



Application to Introduce A Permit Scheme To Control Working In The Highway

SUMMARY

- 1.1 This report outlines the current regulatory position of the authority in relation to the control of works in the highway and the proposal to make an application to the Department for Transport to implement a Permit Scheme, under the Traffic Management Act 2004. The aim is to provide a mechanism for reducing 'avoidable congestion'.
- 1.2 The application process is onerous and requires detailed work and consultation. There are also strict financial rules on how the cost of a permit is calculated and severe controls on the ability of local authorities to generate surplus income from a scheme. Income of approximately £100,000 from a permit scheme has been included in future budget planning for 2012.
- 1.3 At recent meetings between representatives of the Joint Authorities Group (JAGUK) and the Department for Transport it has been confirmed that permit schemes remain a priority and have the support of government ministers.
- 1.4 A permit scheme has distinct advantages over the current notification process in terms of the control of works, the space works occupy, the duration and other conditions such as the timing of works. It also produces more of an incentive for all those who may carry out works to work closely together.
- 1.5 The regulations allow for local authorities to work together on permit schemes. At present we have been leading a working group for a 'Common Scheme' with Leicester City Council and Nottingham City Council. This allows us to share resources at the development stage and will also produce a common framework for those working on the highway in the three cities of the east midlands. It is possible that Nottinghamshire, Derbyshire and Leicestershire County Councils may become part of a 'Common Scheme' in the future.

RECOMMENDATIONS

- 2.1 To approve the preparation of a permit scheme for the main road and other roads of local importance and present an application to the Department for Transport in the next 12 months, with the aim of gaining approval to start a scheme in 2012. The full financial details will only become clear during the application process. A further report will be presented detailing the financial implications before the final formal submission is made to the Department for Transport.
- 2.2 To approve the development of 'Common Scheme' working with Leicester City Council and Nottingham City Council and other local authorities that may want to join the scheme.

REASON FOR RECOMMENDATION

- 3.1 A permit scheme will promote improvements in the planning, execution and coordination of works in the highway. Encouraging work promoters form across the engineering and construction industry to work together. The main beneficiary of this will be the users of the highway as the aim is to achieve a significant decrease in 'avoidable disruption'.
- 3.2 The cost of a permit will be based on the operating costs of the authority as defined in the regulations.

SUPPORTING INFORMATION

Introduction

- 4.1 Since 1991 under the New Roads & Street Works Act (revised by the Traffic Management Act 2004) works in the highway have been subject to a system of notification. The presumption has been that utility companies and others have a right to carry out works and need only serve the appropriate notice and then execute the work in compliance with a set of regulations. There is a general duty for those carrying out works to coordinate their activities and the local authority has limited powers of direction. This process generally lacks effective controls and does not provide incentives for actual coordination and joint working on streets.
- 4.2 The Traffic Management Act 2004 includes the power for the Secretary of State to bring forward regulations to allow local authorities to apply to the Department for Transport to implement permit schemes for the management of works within the public highway. The regulations for permits provide a framework, leaving the detail for individual or groups of authorities to propose in their applications.
- 4.3 The introduction of permit schemes is intended to
- Provide more control for local authorities to manage the road network more effectively and reduce 'avoidable congestion' in ways appropriate to their own local areas, conditions and priorities.
 - Place incentives on the whole of the construction and engineering industry to develop opportunities to work more efficiently and collectively for the benefit of the travelling public.
 - Introduce standard charges for carrying out works and a series of penalties for non-compliance with the permit conditions; performance measurement must apply to all works promoters.
 - Improve the efficiency of local authority works by ensuring that they are subject to the same planning and coordination processes and restrictions as would apply to all other work promoters. The permit fees would not apply to work carried out by or on behalf of the City Council (including contractors). The performance criteria, measurement and public reporting would be the same for all work promoters, including the City Council. It is expected by the DFT that this would drive improvement in highway maintenance functions, with benefits for road users and result in operational cost savings.
 - Make the separation of Highway Authority functions more transparent. There is already a duty on the authority to separate regulatory duties and work promoter operations and ensure that the regulation of all works complies with a statutory 'parity' principle. The implementation of a permit scheme would clarify the existing regulatory arrangement.

