

ITEM 8 - LATE REPORT

North Yorkshire County Council

Business and Environmental Services

Transport, Economy and Environment Overview and Scrutiny Committee

20 July 2017

New Roads and Street Works Act (NRSWA) – Permit Scheme

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of Report

- 1.1 To provide the rationale for the Authority's intention to replace the current Street Works notices regime with a Permit Scheme.
- 1.2 To seek feedback from the Committee in advance of submitting a report to the Executive at the end of the consultation to implement a Permit Scheme in accordance with the New Roads and Street Works Act.

2.0 Background

- 2.1 Congestion caused by road works is one of the main areas of frustration expressed by both residents and business in the county. It has been recognised nationally that the cost of congestion caused by uncoordinated or poorly managed road works is unacceptable in a growing economy.
- 2.2 Currently, statutory undertakers, primarily Utility companies have rights to dig up and place their apparatus in the street subject to compliance with the notification requirements in the New Roads and Street Works Act 1991 (NRSWA). Where the Utility is found to be in breach of the Notice issued to the Authority (eg working beyond the Notice end-date) a financial penalty can be imposed in accordance with legislative guidelines. However, in terms of management of street works, this is a largely reactive process.
- 2.3 Part 3 of the Traffic Management Act 2004 and associated Regulations (2007) give Councils the power to operate a Permit Scheme requiring statutory undertakers (and Highway and Transport Authorities) to apply for a Permit before carrying out these works. The move to a permit scheme means that the highway authority is able to be more proactive in its management of works within the public highway, particularly as it is able to impose conditions on permits that are issued.
- 2.4 The fundamental change resulting from the introduction of a Permit Scheme is the need for all works promoters, including the Council itself, to apply for a Permit before working.
- 2.5 Guidance issued by the Highways Authorities and Utilities Committee (HAUC) in October 2016 contained the following statement:
'The Department for Transport considers that well-designed, outcome-focussed, and reasonably implemented permit schemes provide the best method of managing a highway authority's road network and the works that take place in or on the public highway. The main aim of a permit scheme should be to minimise disruption to the authority's network.'

Permit schemes affect everyone who uses roads in that area, but they particularly affect those who are responsible for installing and maintaining highways' and utilities' infrastructure, and their contractors. It is considered that better co-ordination of all works, and closer monitoring can be used to drive behavioural change and to ensure that disruption to local communities and road users is reduced.'

- 2.6 A Permit Scheme will enable the County Council as Highway Authority to proactively manage and coordinate road works more effectively to minimise disruption to users and to the road network. The Permit Scheme will assist in achieving selected performance indicators within the Local Transport Plan for improvements in local bus services, HGV journey times and road conditions as well as providing a reduction in congestion.
- 2.7 The Permit Scheme places a legal obligation upon all statutory undertakers and works promoters. Working without a valid permit and failing to comply with any conditions attached to that permit are criminal offences and carry the option of issuing a fixed penalty notice.
- 2.8 Permit Schemes are well established in England with over half of all Highway Authorities adopting the new regulations.
- 2.9 Based upon the anticipated benefits that a Permit Scheme will deliver for the County preparatory work has been completed and approval was given by the Corporate Director Business and Environmental Services (BES), in consultation with the BES Executive Members to carry out a formal consultation exercise as part of the next phase of scheme development.

3.0 Permit Scheme Development and Approval

- 3.1 The development of a Permit Scheme requires a number of work themes and components to be developed, within a prescribed framework and timeline, including:
 - A Scheme Document – detailing how the scheme will operate and comply with legislation
 - A Formal Consultation - detailing the proposals and seeking responses from relevant statutory and non-statutory stakeholders
 - Cost Benefit Analysis – detailing the Benefit to Cost Ratio (BCR) resulting from the introduction of the scheme as required by the DfT Statutory Guidance.
- 3.2 A Scheme Document has been drafted based upon the Department for Transport (DfT) Statutory Guidance and existing operational scheme and has been made available through the Consultation.
- 3.3 Legislation requires that the Formal Consultation process must run for a period of twelve weeks. The draft Scheme Document and accompanying covering letter were issued to key stakeholder organisations and individuals, including local neighbouring Highway Authorities, Utilities, road user representative groups, emergency services, and non-government organisations. The Consultation commenced on 8 May 2017.
- 3.4 In advance of the Formal Consultation an Informal Consultation with the Statutory Undertakers (Utilities), was held on 3 May, to gain initial feedback on the proposed Permit Scheme in advance of finalising the documentation for the statutory formal process.

