

CABINET



Report subject	BCP Council Street Works Permit Scheme
Meeting date	18 March 2020
Status	Public Report
Executive summary	<p>BCP Council must bring into operation a Street Works Permit system in lieu of its existing noticing system.</p> <p>This report follows the Cabinet report in October and reports on the results of the consultation carried out with all statutory consultees, with recommendations of the permit conditions to be applied for the new BCP Council Street Works Permit Scheme, taking into consideration the responses received.</p>
Recommendations	<p>It is RECOMMENDED that:</p> <ul style="list-style-type: none"> (a) Cabinet approve the conditions to be applied to the BCP Council Street Works Permit Scheme, as described in the attached document, Appendix 2 (b) Cabinet delegate authority to the Director of Legal and Democratic Services to make the necessary Legal Order to bring the permit scheme into operation.
Reason for recommendations	DfT require all Local Authorities to introduce a Street Works Permit scheme by April 2020, or as soon as practicably possible thereafter; the approved permit conditions for such a scheme and necessary legal order are required to bring this into operation.
Portfolio Holder(s)	Councillor Andy Hadley, Cabinet Member for Transport and Infrastructure
Corporate Director	Bill Cotton, Regeneration & Economy
Service Director	Julian McLaughlin, Growth & Infrastructure
Contributors	<p>Richard Pearson, Transport Network Manager (Traffic Manager)</p> <p>Paul James, Street Works manager</p> <p>Richard Pincroft, Head of Transportation</p>

Wards	All BCP Wards
Classification	For Decision

Background

1. Department for Transport (DfT) estimate that the English local road network is subject to around 2.5 million road works each year. These can cause significant disruption to people's journeys and congestion which they estimate costs the economy around £4 billion.
2. The Secretary of State wrote to all highway authorities in July 2018 and demanded that all 'street works' by the end of March 2019 be managed by local authorities utilising 'permit schemes'. This deadline was subsequently extended to the end of March 2020. The Department for Transport recognise that this deadline cannot be practically reached by all authorities and, considering the overall restructure of BCP Council, have accepted that this will be brought into operation as soon as possible in the new financial year.
3. As defined in section 48(3) of the New Roads and Street Works Act, 'street works' means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street"
4. The objective of introducing local permit schemes is to positively control street works related activities on all streets that could otherwise cause increased disruption. They achieve this by allowing better co-ordination and planning of activities, which reduces the disruption and inconvenience that these activities cause, leading to reduced congestion and the realisation of associated social, economic and environmental benefits. There are increased network management opportunities, linked to the greater resources employed by BCP Council under the proposed scheme who will be coordinating road and street works in the authority's area, offering greater benefit to those needing road space through better communication and management of their needs. The staff will also be empowered by the permit scheme powers to more proactively manage the road network.
5. BCP Council is currently a 'noticing' highway authority in terms of Street Works activity on the highway.
6. The key differences between a permit scheme and the preceding method for managing activities on the street (noticing) under the New Roads and Street Works Act (NRSWA) are:

- better position to be more proactive in the management and control of activities taking place on the highway; permit schemes may be envisaged as schemes to book occupation of the street for specified periods for a specified purpose rather than the noticing system whereby the promoters are entitled to occupation of the street and must simply notify the highway authority of their intentions;
 - highway authorities' own works are included within the scope of a permit scheme (e.g. Street Scene);
 - conditions can be attached to permits which impose constraints on the way that work is carried out and information is provided, and can allow the authority to direct the timing of activities;
 - the control that permit authorities have over variations to the permit conditions, particularly in the circumstances of extensions of time, give greater opportunity to deliver completion dates; and,
 - a permit fee is payable by the statutory undertakers. This fee relates to the proportion of total costs incurred by a Permit authority.
7. Permit Schemes can only be formed using the process set out in the following statutory guidance; 'Department for Transport Statutory Guidance for Highway Authority Permit Schemes, October 2015'.
 8. Each approved permit must have a set of conditions applied to it; these conditions need to be approved and consulted on before introduction. Following approval in October by Cabinet, a consultation was carried out between 10th December 2019 and 11th February 2020. The results of this consultation can be seen in Appendix 1.
 9. Taking into consideration the consultation results, the following changes are recommended to the conditions consulted on:-
 - a. Paragraph 3.1.3. Alteration of the word pavement to footway in the sentence – scheduling and management of activities to minimise disruption to any road or pavement user.
 - b. Paragraph 10.1.2. Addition of the words 'or permit' to the sentence – when applying for a PAA
 - c. Paragraphs 10.1.6, 10.7.1, 10.7.2. Removal of the word 'Application' from sentences stating – or request a Permit Application Modification Request.
 - d. Paragraph 14.10.2. Addition of the words 'or by 10am the next working day' to the sentence – the Promoter will submit the first Permit application within two hours of starting work
 - e. Appendix A: Definition of Terms. Removal of a reference to the Code of Practice for Permits which has been superseded in legislation.

- f. These changes are reflected in the update version of the BCP Council Street Works Permit Scheme document shown in Appendix 2.

10. In order to bring a permit scheme into operation, the Council must advertise a legal order, 28 days prior to the go-live date.

