

# North Yorkshire Council

## Executive Members

12 April 2024

### Proposed Department of Transport Consultation Responses for Electric Vehicle Charging

#### Report of the Assistant Director – Highways and Transportation, Parking Services, Street Scene, Parks, and Grounds

#### **1.0 PURPOSE OF REPORT**

- 1.1 To update the Corporate Director on the most recent consultation undertaken by Department for Transport (DfT) in relation to proposed changes to section 48 of the New Roads and Street Works Act (NRSWA) in relation to the installation of electric vehicle infrastructure on the network. This briefing note sets out the proposed responses to the consultation questions.

#### **2.0 SUMMARY**

- 2.1 Following the government's announcement of its "Plan for Drivers" on 02 October 2023, measures were included to help fix roads faster and encourage efficient Street Works.
- 2.2 As a result of this, on the 05 February 2024, the DfT opened a consultation exercise on proposed changes to the current legislation under Section 48 of the New Roads and Street Works Act with specific focus on the installation of electric vehicle infrastructure on the public road network.
- 2.3 In line with many other councils and local authority representative groups, we propose using the consultation to feed back our response, which is set out as Appendix A to this briefing note.

#### **3.0 BACKGROUND**

- 3.1 As part of the wider strategy to support Electric Vehicle (EV) uptake, the government is looking at other reforms. Permitted development rights are a statutory provision under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2011.
- 3.2 This legislation allows for the installation of charge points on properties with off-street parking in most circumstances. Permitted development rights enable those with off-street parking to install either a wall-mounted or a free-standing charge point without planning permission being required.
- 3.3 The Department for Levelling Up, Housing and Communities (DLUHC) recently amended permitted development rights to help scale up and remove barriers to EV charging rollout.
- 3.4 The legislation now enables Highway Authorities (HA) to appoint charge point providers to install public EV charge points on their behalf. This will result in more EV charge points being delivered further and faster across the country as it means Highway Authorities can also install their own charging infrastructure via EV ChargePoint Operators (EV CPOs). However, there is still a need to support organisations that seek to install infrastructure on the public highway without HA involvement.

3.5 Section 115E of the Highways Act 1980 allows for the execution of works by persons other than councils or those with statutory undertaker status. Historically North Yorkshire Council (NYC) have never executed Section 115E of the Highways Act as the same permissions can be granted to those with a Section 50 or a Section 171 licence under the New Roads and Street Works Act 1991.

#### **4.0 CONSULTATION OVERVIEW**

- 4.1 The consultation proposes two options, one of which calls for no change at all and the other, to amend the current legislation to all EV charge point Operators to work via permits instead of section 50 licences
- i. No change to the legislation
- 4.2 In the first proposal, the DfT will further develop the guidance for good practice relating to section 50 licences in an attempt to help reduce the time it takes for applicants to obtain a licence and for the Authority to process them
- 4.3 An update to the Specification for the Reinstatement of Highway Openings will also be updated to include guidance on the installation of EV infrastructure.
- ii. Grant EVCPOs the right to carry out Street Works using permits rather than a licence.
- 4.4 It would be much cheaper and quicker for EV CPOs to be able to obtain a permit than a section 50 licence.
- 4.5 Fees and timescales for permits are set out in statutory guidance and are consistent in every HA area.
- 4.6 It will help both HAs and EV CPOs to better coordinate works and make it easier to establish ownership of apparatus. Information about planned and live works would be included in the open data that the DfT streams to a range of date users.
- 4.7 EV CPOs must, as now, comply with other NRSWA requirements, such as those relating to reinstatements and safety, A further framework is to be developed to ensure EV CPO's are verified before they are given code powers under the Street Works Act.
- 4.8 Granting EV CPOs the right to carry out street works would mean EV CPOs accessing the permit regime as a non-statutory undertaker. This would be new to the permitting regime. As such, we would consider issuing new guidance or amending our existing guidance to support both EV CPOs and HAs in their operations.
- 4.9 NYC's preference would be to amend the legislation to allow EV CPO's to submit permits as it is a much more streamlined process for both the applicant and the Authority and ultimately takes less officer time, whilst ensuring ownership of apparatus.
- 4.10 In the event that EV CPO's are given the right to submit permits, the consultation proposes an amendment to Section 115E of the Highways Act. It appears that some Authorities are requesting both section 50 licences and a section 115E from EV CPOs in order to carry out works. The proposal predicts that if EV CPOs are given the right to request permits, Section 115E would not be required.
- 4.11 NYC historically has never requested a Section 115E as the section 50 licence is believed to cover the same permissions. As a result, we support the proposed amendments to the legislation.

