

Subject:	Permit scheme considerations for Brighton and Hove		
Date of Meeting:	27 March 2012		
Report of:	Strategic Director Place		
Contact Officer:	Name:	Jeff Elliott	Tel: 29-2468
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Key Decision:	No		
Ward(s) affected:	All		

FOR GENERAL RELEASE/ EXEMPTIONS

1. SUMMARY AND POLICY CONTEXT:

- 1.1 Following a Notice of Motion at Full Council in October 2011, it was agreed that a report would be presented at the Environment, Transport and Sustainability Cabinet Member Meeting by the end of March 2012 considering the feasibility of introducing a Permit scheme / Lane Rental in Brighton & Hove.
- 1.2 This report outlines the actions that the council will have to undertake to introduce a permit scheme in the city. Lane rental is not currently an option as one of the criteria set by Central Government in agreeing this for councils is that the local authority must first prove their Permit scheme has not been fully effective at reducing congestion.
- 1.3 Should it be decided to implement a Permit scheme for Brighton & Hove, it is likely to be of a type modelled on the relevant parts of the current London and Kent Permit schemes. Council officers have visited and consulted with these Authorities and other Local Authorities in the creation of this report to ensure accuracy and understanding.

2. RECOMMENDATIONS:

- 2.1 That the Cabinet Member for Transport and the Public Realm authorises officers to draw up a business case considering the need for and impact of a Permit scheme for Brighton & Hove which will be presented to CMM in the Autumn 2012.
- 2.2 That the Cabinet Member for Transport and the Public Realm authorises officers to engage the specialist services of consultants in the creation of the business case and considers funding this from the 2012/13 LTP allocation. Estimated cost for this work £10 - £15K.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

3.1 History

- 3.2 The first modern attempt to deal with the problem of street works co-ordination came via the Public Utilities Street Works Act 1951. This was replaced by the New Roads & Street Works Act 1991. The 1991 Act placed a duty on Authorities responsible for streets to co-ordinate all works on the highway.
- 3.3 Under this Act, 'noticing' is the method by which works promoters, such as Statutory Undertakers (utility companies), let the Highway Authority know that they are going to be working on the roads. Noticing has been in place for a number of years and has grown in sophistication. Highway Authorities and utility companies typically manage their street and roadworks with modern software packages that comply with the Department for Transport (DfT) 'Technical Specification for Electronic Transfer of Notices (EToN)'. EToN is reliant upon the National Street Gazetteer (NSG) to provide the common source of referencing.
- 3.4 In 2004 the Traffic Management Act (TMA) was introduced to tackle congestion and disruption on the road network. The Act places a specific duty ("the network management duty") on the local traffic authority to manage their road network with a view to achieving (so far as is practicable having regard to their other obligations and policies) the expeditions movement of traffic on the authority's road network The Act gives local authorities additional tools to manage parking policies and enforcement and for the co-ordination of street works. Amongst these additional tools are 'Permit schemes', provided as an alternative to the notification system set out in the New Roads & Street Works Act 1991.

Permit schemes

- 3.5 Permit schemes are optional. Highway Authorities have to apply to the Department for Transport (DfT) for permission to set one up. Under a Permit scheme, instead of informing a street authority about its intention to carry out works in an area, a works promoter needs to book time on the highway via a permit. The same process applies to the Highway Authority for its own works.
- 3.6 The TMA refers specifically to the 'Network Management Duty' and sets up the role of a responsible officer within each local authority – the 'Traffic Manager'. A Permit scheme empowers the local authority to impose conditions (e.g. traffic management, diversions, working hours, etc) and provides it with some income through permit fees to deal with the co-ordination of activities on the roads and streets. The permit fees have to fall in line with a DfT designed permit fee matrix and they are ring fenced so they can only be spent on that part of the Permit scheme that relates to the administration and management of the external works promoters, and not of its own works promoters.

