

<b>DECISION-MAKER:</b>	CABINET			
<b>SUBJECT:</b>	*SOUTHAMPTON PERMIT SCHEME FOR THE MANAGEMENT OF ROAD AND STREET WORKS			
<b>DATE OF DECISION:</b>	21 OCTOBER 2014			
<b>REPORT OF:</b>	CABINET MEMBER FOR ENVIRONMENT AND TRANSPORT			
<b><u>CONTACT DETAILS</u></b>				
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#### **STATEMENT OF CONFIDENTIALITY**

Appendix 1 of this report is not for publication by virtue of categories 3 (financial and business affairs), and 7A (obligation of Confidentiality) of paragraph 10.4 of the Council's Access to Information Procedure Rules as contained in the Council's Constitution.

It is not in the public interest to disclose this information as this appendix contains confidential and commercially sensitive information supplied by or agreed with the Council's Service Provider. It would prejudice the Council's ability to operate in a commercial environment and obtain best value in contract negotiations and would prejudice the Council's commercial relationships with third parties if they believed the Council would not honour any obligation of confidentiality

#### **BRIEF SUMMARY**

Part 3 of the Traffic Management Act 2004 (TMA) introduced road works Permit Schemes as a new way in which activities in the public highway could be better managed and to improve Authorities' abilities to minimise disruption from street and road works.

The scheme being developed is a full scheme and applies to all works on all roads and requires a fee to be paid by Statutory Undertakers for all works on all roads (subject to operational matters as detailed in the Scheme document).

The scheme has been named the Southampton Permit Scheme (SPS) and a number of necessary documents have been prepared and consulted on in anticipation of an application to Secretary of State for Transport.

In order to begin operation of the SPS an application needs to be submitted to the Department for Transport (DfT) to seek approval of the scheme design prior to the Secretary of State (SoS) making an Order to give effect to the scheme.

#### **RECOMMENDATIONS:**

- (i) To approve the submission of the Southampton Permit Scheme application (Scheme as set out in Appendix 1) to the Department of Transport requesting approval of the scheme design;

- (ii) To approve that the Southampton Permit Scheme should be a full scheme that applies to all works on all roads and requires a fee to be paid by Statutory Undertakers for all works on all roads per the fee schedule set out in the Scheme attached at Appendix 1;
- (iii) To delegate to The Head of Transport, Highways and Parking the ability to amend the scheme prior to submission and to take all decisions regarding the operational aspects of the project; and
- (iv) To note that a further report will be brought to Cabinet later in the year to consider the Department of Transport approval of the scheme design and approve the implementation of the scheme.

## **REASONS FOR REPORT RECOMMENDATIONS**

1. The Department of Transport requires a full submission in order that they can consider the scheme design prior to preparing a Statutory Instrument (SI) to empower the scheme.
2. A full scheme will ensure that the Council has control over the entire highways network and is able to manage all works and qualifying activities.
3. There are a number of operational and set up decisions required to implement the scheme.
4. The Department of Transport will give the Council 28 days to accept the approved scheme and agree a start date which must be before 31<sup>st</sup> March 2015.

## **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

### **Option 1: Do Nothing.**

4. This would involve retaining the existing 'Notice' System with minimum statutory controls. This provides greater flexibility for statutory undertakers and works promoters to minimise their costs. This flexibility is due to the large window within which works promoters can plan to carry out their works. There is evidence that some over order so as to keep their labour busy and then cancel the notices they don't need. This leads to last minute changes with confusion and disruption.
5. The existing scheme has less coordination powers for works within the highway. Only limited information, which is subject to change without consent, is available to other road users. Works often disrupt bus services and lead to additional costs to run extra/replacement services as a result.