- 4.4 The cost of a permit to carry out work is set locally, based on the operating costs of the planning, coordination and regulatory activity of each local authority. There are strict criteria for which costs can be included in the permit fee. The fee is paid on application, when a work promoter wants to carry out work. The authority can then review the application to work and set conditions, based on the location, duration and timing of works. If the permit conditions are breached then action can be taken and penalties can be charged with the aim of reducing disruption to road users.
- 4.5 The Department for Transport has been cautious in developing the application process and in approving the first few schemes. There are currently two schemes in operation, Transport for London and Kent County Council. Northamptonshire County Council's permit scheme was approved in early July and will start in January 2011. Several other schemes are in the later stages of development and many other authorities are at early stages of preparing schemes.

Key principles to be determined

- 4.6 Three principles need to be determined before a scheme can be developed for submission to the DFT
- Which type of scheme?
 - What are the key purposes?
 - What parts of the road network will be covered by the scheme?

4.7 Types of Schemes

The regulations allow for three scheme options

- **individual scheme** – an authority makes an application to operate a unique scheme
 - **common scheme** – where authorities make a common application based on a common framework, but administer their own schemes and the operational detail takes consideration of each authority's priorities
 - **joint scheme** – where a group of authorities join together to create a scheme to be applied in the same way across a wide area and make a formal arrangement for one authority (or a separate body) to administer the scheme
- 4.8 Individual schemes are suited to very large urban areas. Joint schemes are attractive to geographically close collections of small authorities. Common schemes appear to be the most popular type, as they allow for sharing of resources to develop and implement schemes, but allow flexibility to reflect how each authority manages its road network. The authorities in a common scheme do not even have to start their scheme at the same time.
- 4.9 The Department for Transport has been encouraging authorities to seriously investigate permit schemes, as a response the East Midlands Traffic Managers Forum formed a sub-group, led by Derby City Council. After some initial work on the available options, the three east midlands cities proposed developing a 'common scheme' and sharing resources, expertise and costs in developing a scheme, consultation and making an application. The County Councils (Nottinghamshire, Derbyshire and Leicestershire) were originally part of the sub-group, but rural issues and added complications of working with many Borough and District authorities led the County Councils to work separate from the three cities. We continue to share information and we may work closer in the future as part of taking a scheme forward and working on cross-boundary issues that may arise from the implementation of a permit scheme.

4.10 Purposes of a scheme

- Improve network management, by using all of the available powers to fulfil the statutory network management duty and provide benefits for all road users, to make the most of the current infrastructure and its availability for road users.
- Manage the availability of the network more effectively, by improving planning and execution of works and operations by all work promoters.
- Provide clear directions, applicable equally to all work promoters, using evidence-based approaches and improved enforcement of conditions to benefit road users and development.
- Provide opportunities to consider air quality improvement initiatives as part of planning works. Improve coordination and the incentives to promote trench sharing and joint occupancy of the network
- Provide specific improvements for vulnerable road users, particularly at known highly sensitive locations.
- Provide opportunities to consider road user needs at specific locations. In certain locations this could be car users, public transport operators, parking provision, specific neighbourhood conditions, emergency service needs and assist with mitigating and managing predicted traffic growth.
- Provide a financial incentive and penalty system for all work promoters.
- Ensure the authorities costs of coordination, regulation and enforcement activities are supported by the whole industry.
- Provide a system for performance reporting and improvement of the construction and engineering industry for the benefit of road users.

4.11 Road network included in a permit scheme

The regulations suggest that the roads covered by a permit scheme should be determined locally. Even where a common scheme is being proposed, the local priorities and local decision making should be reflected in the most basic aspect of scheme design for each authority. The options could include various blending of permits and the current notice scheme, depending on the definition of the local road network. This could produce definite advantages for the priority roads, but could also result in problems in neighbourhood areas, where the same level of controls and penalties would not apply.