## **5.0 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 The alternative option proposed by DfT to do nothing would result in no changes taking place, however given the potential impact that an influx of EV CPOs would have using section 50 would be a detriment to the team and would cause delay to the EV ChargePoint operators in undertaking their works.

## **6.0 IMPACT ON OTHER SERVICES/ORGANISATIONS**

- 6.1 There is the potential increase in workload for the permit team in assessing these EV charging permits, however some of the resource, otherwise processing the Section 50 licences can be shifted to permits. Clarification in terms of expected workloads have been highlighted in the consultation to determine if additional resource will be required.
- 6.2 The quality of the permit submissions will also dictate how much time is attributed to assessing the works. Poor quality will result in an increase in change requests from the Authority. Clarification of what the proposed framework for the EV CPOs will include has been sought in the consultation to ensure that they have the relevant Street Works qualifications and permit experience.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 The financial implications of the changes proposed by the consultation are in relation to officer time and the charge for permits. Permit charges in some cases, could be cheaper for the Undertaker than a licence, however, permits are a much faster way to process the works than via a licence and will ultimately mean that less officer time is required to assess the permit. It's important to note that the authority will still be obtaining income through the permit fee process.

## **8.0 LEGAL IMPLICATIONS**

- 8.1 There will be no legal implications as the proposal is to amend the current legislation. Any changes will be set in law.

## **9.0 EQUALITIES IMPLICATIONS**

- 9.1 No equalities implications foreseen see EIA screening form Appendix B

## **10.0 CLIMATE CHANGE IMPLICATIONS**

- 10.1 No climate change implications foreseen

## **11.0 CONCLUSIONS**

- 11.1 Although there are elements of this latest proposal, which are more palatable and pragmatic, there are still some aspects that require further clarification and consider it appropriate to respond accordingly.
- 11.2. Officers have produced a draft response to the consultation questions, which is set out as Appendix A to this briefing note.

## **12.0 REASONS FOR RECOMMENDATIONS**

- 12.1 Although there are elements of this proposal, which are more palatable and pragmatic, there are still some aspects that require further clarification and consider it appropriate to respond accordingly.

12.2 A draft response to the consultation questions, which is set out as Appendix A to this briefing note.

### **13.0 RECOMMENDATION**

13.1 Subject to any comments received, it is recommended that the Corporate Director for Environment, in consultation with the Executive Member for Highways and Transportation agree to the submission of the proposed response to the DfT, as attached at Appendix A for submission on 12 April 2024

#### **APPENDICES:**

Appendix A – Consultation questions and responses.

Appendix B- EIA Screening form

#### **BACKGROUND DOCUMENTS:**

DfT EV charging consultation

[Street works access: electric vehicle chargepoint operators - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/street-works-access-electric-vehicle-chargepoint-operators)

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Northallerton

20 February 2024

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Presenter of Report – Allan McVeigh, Head of Network Strategy