### **Option 2 : Permits and Notices**

6. This would involve having Chargeable Permits on 0, 1& 2 Category Roads and Traffic Sensitive Streets, whilst retaining Notices (as existing) for 3& 4 Category Roads and non Traffic Sensitive Streets.
7. This would provide greater control on the strategic road network, including all Principal Roads, Main Distributor, Local Access, HGV Access routes and all bus routes. This is likely to reduce the number of street works on the strategic road network, which will reduce disruption and burden to business and other road users. Permitted works would demand more detailed advance information enabling better assessment of the impact of the proposed works.
8. However, only partial cost recovery would be possible. Only costs associated

with dealing with Permits issued to statutory undertakers are recovered through fees. The Notice regime would still be non-chargeable.

9. With two systems in operation, road works on the majority of the road network, including nearly all urban roads would still only be coordinated by agreement with limited statutory powers available to the Council to improve coordination / communications etc.

### **Option 3 : Permits (Chargeable and Deemed)**

10. This would involve having Chargeable Permits required on 0,1,& 2 Category Roads and Traffic Sensitive Streets, with non-chargeable 'Deemed' Permits required on 3 & 4 category Roads and non Traffic Sensitive Streets.
11. One system would be in operation with Full Permit Powers (controls to force coordination, time / duration of works etc) available to the Council. This is likely to reduce the number of works on the road network, which will reduce disruption and burden to business and other road users.
12. However, some costs are still borne by the Council in relation to dealing with works on non hierarchy roads. Only partial cost recovery would be possible.

### **DETAIL (Including consultation carried out)**

13. Currently, statutory undertakers, primarily Utility Companies (also known as Promoters), 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).
14. The cost of the disruption caused by these essential Utility works to the UK economy is estimated to be £4.3bn per year at 2002.
15. A recent report shows the cost of idling to car-commuting households in the UK was £4.1bn in 2011 and further estimates from the CBI have put the total cost of road congestion to UK businesses at nearer £7-8bn per year.
16. Part 3 of the Traffic Management Act 2004 and associated Regulations (2007) give Councils the power to establish a new Permit Authority and operate a Permit Scheme requiring statutory undertakers (and Highway and Transport Authorities) to apply for a Permit before carrying out these works.
17. 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 and for Utilities to pay a fee.
18. This new revenue will enable the Council to manage more effectively these works and impose working conditions to better control what happens, when and how it is undertaken.
19. Permit schemes cannot come into operation until the Secretary of State has made an Order giving effect to the scheme. The requirements, contents and way in which the Permit Schemes must operate are specified in the Permit Regulations and supplemented by statutory and operational guidance issued by the Department for Transport (DfT).
20. The proposed scheme will impose chargeable permits on all roads (Category 0, 1, 2, 3 & 4 and traffic sensitive streets) with a sliding scale of charges depending upon location and nature of the works.
21. One consistent system will be in operation with Full Permit Powers (controls to force coordination, time / duration of works etc) available to the Council.

Resources would be targeted to reduce the number of works on the road network, which will reduce disruption and burden to business and other road users.

22. The Council will have maximum control to coordinate works and ensure robust communications to other road users. The same controls will be imposed on all of the Council's own works, with an increase in resources to enable administration.
23. The scheme, if approved, will put in place a policy of a requirement to apply for a Permit, applicable to both statutory undertakers' work on adopted highways and to Highway Authorities' own highway works. There is a requirement in the regulations to demonstrate parity of treatment of Highway and Utility works and their Permit applications.
- There will be increased staffing implications as new resources will be required that will be funded from the new Permit Fee revenue derived from statutory undertakers'.
- The requirement is that overall fee income from statutory undertakers' should match the overall allowable growth in costs. In the event that there is a surplus in any given year the requirement is that the money should be applied towards the cost of the scheme in the next year and that fee levels are adjusted accordingly, so that taking one year with another, fees do not exceed the allowable costs.
- The DfT guidance is very clear that schemes should not generate surplus revenue and that income should therefore only be used to meet allowable scheme costs.
24. The development of SPS has required a number of work themes and components be developed.
1. A Scheme Document – detailing how the scheme will operate and comply with legislation
  2. A formal consultation – detailing the proposals and seeking responses from relevant stakeholders
  3. An up to date Local Street Gazetteer and Associated Street Data designating certain streets (or parts of streets) as "Traffic-Sensitive" if they meet specific criteria under Section 64 of NRSWA
  4. Cost Benefit Analysis – detailing the Benefit to Cost Ratio (BCR) resulting from the introduction of the scheme
- These works are in hand and will form part of the submission to DfT.
25. A further report will be brought to Cabinet later in the year which will seek approval to request the Secretary of State to make the necessary Order to implement the scheme. This report will have further details regarding the financial and operational arrangements of the scheme.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