Summary of Financial Implications

11. Permit Authorities may charge fees in relation to the issuing of permits and must justify those fee levels. The fee levels should be available to those consulted under regulation 3 of the statutory guidance and may not exceed those set out in regulation 29 of the statutory guidance.
12. Any income generated by permit schemes should be used to cover the costs of operating the scheme. The income from fees must not exceed the total allowable costs prescribed in the permit regulations. This balance can be achieved over several years.
13. Allowable costs are limited to: the proportion of direct costs and overheads attributable to operating the scheme for undertakers, which are over and above the cost of the authority's co-ordination duty under NRSWA. This may include the costs related to permits which may not always lead to a permit being granted. Overheads can include: non-salary staff-related costs such as pensions and benefits, proportionate allocation of accommodation, central services and IT costs, as well as general administration and management for monitoring the permit system, key performance indicators (KPIs) and invoicing.
14. The costs associated with establishing the permit scheme are not chargeable/recoverable from promoters/statutory undertakers. The officer time and consultation costs for a BCP Council permit scheme were estimated, identified and budgeted for as part of stage 2 of the local government reorganisation process and have therefore already been accounted for as part of 2019/20 the Growth and Infrastructure revenue budget.
15. The costs of implementing and running the permit scheme and anticipated fee income are as follows:-

Expenditure	£
Staff	400,000
Other costs	150,000
Management overhead	73,825
Total expenditure	623,825
Income	£
Permit fees	573,825
Additional fees	50,000
Total income	623,825

The intention is to employ, in the first instance, up to 6 new permit officers and up to 2 new inspectors. More may be recruited later once an initial period of assessment has been carried out.

Other costs include IT, reporting and other administrative costs plus there will be a contribution to management overheads associated with the scheme.

All costs, particularly overheads, will be periodically reviewed to ensure they are appropriate and reflect the current level of activity. Thereby ensuring the correct fees are set each year and ensuring the scheme remains cost neutral.

Up to 10,000 permits are presently issued per year, and fees will range between £60 to £240 per permit depending on the classification of the road affected.

Assuming a prudent 8,000 permits are issued with an average fee of £78, sufficient income will be generated to fund the expenditure incurred. Additional fee income is also anticipated from abandoned and cancelled works and fines.

16. A further summary of the anticipated income and expenditure is included in Appendix 3. The income and expenditure would be regularly reviewed to ensure that the scheme would remain cost neutral to the Council.

Summary of Legal Implications

17. There is a statutory requirement for Highway Authorities when establishing a permit scheme to carry out a full consultation of stakeholders (this does not include the public, although the public were given the opportunity to respond). Authorities must consult those specified within the guidance and any other persons the authority consider appropriate.
18. Furthermore, the regulations stipulate that consultation should be sufficiently detailed to enable an adequate response to be considered and provided. This means that if a variation is proposed the consultation should be proportionate to the nature of that variation, and that consultees should have the detail they need to make a fully-informed response. The Secretary of State is listed as a consultee and would consider on a case by case basis whether to make representations.
19. It is recommended that a legal order is made to bring the permit scheme into operation, based on the updated conditions which have taken into account the consultation responses, as shown in Appendix 2.

Summary of Human Resources Implications

20. The operation of a Street Works permit scheme would likely require the council to employ additional officers. Any additional posts would be paid for from the income generated by the permit fee charges. This does not include the cost of Inspectors who would continue to be funded via Sample Inspection fees and other income not relating to permit conditions (e.g. Section 72 (defect) charges).
21. The DfT permit scheme matrix infers that an additional 9 posts at varying grades could be required to facilitate the operation of the permit scheme effectively within the BCP Council footprint.

22. Initially, it is proposed to employ an additional 6 posts while the scheme is embedded. Recommendations were made to the Service Director and these posts have been through job evaluation and a grading process to effectively create the posts. These will be appointed to as soon as possible, so that training etc can be provided prior to go-live. The level of staffing will be subject to regular review.

Summary of Environmental Impact

23. A Street Works permit scheme would reduce congestion due to the occupation times of the highway reducing.

Summary of Public Health Implications

24. Reduction in emissions from idling vehicles.

Summary of Equality Implications

25. There are no adverse equality implications arising from the recommendations. All works carried out on the highway must conform to the Code of Practice for Safety at Street Works and Road Works 2013 as amended which ensures compliance with the Equalities Act; stating in the foreword that "You must pay particular attention to the needs of disabled people and should also consider other vulnerable groups such as elderly people, children and those with push chairs." Even with careful planning, roadworks are generally negative in terms of traffic movements; traffic including pedestrians, cyclists and those with disabilities. Minimising the time roadworks are in place will therefore have a beneficial outcome for all types of road user.
26. The added costs of permitting are extremely small/negligible compared to the overall costs of utilities for infrastructure. Many utilities welcome the permitting initiative as it forces them to be more organised and so may improve their efficiency. DfT assessed there to be no risk of reducing investment by utilities so no reduced service or equality impact as there would be no reduction in infrastructure investment.

Summary of Risk Assessment

27. There are no significant risks.

Background Papers

28. None

Appendices

Appendix 1 – Results of the consultation.

Appendix 2 – BCP Council Street Works Permit Scheme document.

Appendix 3 - Street Works Permit Scheme Income and Costs Summary