## Questions

1. **Do you agree or disagree with our proposal to give electric chargepoint operators access to permits rather than licences?**  
Agree with the proposal to implement permits rather than licences.
2. **What do you believe would be the benefits of giving electric vehicle chargepoint operators access to the permit regime rather than licences? Are there any specific impacts or consequences that you believe DfT should consider? (These benefits should be in addition to the [benefits already listed](#).)**  
The process would be a lot faster for both the applicant and the team to process. Section 50's often involve a number of internal departments to respond in terms of searches which can often lead to delay in processing them. Often Section 50 applications have to be initially rejected due to the information on them being insufficient such as out of date plans or NRSWA accreditations expiring. This information wouldn't be required through permitting as long as the framework suggested in this consultation is sufficient and includes these aspects.
3. **What do you believe would be any drawbacks of giving electric vehicle chargepoint operators access to the permit regime rather than licences? Are there any specific impacts or consequences that you believe DfT should consider? (These challenges should be in addition to the [challenges already listed](#).)**  
Consideration needs to be given to the fees as there is the potential loss of S50 income, however, there will be still be income received  
Need to establish levels on additional permits and measure the impact this will have on the existing permitting team.  
Clarification required as to the enforcement aspect. This is a non-statutory undertaker, will they be subject to the same inspection regime in relation to defects/ performance measures as a as statutory undertaker. Will this mean that the Authority lose their powers under NRSWA to enforce.  
Often Section 50 contractors don't have the NRSWA/ Street Works knowledge around permits/ submissions of start/ sops/ registrations despite this being part of the licence. Clarification is needed ats to whether the suggested framework includes specific Street Works knowledge including NRSWA and the SROH.
4. **Do you agree or disagree that an amendment should be made to section 115 of the Highways Act 1980 to prevent HAs from granting permission under section 115E for EV chargepoint installation where this is capable of being authorised by a permit?**  
Agree. NYC historically do not use 115E of the Highways Act as non- statutory undertakers are covered under a S50/S171 licence. Change in the legislation should not have a direct impact.
5. **How many people are involved in processing section 50 applications?**  
7 technical assistants, 10 different search departments for permissions, including managers, 6 coordinators once the application has been licenced. Managerial time in resolving issues, 1 FPN officer, 12 inspectors.
6. **What is the average fee you currently charge for one section 50 application from an EV chargepoint operator?**  
£449.98(incl. 1 inspection unit) + any additional inspection units

15 Working Days or Less	1 Inspection Unit
Between 16 and 30 Working Days	2 Inspection Units (Additional <b>£150.00</b> )
Greater than 30 Working Days	3 Inspection Units (Additional <b>£300.00</b> )

7. **How many section 50 applications did you receive from EV chargepoint operators in 2022?**  
3
8. **On average, how many hours are required to process a section 50 application?**  
Between 5- 6 hours dependent on the quality of the initial application.
9. **How many people are involved in processing permit applications via Street Manager?**  
12
10. **On average, how many hours are required to process a permit application via Street Manager?**  
30 mins if the quality of the permit is acceptable and the TM doesn't have the potential to impact the network significantly. 1-2 hours per permit if variations/ change requests are submitted as well as poor quality permits or more complex traffic management including suspension of buses or parking.

<p><b>Initial equality impact assessment screening form</b> (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>			
<b>Directorate</b>	Environment		
<b>Service area</b>	Highways and Transportation		
<b>Proposal being screened</b>	Approval of consultation proposals for EV Chargepoint Operators to undertake works via permitting.		
<b>Officer(s) carrying out screening</b>	Alex Hollifield		
<b>What are you proposing to do?</b>	Allow EVCPOs powers to apply for permits instead of section 50 licences under NRSWA		
<b>Why are you proposing this? What are the desired outcomes?</b>	This is as a result of a proposal by the Department for Transport to allow EV chargepoints rollout to undertaken more efficiently.		
<b>Does the proposal involve a significant commitment or removal of resources?</b> Please give details.	No		
<p><b>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?</b></p> <p>As part of this assessment, please consider the following questions:</p> <ul style="list-style-type: none"> <li>To what extent is this service used by particular groups of people with protected characteristics?</li> <li>Does the proposal relate to functions that previous consultation has identified as important?</li> <li>Do different groups have different needs or experiences in the area the proposal relates to?</li> </ul> <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 <a href="#">Equality rep</a> for advice if you are in any doubt.</p>			
<b>Protected characteristic</b>	<b>Yes</b>	<b>No</b>	<b>Don't know/No info available</b>
Age		✓	
Disability		✓	
Sex (Gender)		✓	
Race		✓	
Sexual orientation		✓	
Gender reassignment		✓	

Religion or belief		✓	
Pregnancy or maternity		✓	
Marriage or civil partnership		✓	
<b>NYCC additional characteristic</b>			
People in rural areas		✓	
People on a low income		✓	
Carer (unpaid family or friend)		✓	
<b>Does the proposal relate to an area where there are known inequalities/probable impacts</b> (e.g. disabled people's access to public transport)? Please give details.	No		
<b>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?</b> Please explain why you have reached this conclusion.			
<b>Decision (Please tick one option)</b>	EIA not relevant or proportionate:		Continue to full EIA:
<b>Reason for decision</b>	No adverse impact on any of the protected characteristics.		
<b>Signed (Assistant Director or equivalent)</b>	Barrie Mason		
<b>Date</b>	04/04/2024		