- 3.7 Where a local authority is conducting its own works, these are sanctioned and controlled in the same way using the Permit scheme, although no permit fee is payable. Permit fees cannot be used to pay staff to check for the co-ordination and permitting of its own works, so this is a net cost to the authority. The TMA importantly says there must be parity between the two, so the local authority cannot favour its own work over that of a third party, and it must similarly impose permit conditions upon its own works promoters in order to carry out the 'Network Management Duty'.
- 3.8 The TMA allows the permitting authority to impose conditions with respect to:-
- (i) timing – e.g. off-peak or night work required;
 - (ii) traffic control – e.g. temporary traffic signals, stop-go boards;
 - (iii) Temporary Traffic Regulation Orders – e.g. road closures
- 3.9 A local authority does not need to adopt a permit scheme in order to impose conditions on roadworks. These tools still exist through the Noticing system. However, a permit scheme provides tighter control at the very first stage in that road workers must wait for permission from the council to proceed rather than by simply giving us notice of intention to work in the city which is the current setup.
- 3.10 Under a permit scheme the council becomes a “permit authority” and the B&HCC Network Coordination Team will become a coordination hub for forward planning of all matters that affect the city’s roads network. Coordinators within this team will have specific statutory duties within their job descriptions that will ensure they coordinate works effectively and meet the council’s Network Management Duty.
- 3.11 Introducing a permit scheme is a lengthy and complex matter. A large amount of consultation and technical work has to be undertaken by the authority in preparing a Permit scheme, Specialist legal and financial advice is required to ensure the Permit scheme is successful in application and intention to reduce congestion. IT systems will need to be upgraded and works contracts may need to be re-negotiated to include responsibility for permitting works on the highway.
- 3.12 Permit schemes are prepared by the relevant Highway Authority, in accordance with the 'DfT TMA 2004- Statutory Guidance for Permit's' (see appendix 1) but they do not take effect until the Secretary of State has made an Order giving effect to the scheme, with or without modification.
- 3.13 The requirement for the Secretary of State to sign off an Order for any new permit scheme is currently under review and simpler guidelines are being considered by central government.
- 3.14 One of the key principles of Permit schemes is that they treat all activities covered by a scheme on an equal basis. The 2007 Permit Regulations provide for Permit schemes to include both street works by statutory undertakers and highway works.
- 3.15 In order to decide how best to proceed, officers will need to draw up a detailed business case that examines the type of Permit scheme required, with analysis of the resources required, and of the costs and benefits to the authority.
- 3.16 **Possible Benefits of a Permit scheme**

- Proactive management of activities on the highway
- Provides greater control of ALL activities on the highway network and thus improved network management and potentially less traffic congestion
- Better certainty, reliability and accuracy of information on potential works
- Potential benefit to businesses and tourism if there is less traffic disruption
- Supported by the government as best practice to manage Street Works on the public highway

3.17 **Possible disadvantages of a Permit scheme**

- Setting up costs including provision of specialist skills and IT systems
- Ongoing resource costs and additional responsibilities for council sections who must permit their works on the highway
- Potential increase in council contractor charges due to permitting requirements.

3.18 **Initial Financial Considerations**

3.19 The business case will look in greater detail at financial implications of a permit scheme, but there are some initial considerations that can be flagged up.

3.20 Initial informal consultation with neighbouring Street Authorities indicates £150,000 to £200,000 must be expected in relation to Consultants' fees. No direct quotes have been currently sought but consultants will be required as BHCC does not have the required staff resources or detailed expertise in-house.

3.21 It is likely that additional staff (permit coordinators) will be required to run a Permit scheme in Brighton & Hove. These staff would be in addition to the current establishment in the Network Co-ordination team. Because permit schemes place much greater emphasis and responsibility on a Council for forward planning of road works and congestion reduction, the Permit scheme duties would be in addition to the current statutory duties placed on the Network Coordination team. It is envisaged that the existing work will continue which includes monitoring safety at road works, inspecting reinstatements for quality, overseeing developers' works and licensing of road openings, road closures, oversailing, vehicle crossovers, etc.

3.22 The additional staff requirement is based on an assumption relative to the size of the City/numbers of road works occurring each year. A comparison has been made between Brighton & Hove and regional Authorities already running a Permit scheme to reach the additional staff estimation.

3.23 The fees and costs mentioned above can in the most part be met from permit scheme charges. However, all scheme charges must be transparent and appropriate, and cannot take account of the extra costs incurred for monitoring / permitting our own highway works.

