (2004) the Council, as a Highway Authority has a statutory network management duty to "...manage the road network with the aim of securing the expeditious movement of traffic...". The Act is clear that traffic means all road users, including pedestrians and cyclists and not just motorised vehicles. The overall objective of the duty is the efficient operation of the network and it allows the Council to take a number of actions to deliver this objective. The scope of this duty has the following main considerations:
  - manage the road space for all users;
  - identify current and future causes of congestion, and to plan and act accordingly;
  - take a proactive approach to the coordination of works on the road, including unplanned emergency works;
  - gather and publish accurate information about planned works and events;
  - manage unforeseen incidents and events on the network;
  - establish and implement contingency plans for incidents and issues; and
  - manage cross-border network travel and demands.

There are provisions under the Act to allow the Secretary of State for Transport to intervene if the Council is deemed to be failing in the delivery of this Duty. Via East Midlands currently undertakes most of these tasks on behalf of the County Council.

3. Utility companies are responsible for providing and maintaining the networks of pipes and cables that deliver services such as water, gas, electricity, sewers and telecommunications including broadband. These companies have the right to place their apparatus in the highway and to repair and extend those networks as required by their customers. It is important to

recognise that this work is essential and cannot be undertaken without some disruption to road users.

4. There is evidence in Nottinghamshire of works taking place with insufficient regard to the impact on road users. In particular, works being undertaken by a number of utilities deploying traffic signals without prior approval and these are often left to be collected by a Traffic Management company long after the works have been completed. In addition, the signals are frequently left on throughout peak traffic periods contrary to terms of use and good practice leading to significant delays and congestion that in turn generate understandable public frustration and complaints. Currently, the actions that can be taken including penalties that can be applied are retrospective, protracted and demanding on resources.
5. The New Roads and Street Works Act 1991 (NRSWA) introduced legislation requiring organisations intending to carry out works on the Council's road network to notify the Council of their intention to carry out these works. The Council currently uses powers under NRSWA to provide direction and challenge to these works although there are limitations due to the need to proactively intervene. The Traffic Management Act 2004 (TMA) allows for the Council to extend these powers and introduce a permit scheme to support the delivery of its network management duty. This is brought into legal effect by the Council under an Order, through the **Traffic Management Permit Scheme (England) Regulations (2007)**.
6. A permit scheme enables the Council to take a more active involvement in the planning and coordination of works from the initial planning stages through to completion. The key changes to working practices are as follows:
  - organisations request permission to work with a permit instead of giving notice;
  - any variation to the agreed work needs to be approved including for example, an extension to the duration;
  - the Council can apply conditions to works to impose reasonable constraints;
  - Additional staff are funded by Permit fees
  - Fixed Penalty Notices can be issued by the Council to organisations working without a permit or in breach of the permit conditions.
7. The first permit schemes were introduced in Kent and London in 2010 and since then over 70% of English Councils have introduced a permit scheme. In 2017 an evaluation was carried out for the Department for Transport on the overall effect of permit schemes introduced since 2010. This evaluation determined that the introduction of a permit scheme has the potential to deliver benefits through the reduction of the duration of works and consequently any congestion and disruption potentially caused by these works. One of the key recommendations from the report was that those Councils that had not already done so should give consideration to the introduction of a permit scheme, given that the report identified that such schemes help Councils fulfil their network management duty and reduce the disruption caused by works.
8. In response to this, in July 2018 the Secretary of State for Transport sent a letter to all those Councils not operating a permit scheme, including Nottinghamshire County Council, requesting consideration for the introduction of a permit scheme. This letter adds that the Secretary of State may "use their powers, under section 3(2) of the TMA, to direct an authority to introduce a scheme".

9. The advantages of a permit scheme are established and it can be expected that a scheme in Nottinghamshire would;
  - a. ensure the improved coordination of all works on the highway
  - b. minimise disruption and inconvenience
  - c. reduce congestion
  - d. encourage good behaviour
  - e. improve communication on works to road users
  - f. ensure adherence to health and safety of road users and those undertaking works
  - g. demonstrate parity for all organisations undertaking works including the Council and VIA's operations.
  - h. ensure that all proposed works are scrutinised and the use of traffic signals is minimised where possible
  - i. issue fines to Utilities that either ignore the Permit conditions or work without a Permit.
10. In order to ensure that the benefits are fully realised, the Council will be required to increase the number of staff working on streetworks including primarily staff to consider and approve (or reject) all permit requests and those dedicated to check that works on site are meeting the conditions required. There were an estimated 20,000 works notified to the Council in 2018 and, under a permit scheme these will all have to be checked by the Council before any permit can be issued. The permit regulations allow the Council to introduce a charge for each permit issued up to a legal maximum. This charge raises income for the Council that is spent on the enhanced service required to deliver, enforce and monitor a permit scheme. More detailed financial implications are listed in **Appendix 1**.
11. Furthermore, in 2018 the Secretary of State provided a further opportunity for Councils to deliver their network duty by introducing a lane rental scheme applied to the most strategic sections of the road network. This could allow a charge of up to £2,500 per day for works taking place at traffic sensitive times. The primary objective of a lane rental scheme is to make organisations undertaking work do so in the most efficient way and consequently to avoid traffic-sensitive times. Should the Council wish to consider the introduction of a lane rental scheme in the future, an operational permit scheme delivering a clear benefit is mandatory.
12. To complement the proposal to introduce a Permit Scheme, it is also proposed to consult upon introducing a direct charge to cover the costs that can be incurred by the County Council when streetworks require a bus stop to be closed or relocated. This charge will cover the costs of closing and re-opening the stop, siting a temporary stop, adding messages to real time information signs (where applicable), posting passenger information notices and informing bus operators. The proposed fee will be calculated and included for information within the Permit Scheme consultation.