26. One-off revenue funding of £114,000 was made available in the 2013-14 financial year from the On-Street operating surplus for initial consultant and feasibility design costs for the scheme. A proportion of this will be recoverable through the scheme
27. Further setup costs of approximately £150,000 will be required after the

scheme design is approved by the Department of Transport and agreed by Cabinet later in the year. These costs will be entirely recoverable through the permit scheme fee charges.

28. It is intended that the SPS will be self financing. 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 the fee levels for subsequent years so that taking one year with another, fee income does not exceed allowable costs. The maximum income for permits schemes fees are set by regulation.
29. Monitoring and permitting the Council's own highways work, will be met from existing revenue budgets. The equivalent activity is currently carried out by Balfour Beatty Living Places (BBLP) under the Highways Service Partnership (HSP).
30. The Network Management function including all NRSWA activities are carried out by BBLP. It is proposed that BBLP carry out most functions of the SPS on behalf of the Council. Accounting processes will be in place to demonstrate the level of income received and its use in delivering the service.

#### **Property/Other**

31. None

#### **LEGAL IMPLICATIONS**

##### **Statutory power to undertake proposals in the report:**

32. The Council as Local Traffic Authority has powers under Part 3 of the Traffic Management Act 2004 (TMA) and The Traffic Management Permit Schemes (England) Regulations 2007 (the Permit Regulations) to implement and operate a scheme subject to the Secretary of State making the necessary Statutory Instrument.

##### **Other Legal Implications:**

33. Where the scheme is implemented on the specified streets, and in accordance with the Regulations, the Permit Scheme will result in the disapplication and modification of the following sections of the NRSWA:
  - Sections of NRSWA disappplied: s53; s54; s55; s56; s57; s66
  - Sections of NRSWA modified: s58; s58A; s64; s69; s73A; s74; s88; s89; s90; s93; s105; Schedule 3A
  - Regulations modified: The Street Works (Registers, Notices, Directions and Designations)(England) Regulations 2007 SI 2007/1951
34. Changes to Section 58 (restrictions on works following substantial road works) and Section 74 (charges of occupation of the highway where works are unreasonably prolonged) apply only to Statutory Undertakers activities.
35. The Permit Scheme makes arrangements so that similar procedures are followed for Highway Authority Promoter activities in relation to timing and duration, in order to facilitate the operation of the Permit Scheme and ensure there is parity of treatment for all Promoters.

#### **POLICY FRAMEWORK IMPLICATIONS**

36. The Southampton Permit Scheme is fully in line with The Local Transport

Plan. The objectives of the scheme will also reduce congestion with associated reductions on CO<sub>2</sub> and NO<sub>x</sub> levels. These will in turn assist general health levels.

**KEY DECISION?** Yes

<b>WARDS/COMMUNITIES AFFECTED:</b>	All
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### **SUPPORTING DOCUMENTATION**

#### **Appendices**

1.	Confidential Appendix 1
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#### **Documents In Members' Rooms**

1.	The Application Form for Southampton Permit Scheme
2.	Letter to the Secretary of State
3.	Additional Information
4.	Cost Benefit Analysis
5.	Cost Benefit Analysis Appendix A
6.	Cost Benefit Analysis Appendix B
7.	Cost Benefit Analysis Annex B
8.	Cost Benefit Analysis Consultation
9.	Final Draft Scheme
10.	Formal Scheme Consultation
11.	Consultation Letter – response
12.	Consultation Letter
13.	Consultation Draft
14.	Data

#### **Equality Impact Assessment**

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes
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#### **Other Background Documents**

**Equality Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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