- 3.24 A requirement to apply for a permit for all works on the highway will also result in additional costs to the authority's contractors (highway maintenance, street lighting, transport schemes, etc) and in-house staff carrying out works. Contractors' costs may be passed on to the authority in the form of increased schedules of rates for highway works.
- 3.25 Close examination of the fees charged for permits and evidence of why they are set at that level will have to be included in any application for a Permit scheme presented to the Department for Transport.
- 3.26 Around 400 of the city's 2,200 roads would be included in an initial Permit scheme for Brighton & Hove and therefore a projection of the expected number of permits likely to be issued on those roads will need to be included as part of a full business case for a Permit scheme for the City.
- 3.27 The National Street Gazetteer is a vital part of any Permit scheme. Whilst excellent preliminary works have been undertaken to bring Brighton & Hove's gazetteer up to a high National Standard, more work will be necessary to ensure the permits are issued and applied correctly. Resources/funding for the continued improvements and maintenance of the Council's gazetteer will have to be identified in any permit scheme business case and application.

4. COMMUNITY ENGAGEMENT AND CONSULTATION

- 4.1 Full consultation will be required with Statutory Undertakers (Gas, water, electricity, BT, cable companies), Emergency Services, Public Transport Organisations (Bus, Taxi, etc.), Delivery Companies (Royal Mail, etc.), AA and RAC.
- 4.2 Regional and National consultation will also be required with joint Highway Authority and Statutory Undertaker committees.
- 4.3 Internal consultation will also be required with council teams that deliver works on the highway.
- 4.4 Application currently has to be made to the Secretary of State for a Permit scheme although this is under Government review.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 Initially, it is estimated that between £10,000 and £15,000 will be required for the specialist consultant work. The 2012-13 LTP budget has been identified as a possible source of this funding. If as a result of the Business Case it is then decided to go ahead and implement a Permit Scheme for the city, consideration will have to be given as to how the

ongoing costs will be funded. Any costs which cannot be covered by the Permit Scheme charges, such as monitoring/ permitting the council's own highway works, will have to be met from existing revenue budgets.

Finance Officer Consulted: Name Karen Brookshaw Date: 17/02/12

Legal Implications:

- 5.2 Part 3 of the Traffic Management Act 2004 gives the council the power to prepare and submit an application for a permit scheme to the Secretary of State for Transport who may approve the scheme with or without modifications. The scheme does not have effect until approved by Order.

Any application must be submitted in accordance with the Traffic Management Permit Schemes (England) Regulations 2007 and must take into account the relevant statutory guidance.

Other legal implications are set out in the body of the report. There are no human rights implications to draw to Members' attention at this stage.

Lawyer Consulted: Carl Hearsum Date: 17/02/2012

Equalities Implications:

- 5.3 There are no direct equalities implications in this report but any application for Permit scheme would include an assessment of any equalities issues identified during the consultation stages.

Sustainability Implications:

- 5.4 Reduction of traffic disruption due to roadworks is a local as well as a national priority and forms a large part of any application for a Permit scheme for Brighton & Hove Council.
- 5.4.1 The possible reduction in the number of roadworks carried out in the city could also lead to a reduction of natural resources used for the repairs to the city's streets.

Crime & Disorder Implications:

- 5.5 There are no crime and disorder implications.

Risk and Opportunity Management Implications:

- 5.6 Set up and running costs are considerable and full consideration must be given to the charges levied for a permit to work on the city's streets. There is a risk of setting the fees too low and then not recouping the costs to the council. There is

also a risk of setting the fees too high and being legally challenged by utility companies who have to pay the permit fees.

- 5.6.1 A full risk analysis will be part of any future Permit scheme application documents.

Public Health Implications:

- 5.7 Reduction of delays to the users of the city's road network could lead to a reduction in air pollution

A less congested network improves travel for pedestrians, cyclists and motorcyclists.

Corporate / Citywide Implications:

- 5.8 The Network Management Duty is a Statutory Duty. This is currently met through the existing Noticing system. A Permit scheme would replace part or all of the Noticing system and the Authority must ensure it continues to meet any and all statutory duties placed upon it.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 The Street Authority currently meets its Network Management Duty through the existing Noticing system and any application for a Permit scheme must show why the Council has decided to apply to change to a permitting approach.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 Congestion of the city's streets is a high profile issue and the council must act in the best interests of residents, businesses and visitors alike. Full consultation (of those mentioned earlier in this report) and consideration of all aspects and options available must be carried out and included in any application or decision to apply for a Permit scheme for Brighton & Hove.

SUPPORTING DOCUMENTATION

Appendices:

1. None.

Documents in Members' Rooms

1. None.

Background Documents

1. DFT Statutory Guidance for Permits.