

Title of meeting: Traffic & Transportation

Date of meeting: 16 July 2020

Subject: Portsmouth City Council Permit Scheme 2020 (Streetworks and Roadworks purposes)

Report by: Stacey Grant; Highways PFI Network Coordinator

Wards affected: All

Key decision: Yes

Full Council decision: No

1. Purpose of report

- 1.1 To seek approval to implement a permit Scheme for "streetworks" and "roadworks" on the highway in replacement of the current "notice" system, to commence 17 August 2020.

2. Recommendations

2.1 It is recommended that:

- a) The Portsmouth City Council Permit Scheme 2020 ("the Scheme") attached at Appendix 1 is approved
- b) The Portsmouth City Council Permit Scheme 2020 Fee Schedule attached at Appendix 2 is approved, which includes the provision for lower or discounted fees in certain circumstances as set out in Section 16 of the Scheme to incentivise collaborative working to reduce the disruption to the network
- c) That the Director with responsibility for Transport in consultation with the S.151 Officer be given delegated authority to amend the Fee Schedule and Rate of Discount following each annual review in line with inflation, or otherwise, to ensure that it remains cost neutral
- d) The Legal Order required to bring the Scheme into effect attached at Appendix 4 is approved and published for the required 28 days prior to the Scheme implementation date.

3. Background

- 3.1 Currently, to enable a statutory undertaker / works promoter to execute works on the adopted highway, a 'streetworks notice' is issued via the Electronic Transfer of Notices (EToN) system. There is no charge to promoters for access to the highway, and limited grounds for refusal. Notices are, thus, flexible and without penalty and can often result in long periods of network occupation.
- 3.2 The Department for Transport has stated that operating a street works permit Scheme is a far more effective way of proactively managing streetworks and roadworks on the local road networks than operating under the older, more passive street works noticing system. Also, that Permit Schemes provide an effective way to deliver the network management duty for the benefit of all road users.
- 3.3 A permit is chargeable to the works promoter (see Appendix 2 for proposed Fees Table) and aims to minimise the amount of time spent disrupting the road network. Permitting allows tighter controls and restrictions to be set by the Highways Authority and stricter options for penalties aimed to encourage efficient working.

4. Proposed Portsmouth City Council Permit Scheme

- 4.1 The proposed Portsmouth City Council Permit Scheme is a "single" permit Scheme, developed and compliant with Part 3 of the Traffic Management Act 2004 and the Traffic Management Permit Scheme (England) Regulations 2015, to be operated solely by Portsmouth City Council. The proposed scheme has followed the proper informal and formal consultation procedure. See Appendix 1 (Portsmouth City Council Permit Scheme 2020) for full details on how the proposed permit Scheme will be administered.
- 4.2 The Scheme will operate in accordance with the Highways Authority and Utilities Committee (HAUC England) Guidance: Operation of Permit Schemes (February 2017) and the Statutory Guidance for Highways Permit Schemes (October 2015). All current New Roads and Street Works Act (NRSWA) and Traffic Management Act legislation, codes of practice and any future amendments to that legislation, apply to this Permit Scheme.
- 4.3 The Scheme includes a Fee Policy (see Section 16 of the Scheme) and an associated Fees Table attached at Appendix 2. The Scheme is required to be cost neutral and reviewed annually. Subject to the Scheme remaining cost neutral, there is discretion to offer a discount. This would be in circumstances, for example, where it can be demonstrated that collaborative working between partners or working outside of traffic sensitive times on traffic sensitive streets will reduce the level of disruption.
- 4.4 The Fee Policy also provides that no fees will be payable under certain circumstances which include works by the Highway Authority in respect of its own works for road purposes or where a Promoter wishes to cancel a Permit for

which it has no further use, or to cancel or withdraw an application that has been submitted but for which a Permit has not yet been granted.

- 4.5 The rational of the fees policy, lower fees, or discounted fees and rate of discount, are as recommended by the Department for Transport under their publication of October 2015; "Statutory Guidance for Highway Authority Permit Schemes", and the Regulations therein, the Traffic Management Permit Scheme (England) Regulations 2007 as amended by the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015.

5. Reasons for recommendations

5.1 The principle reasons for the recommendations are as follows:

- To comply with Department for Transport guidance and align Portsmouth with other Highways Authorities across the country.
- To reduce disruption on the Portsmouth highway network by improving the planning, scheduling and management of highway works and activities.
- This in turn reduces travelling delays and its associated impacts relating to financial, social and environmental costs.
- To enhance co-operation and co-ordination with all parties and improve upon partnership and collaborative working.
- To achieve the benefits of the Scheme on a cost neutral basis
- To implement and administer the Scheme (via Ensign Highways Limited) in an efficient and cohesive arrangement that compliments other traffic management activities

6. Integrated impact assessment

6.1 An integrated impact assessment is attached at Appendix 3

7. Legal implications

- 7.1 The Secretary of State for Transport has recommended that the Council implement a permit Scheme in accordance with the legislation referenced in section 3 of this report.
- 7.2 A public consultation has also been carried out and no specific legal concerns have arisen as a result.

- 7.3 Whilst the Scheme is being introduced by the Council, the operation and management of the Scheme is being outsourced to the Council's Highway PFI contractor, Ensign Highways Limited. All relevant contractual changes will need to be made to the Highways PFI Contract. Noting the need to remove and re draft the Third Party Revenue clause (10.19), a change to the Service provision which will be required to be approved by the Lenders.
- 7.4 It should be borne in mind however that the costs of operating the Scheme are prescribed in legislation and arrangements should be put in place to ensure that any costs that exceed those that are recoverable, will not be recoverable from the Council. Equally, an appropriate financial appraisal should be carried out at regular intervals to ensure that the fees being charged to operate the Scheme do not exceed the costs of operating the Scheme.
- 7.5 The proposed Legal Order as described in the report above has been appended to this report as Appendix 4.

8. Director of Finance's comments

- 8.1 As mentioned in the main body of the report, Permit schemes must not be used with the intention of generating surplus revenue. Income must only be used to meet the costs of the scheme. It is essential that the three year period of fees does not exceed the allowable cost of running the scheme.
- 8.2 In the event that the Council's permit scheme generates a surplus there may be a need to reduce the permitting fees to ensure that the Council is able to achieve a balanced position over a 3 year period.
- 8.3 If the scheme generates a deficit the Council would either need to seek to reduce the administration costs of running the scheme or the Council may need to meet the shortfall through additional payments to Ensign Highways.
- 8.4 The fee structure may have to be altered on an annual basis to ensure that the scheme remains in balance.
- 8.5 The Council are not required to charge a fee for its own works. So this new permitting scheme should not add additional cost to its own works it carries out.

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Signed by:

Appendices:

- 1. Portsmouth City Council Permit Scheme April 2020**
- 2. Permit Scheme Fees Table**

3. Integrated Impact Assessment

4. Legal Order - Portsmouth City Council Permit Scheme 2020

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/

rejected by on

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Signed by: