

<b>Subject:</b>	<b>Permit scheme for Brighton and Hove</b>		
<b>Date of Meeting:</b>	<b>1 July 2014</b>		
<b>Report of:</b>	<b>Executive Director Environment Development &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jeff Elliott</b>	<b>Tel: 292468</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Following the Transport Committee meeting on 27 November 2012, it was agreed that a road works permit scheme would be developed for Brighton & Hove City Council. The completed permit scheme document Brighton & Hove Permit Scheme (B&HPS) can be found in appendix 1.
- 1.2 The B&HPS formal consultation report including outcomes can be seen at appendix 2
- 1.3 The Traffic Sensitive Streets list and formal consultation report can be found at appendix 3.
- 1.4 The B&HPS cost benefit analysis summary can be found in appendix 4.
- 1.5 The National Condition Text for Permit Schemes report can be found at appendix 5.
- 1.6 In order to begin operation of the B&HPS an application now needs to be submitted to the Department for Transport (DfT) to ask the Secretary of State (SoS) to make an Order giving effect to the scheme.

**2. RECOMMENDATIONS:**

- 2.1 That the Environment Transport & Sustainability Committee approves the submission of B&HPS application to the DfT.
- 2.2 That the Environment Transport & Sustainability Committee authorises officers to continue with operational activities in preparation for implementing the B&HPS including IT upgrades, accommodation review, staff training and recruitment.

### **3. CONTEXT/ BACKGROUND INFORMATION**

#### **3.1 History**

Currently, statutory undertakers, primarily Utility companies and 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).

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 values in a 2007 Halcrow report for the DfT.

Another 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.

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.

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 on the Highway and for Utilities to pay a fee.

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.

Therefore, Permit Schemes enable Highway Authorities to better manage and co-ordinate road works to minimize disruption and reduce congestion on the road network.

#### **3.2 Preparing for a Permit Scheme**

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).

The development of B&HPS 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. A formal Traffic-Sensitive designation consultation – detailing the new designation of streets and responding to any objections
5. Cost Benefit Analysis – detailing the Benefit to Cost Ratio (BCR) resulting from the introduction of the scheme

These works have been completed and the components created have been appended to this report.

### **3.3 Background Permit Scheme Information**

Under Permit Schemes statutory undertakers are required to pay a fee to the Permit Authority for the granting of the Permit. Maximum Permit fee levels are specified in the statutory guidance and are limited to 'allowable costs' as specified in the permit regulations i.e. costs over and above the costs of dealing with Notices under the previous NRSWA regime and also limited to the proportion of the costs for operating the Permit Scheme incurred in relation to statutory undertakers.

Once a Permit Scheme is in place, the requirement to apply for a Permit will apply 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.

The requirement is that overall fee income should match overall allowable 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.

Permit schemes cannot cover works under Section 50 of NRSWA these works being the breaking up or excavation of the adopted highway by any organisation other than a Utility Company or the Local Highway Authority such as a repair on a private sewer nor can they cover permitting items such as skips and scaffolding.

Permit Authorities need to run schemes proactively and be geared up to respond to Permit applications within the prescribed time scales. The Permit regulations provide that if the Permit Authority fails to meet the prescribed time scales the Permit will be "deemed granted" and no fee payable by the Utility. This will obviously have an impact on the viability of the scheme.

When a Highway Authority is preparing to become a Permit Authority an essential component is an up to date Local Street Gazetteer (LSG) which is the mapping tool that supports the Permit Scheme as it carries the information that Utilities need to know about the roads they have earmarked for works.

This is crucial as not only does it provide more control to the local highway authority to co-ordinate but also gives an early indication of any working practices that need to be followed.

There are two principle sets of information within the LSG that needs to be accurate and up to date. These are the Traffic Sensitive Street (TSS) network and the Associated Street Data (ASD) information.

It was identified that the TSS and ASD information for Brighton & Hove required updating as part of the Permit Scheme development process and this has now been completed.

#### **3.4 Key Benefits for Residents, Business and Visitors;**

1. A greater opportunity to deliver and achieve works completion dates
2. Reduced delays and subsequent disruption to economic activity
3. Improved reliability of journey times, especially by public transport
4. Improved communication about the purpose and duration of works
5. A single register of all activities in the street
6. More consultation with others such as Bus Operators and local Businesses
7. Better integration with other systems and teams e.g. Traffic Lights, Skips, Highways Agency

#### **3.5 Expected Rewards**

The Permit Scheme is expected to:

1. Deliver an improvement in road works co-ordination
2. Provide the Highway Authority with more control over activities on their network
3. Reduce road works volumes, their size or their duration
4. Deliver additional resources to improve road works management
5. Improved communication with stakeholders and citizen engagement
6. An up to date Local Street Gazetteer and a register of all activities in the street
7. A range of social and economic benefits. (Co2, safety, financial, frustration and perception)

#### **3.6 Conclusion**

Introducing a Permit Scheme is a robust approach to the key issue of network congestion and disruption and the resulting costs to society.

#### **3.7 Joint, Common or Single Scheme**

The B&HPS is a single scheme created to meet the requirements of a vibrant and complex city such as Brighton & Hove. But wherever possible officers have

used proven learning and nationally approved guidance to ensure the B&HPS meets all requirements and is fit for purpose.

Brighton and Hove shared learning with other Authorities and Southampton City Council have created their permit scheme application using the B&HPS as the basis for their document.

The above approach ensures regional compliance and also parity between permit schemes thus helping Utilities and Contractors alike meet the permit schemes criteria and therefore reduce disruption due to road and street works.

### **3.8 Electronic Transfer of Notices (EToN) Requirements**

It is a Requirement of the New Roads and Street Works Act 1991 for the Council to provide a Register of all works that occur in the city. The Register provides a single source of information on on-going, or planned works by undertakers and highway authorities, alongside a list of all streets in an authority's area.

Notice management systems must receive street works notices electronically and allow an authority to manage them together with other relevant information. It often happens that one computer system doubles-up as The Register and the Notice Management System in a street authority. This is acceptable provided that the system fully meets the requirements for both the register and the Notice Management System.

### **3.9 Access to Registers**

Everyone has a right to inspect the register, free of charge, at all reasonable times. "All reasonable times" may be taken to mean normal office hours (08:00 to 16:30, Monday to Friday except Bank Holidays).

Street authorities are strongly recommended to publish the register on a public website. This should be available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade and maintenance. This work should, wherever possible, be done outside normal office hours.

Much of the detailed information in the register is unlikely to be of interest to the public. It is therefore suggested that the website display headline information first and allow users to drill down to more detailed information. However, it is the responsibility of the local authority to decide which information to make available in this way.

Due to the nature of the open access requirements of this register of works B&HCC has outsourced the management of the data base to external IT suppliers who monitor and maintain the systems ensuring they are open and accessible to all and also meet the requirements of The Act.

Due to the security and operational issues with the method of data transfer required by The New Roads and Street Works Act 1991 the externally hosted ICT arrangement will continue upon implementation of the permit scheme as these can not be supported in-house. It can and should be noted that both East Sussex County Council and Surrey County Council (along with the majority of other Street Authorities and Utility Companies) run their permit schemes in this manner.

#### **4. COMMUNITY ENGAGEMENT & CONSULTATION**

- 4.1 The B&HPS formal consultation period ran for a period of 12 weeks and where applicable responses to that consultation were incorporated in to the B&HPS document. Brighton & Hove City Council officers in cooperation with Southampton City Council Officers met with senior Utility representatives and representatives at the DfT to discuss the incorporation of changes in to their scheme documents and the final report on this formal consultation can be seen at appendix 2. Brighton & Hove City Council officers have also given presentations to and invited comment from internal Council teams and interested partner organisations such as the Transport Partnership during the preparation of the permit scheme document.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 One-off revenue funding of £100,000 was made available in the 2013-14 financial year for initial consultant and design costs for the scheme. If approval is given for the permit scheme, funding for further setup costs of approximately £150,000 will be required, which is recoverable through the permit scheme fee charges. The £150,000 of additional set-up costs will be funded from general reserves with repayment made in three financial years.

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 levels for subsequent years so that taking one year with another, fee income does not exceed allowable costs. The maximum for permits schemes fees are set by regulation.

Any costs that cannot be recovered by fees charged, such as monitoring and permitting the council's own highways works, will have to be met from existing revenue budgets.

Name Steven Bedford

Date: 19/05/14

##### 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 Department for Transport

who may approve the scheme with or without modifications. The scheme does not have effect until approved by Order of the Secretary of State for Transport.

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: Katie Matthews

Date: 14/05/2014

#### Equalities Implications:

- 5.3 There are no direct equalities implications in this report .

#### 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 City Council.
- 5.5 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.

#### Any Other Significant Implications:

#### Crime & Disorder Implications:

- 5.6 There are no crime and disorder implications.

#### Risk and Opportunity Management Implications:

- 5.7 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. There is also a risk that the B&HPS is submitted and the DfT does not grant an Order. However it can be noted that full consultation with DfT prior to submission has been carried out to identify any reason why the scheme documents will be not be accepted. Amendments have been made where necessary to meet DfT requirements.

#### Public Health Implications:

- 5.8 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:

- 5.9 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.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. B&H Traffic Sensitive Streets List and formal consultation report
2. B&HPS cost benefit analysis summary
3. The National Condition Text for Permit Schemes

**Documents in Members' Rooms**

1. Appendix 1 Brighton & Hove Permit Scheme (B&HPS)
2. Appendix 2 B&HPS formal consultation report
3. Appendix 3 B&H Traffic Sensitive Streets List and formal consultation report
4. Appendix 4 B&HPS cost benefit analysis summary
5. Appendix 5 The National Condition Text for Permit Schemes

**Background Documents**

1. Report to Transport Committee 27 November 2012