## Next steps

13. If Members are mindful to approve the recommendations to this Report, the next stage will be to commence a formal consultation with the statutory utilities on the Councils' proposed permit scheme for streetworks. This will detail the scope of the scheme, operational procedures and the suggested charges for permits and bus stop relocation works. **Appendix 1** details a proposed level of charges for the various network categories that is calculated to cover the costs required to fund the expected additional direct costs and overheads for the extended service area. As part of the consultation it is also proposed to remind the utilities

that under the existing Noticing system they are legally obliged to seek permission from the Council if they wish to use temporary traffic signals when working.

14. A further report will be brought to Members later in 2019 detailing the responses from the consultation process and any amendments proposed as a consequence of this.

### **Other Options Considered**

15. The DfT have sent a clear encouragement to the Council to introduce a permit scheme and therefore we are considering its introduction as per their request. Various financial models have been considered to calculate the level of charges necessary to deliver a service that will deliver the tangible benefits of a permit scheme whilst remaining commensurate with the level of works within the County. The figures shown in Appendix 1 reflect this and are considered reasonable and justified.

### **Reason for Recommendation**

16. The Council has been asked by DfT to consider the introduction of a permit scheme. Our initial work suggests a permit scheme in Nottinghamshire for streetworks should deliver the benefits of enhanced streetworks management described above that have been evidenced by other Authorities that have adopted these powers. The costs of issuing permits to utilities can be met fully from charges applied to applicants wishing to undertake works in the highway. A fee for bus stop relocation works will ensure that when incurred, these costs are met by the works promoter and are delivered to an approved standard to minimise passenger inconvenience.

### **Statutory and Policy Implications**

17. The Nottinghamshire Local Transport Plan (LTP) for the period 2011-2026 details the transport strategy for the whole of the county. Section 4.1.2 of this LTP: Managing disruption on the network sets out that the Council will 'examine the provisions relating to permit schemes, including whether to introduce such a scheme'.

The LTP Implementation Plan 2018/19 – 2020/21 identifies the following transport priorities as objectives of the LTP, all of which are fully supported by the introduction of a permit scheme:

- Reducing traffic congestion on our roads
- Maintaining a good quality road network
- Improving the safety of our roads

18. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

19. The introduction of a permit scheme would require an increase in current resources to administer the permit regime as detailed in Human Resources Implications below. In addition, additional ICT hardware and software would also be required. All of these additional direct costs together with a proportion of overheads including pensions, accommodation, central

services, monitoring of the scheme, KPIs and invoicing would be met by the income from the permit fees.

In addition to income from the permit fees, a permit scheme also creates a new potential source of income from two new sanctions: (1) working without a permit with a £500 fixed penalty notice; and (2) working in breach of a permit condition with a £300 fixed penalty notice. Any income from these Penalties does not have to be applied to any specific cost.

### **Human Resources Implications**

20. The introduction of a permit scheme would require an increase in the current staff resources to administer the permit regime, primarily for the coordination and inspection of works. The costs of this would be met from the permit fees. Details on any structure changes required after the consultation process will be considered and presented to Members .

### **Implications for Service Users**

21. The introduction of a Permit Scheme is anticipated to reduce the disruption and impact of roadworks for all Service Users.

### **Implications for Sustainability and the Environment**

22. Reduced traffic congestion will subsequently reduce emissions from queuing vehicles.

## **RECOMMENDATION/S**

- 1) That Members approve the commencement of a formal consultation with the utility companies on the proposal to introduce a permit scheme in the county.
- 2) That Members approve the presentation of a further Committee Report subsequent to the consultation process.

**Gareth Johnson**  
**Enforcement Manager**

**For any enquiries about this report please contact:** Gary Wood; Group Manager, Highways & Transport

### **Constitutional Comments (AK 29/05/19)**

23. The recommendation falls within the remit of the Communities and Place Committee under its terms of reference.

### **Financial Comments (RK 03.06.2019)**

24. It is strongly suggested in the report that this scheme will become mandatory from April 2020 and hence Nottinghamshire County Council are coming in line with other councils around the country. The additional staff will be offset by the levels of income generated from the permit scheme and the penalty notices. There will be initial set-up costs in 2019/20 for advertisement and recruitment of staff, along with IT systems which will be funded from the CPE reserves. This scheme will allow the council to be able to ensure that roadworks are

carried out in a timely manner and that all equipment is cleared promptly to ensure that traffic is kept moving as quickly as possible.

#### **HR Comments (JP 04/06/19)**

25. Any relevant changes to the current structure in respect of this scheme will be subject to consultation with staff and the recognised trade unions

#### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- None

#### **Electoral Division(s) and Member(s) Affected**

- All