- 4.12 The work carried out so far on developing a scheme for Derby has looked at a range of options; starting with a scheme that would apply to all roads and alternatives that would include only selected parts of the road network. After some early modelling of these schemes one particular scheme appears to provide the best balance between managing the major road network, whilst incorporating some of the roads important to local neighbourhoods. This scheme would also keep the permit scheme operating costs associated with the City Councils highway works to a manageable level.
- 4.13 The proposed scheme would include all of the major roads and roads that fall within the regulatory definition of 'Traffic Sensitivity'. In addition other parts of the road network could be added, following consultation with neighbourhoods. This would typically include roads that provide access to schools, hospitals, care homes and other roads that residents tell us are important to travel in their neighbourhoods; creating a 'Network of Extended Interest'. On roads not included in the permit scheme the current notice system would continue to operate and controls would depend on scale and timing of works, though some standard conditions would apply to reflect the core principles of the existing statutory network management duty. Charges for works that take longer than agreed would still apply to all works, on all roads, irrespective of the extent of the permit scheme.

Charges for any scheme

- 4.14 Local authorities are not allowed to develop permit schemes with charges that are designed to be profitable. Schemes may make a 'coincidental surplus', but if this happens continuously then the authority will be instructed to reduce the permit charge.
- 4.15 A permit scheme in Derby is currently predicted to raise approximately £100,000 per year; this has been included in the budget planning for 2012. This will cover some of the cost of the current service and will cover the additional cost of the duties to manage a permit scheme. The precise financial details are subject to DFT approval using a specified modelling process that determines allowable costs and the eventual permit fee.
- 4.16 The permit scheme fees would not be charged for the City Council's own works (or for work done on behalf of the City Council by contractors). However the cost of operating the scheme for City Council works would be incurred by the Network Management Group. The DFT finance model assumes that these costs will be absorbed within the current operating costs associated with the notice system. If a permit scheme were developed for all roads in Derby this would result in a high cost for the scheme operation, which would not be recoverable from the fees charged to other work promoters and result in a net loss. The proposal to implement a scheme for only part of the road network minimizes the unrecoverable cost element, whilst still providing the benefit of the scheme for road users.

Next Steps

- 4.17 The 'three cities' working group has so far developed an outline of the principles of a scheme and notified the Department for Transport of the work being done and the intention to develop a common scheme. The group has also visited other authorities that are at different stages of scheme development. Some initial feasibility work has been undertaken. Work is now being carried out on the details of the financial model to provide a reasonable idea of what a permit fee would be and the implementation costs for each authority. Other work involves identifying the key opportunities for cost sharing during the development, application and implementation stages.
- 4.18 An action plan has been developed which includes, early consultation with the local work promoters, road users and transport operators. In addition there is also an intention to have early consultation with local businesses and major traffic generators (large businesses, shopping centres, key destinations) within the three cities. There will also be formal consultation at a later date as required by the regulations.

OTHER OPTIONS CONSIDERED

- 5.1 The report covers the slightly different types of schemes that we could develop and details the pros and cons.
- 5.2 The main alternative option would be to not pursue a permit scheme at this time. This is not recommended as the benefits set out in paragraph 4.3 would then not be able to be achieved.

For more information contact: Nigel Brien 01332 641833 e-mail Nigel.brien@derby.gov.uk

Background papers: Various reports available for inspection on request

List of appendices:

Appendix A – Draft plan of roads included in the proposed scheme

Appendix B – Current Financial summary information

IMPLICATIONS

Financial

- 1.1 The detailed analysis of the allowable operating costs and the permit fee will continue to be refined during the application process and the DfT will determine the final financial outcome.
- 1.2 Future budget planning for 2012/13 includes an estimate of £100,000 income from a permit scheme. The estimate will be revised as the full financial model is developed. The financial implications will eventually be determined by the allowable cost calculation and the scheme must not be designed to be profitable. The scheme must be cost neutral.
- 1.3 Accounts for a permit scheme must be reported annually and clearly show costs and income and final year outcome.

Legal

- 2.1 A successful application will change the legal responsibilities of the council in relation to how work in the highway is regulated and how the council itself carries highway works.

Personnel

- 3.1 The existing Network Management Team will require some re-structuring to meet the changing workload and the new tasks. Some of the current staff may be funded from permits income. Some additional staff may be required but only if all costs can be met from the permit scheme. The calculation of this will be determined by the DfT process.

Equalities impact

- 4.1 Improvement in control of works with particular benefits for vulnerable road users.

Corporate objectives and priorities for change

- 5.1 The proposals work towards the Councils priorities and associated outcomes of:
City Growth