- 3.5 Mouchel (hNY Partner) have been engaged to prepare the Business Case / Cost Benefit Analysis for a North Yorkshire Permit Scheme in line with the guidance / scheme models issued by DfT. The Scheme Documentation will also be made available on the NYCC website.
- 3.6 The final approval for the Permit Scheme will be the subject of a report to the Executive taking into consideration the feedback from the forward consultation, including the views of the Transport Environmental and Economy Overview and Scrutiny Committee.

4.0 Financial Implications

- 4.1 Utilities are required to pay fees that will contribute towards the management of the Permit Scheme by the Highway Authority. Fees are payable for each permit application and for any subsequent variations in advance of the works being completed. Incentives, in the form of significant discounts, are offered to encourage collaborative working between Utilities that will reduce network occupancy and any associated disruption and/or congestion.
- 4.2 This new revenue will enable the Council to more effectively manage these works and impose working conditions to better control what happens, when and how it is undertaken. Under the Regulations, the Council is only permitted to use the fees charged to cover the additional costs of running the Permit Scheme. Predominantly this is based upon the additional staff and management required and the recovery of their reasonable overhead costs.
- 4.3 Income from fees shall not exceed the total allowable costs prescribed in the permit scheme regulations set by central government. In the event that fees and costs do not match, adjustments should be made to fee level for subsequent years so that taking one year with another, fee income does not exceed allowable costs. The maximum limits for permits schemes fees are set by regulation.

5.0 Equalities Implications

- 5.1 Consideration has been given to the potential for any adverse equality impacts arising from the recommendation. It is the view of officers that the proposed Permit Scheme does not have an adverse impact on any of the protected characteristics identified in the Equalities Act 2010. See Appendix A for a copy of the Equalities Impact Assessment Screening Form.

6.0 Legal Implications

- 6.1 In developing and operating a permit scheme the County Council will need to comply with the Traffic Management Act 2004, the Traffic Management Permit Scheme (England) Regulations 2007 (“the 2007 Regulations”), the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015, and have regard to the statutory guidance issued by the Secretary of State.
- 6.2 The Deregulation Act 2015 removed in England the requirement for permit schemes to be approved by the Secretary of State enabling highway authorities in England to make their own schemes as an Executive function.

7.0 Recommendation

- 7.1 It is recommended that the Committee provides comments on the proposal introduction of a Permit Scheme to facilitate improved management of works on the North Yorkshire road network.

DAVID BOWE
Corporate Director Business and Environmental Services

Author of report: David Hunt

Background Documents: None

<p>Initial equality impact assessment screening form (As of October 2015 this form replaces 'Record of decision not to carry out an EIA')</p> <p>This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.</p>			
Directorate	BES		
Service area	Highways & Transportation		
Proposal being screened	Street Works Permits		
Officer(s) carrying out screening	David Hunt		
What are you proposing to do?	Introduce a Street Works Permitting scheme for works carried in the Highway		
Why are you proposing this? What are the desired outcomes?	Replace the existing Street Works Noticing Scheme with a Street Works Permitting Scheme		
Does the proposal involve a significant commitment or removal of resources? Please give details.	<p>There will be no removal of resources as a result of the implementation of a Permit Scheme.</p> <p>There will additional costs associated with setting up the Scheme which will be a combination of specialist external consultancy costs and internal project resources.</p> <p>There will probably be a requirement for additional staff to support the ongoing management and administration of the Permit Scheme.</p>		
<p>Is there likely to be an adverse impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics?</p> <p>As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? <p>If for any characteristic it is considered that there is likely to be a significant adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt.</p>			
Protected characteristic	Yes	No	Don't know/No info available
Age		No	
Disability		No	
Sex (Gender)		No	
Race		No	

Sexual orientation		No	
Gender reassignment		No	
Religion or belief		No	
Pregnancy or maternity		No	
Marriage or civil partnership		No	
NYCC additional characteristic			
People in rural areas		No	
People on a low income		No	
Carer (unpaid family or friend)		No	
Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details.	No		
Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	The introduction a Permit Scheme will change the operational practices of the Statutory Undertakers when working on the North Yorkshire Highway. There will be no impact upon people with protected characteristics.		
Decision (Please tick one option)	EIA not relevant or proportionate:	<input checked="" type="checkbox"/>	Continue to full EIA: <input type="checkbox"/>
Reason for decision	The project has no impact upon Equalities in the Community.		
Signed (Assistant Director or equivalent)	<i>Barrie Mason</i>		
Date	<i>24 April 2017</i>		