

Decision maker:	Cabinet member infrastructure and transport
Decision date:	Monday 1 March 2021
Title of report:	Herefordshire Council Streetworks Permit Scheme
Report by:	Engineering manager

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 11 (Cases of Special Urgency) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

Wards affected

All Wards:

Purpose

The report proposes the implementation of the Hereford Permit Scheme thereby meeting the requirements of the new Street Manager regulations and enabling the better management and co-ordination of works on the highway by applying conditions (see appendix F) which are provided in statutory guidance. The permit scheme will be managed by Balfour Beatty Living Places (BBLP) through the public realm contract as this is within the scope of the contract, this is a change in approach to managing street works – this is not a new function.

Recommendation(s)

That:

- (a) The introduction of the Hereford Council Streetworks Permit Scheme (appendix1);**

- (b) The Director for Economy and Place has approval and is authorised to make any minor amendments necessary prior to the Order being made;**
- (c) That an Order is prepared and signed implementing the Herefordshire Council Streetworks Permit Scheme; and**
- (d) The Director for Economy and Place, in consultation with the council's S151 Officer, is authorised to implement the scheme.**

Alternative options

1. Not to introduce the permit scheme and continue with the existing Noticing Scheme. This is not recommended as this would not be consistent with legislation, national guidance and best practice. This would miss the opportunity to manage the network and put conditions to the works which will ensure compliance or initiate a penalty. The majority of England are now using permitting and all are using Streetmanager, the DfT have requested all authorities in England be permitting authorities.
2. To have permits and notices in parallel, permits to apply to traffic sensitive streets, this is not recommended as mismanaged street works can impact on the locality whether designated as a traffic sensitive street or not. All streets have an impact on the locality and can be problematic if not managed positively.
3. To utilise existing permit schemes, this has been explored, the alternative permit schemes have been in operation for a number of years, they can be generic and cover urban and rural environments. The Herefordshire Scheme is taking the best from all options and will be bespoke to Herefordshire needs.
4. To consider Herefordshire Council delivering the permit scheme directly, currently the function and resource is with the streetworks team which is currently managed by BBLP. This would require further Cabinet consideration at the appropriate time and a further governance report.

Key considerations

5. Streetworks within the public realm are managed using a 'Noticing' system whereby utilities or private contractors inform the highway authority of their intention to undertake the streetworks at a specific time. The issuing and receipt of Notices – Electronic Transfer of Notices (ETON) was governed by Regulations which have now been repealed and replaced by Regulations referred to in the legal implications section, with national guidance from the Department of Transport on a new system called Streetmanager. Streetmanager does not support a Noticing regime instead opting to focus on the newer methodology of 'Permitting.'
6. Streetworks have been the concern of the public and businesses in Herefordshire, it is recognised that the financial and environmental cost of congestion caused by unco-ordinated or poorly managed road works is unacceptable. Statutory undertakers (primarily utility companies and known as promoters) and developers have rights to dig up and place apparatus in the street subject to compliance with the 'notification' requirements in the New Roads and Streetworks Act 1991 (NRSWA). The council is reactive in the management of streetworks under this regime. The management of the scheme is undertaken by Balfour Beatty Living Places on behalf of the council.

7. Under part 3 of the Traffic management Act 2004 (TMA) and associated Permit Regulations referred to in the legal implication section Herefordshire has the opportunity to introduce and operate a road permit scheme in place of the existing noticing process as a way to manage the road work activities on the network and improve the authority's ability to minimise the disruption caused by new and maintenance works. The proposed permit scheme will enable controls in the form of conditions in the permits that are issued.
8. The change resulting from the introduction of the permit scheme is the need for all works promoters, including the council service providers, to apply for a permit before working and for utilities to pay a fee. This new revenue will provide resources that enable the council to be effective in managing the network.
9. Under the regulations, the council is only allowed to use the income from fees to cover the additional costs and resources required to run the permit scheme. The scheme costs and expected fee income has been identified, if approved and implemented, an annual review will be undertaken to ensure they align and the scheme is not a financial burden to the authority.
10. The development of the Herefordshire Council Streetworks Permit Scheme (HCSPS) required:
 - A scheme document Appendix A
 - Cost Benefit Analysis detailing the Benefit to Cost Ratio (BCR) Appendix B
 - Dft Cost Matrix Appendix C
 - Permit Fees Table Appendix D
 - A formal consultation Appendix E
 - An up to date Local Street Gazetteer and Associated Street Data designating certain streets as Traffic Sensitive.
11. The costs for the implementation of the permit scheme are not recoverable from the permit fees, the costs do not influence the cost benefit analysis (CBA), as such the benefits are weighed up against the identified benefits in the CBA. The positive CBA has a clear benefit to the wider community over a 10 year period.
12. The staff provided by the permit scheme fees offer further opportunity to maximise the network management benefits in future years in areas associated with permitting such as bus and cycle lane management and journey time reliability. There will also be a focus on ensuring pedestrian provision throughout but in particular high use locations or tourist destinations.
13. The proposed implementation of the HCSPS will enable the council to proactively manage and coordinate road works more effectively to minimise disruption to users and to the road network. The council's highway works will need to comply with the requirements of the scheme in the same way as statutory undertakers.
14. The permit scheme will assist in achieving selected performance indicators within the Local Transport Plan for journey times and road conditions and should support a reduction in congestion as a result of streetworks through better planning, co-ordination and .

15. The permit scheme places a legal obligation upon all statutory undertakers and works promoters. Working without a valid permit and failing to comply with the schemes conditions are a criminal offence and carry the option of offering a fixed penalty notice to those breaching permit conditions to avoid court proceedings against them.
16. Experience of other authorities is that the introduction of a permit scheme will cause a 5% fall in road work applications and have a commensurate effect on roadwork activity and all associated aspects of the analysis. The 5% reduction is known as the permit scheme reduction factor. This is accounted for in the cost benefit and fees matrix.
17. The permit scheme will make 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 for all promoters.

Community impact

18. The introduction of the scheme will enable better management of the network which should support a reduction in congestion as a result of streetworks and provide a better environment for the residents and businesses of Herefordshire.

Environmental Impact

19. Improving the management of the network in relation to streetworks has significant benefits, road space for replacement, repair and renewal of assets will reduce carbon emissions which in turn will improve air quality and improve the environment of the locality including impact on accessibility. Congestion in the city and market towns is a concern, enabling better coordination and management of works will improve the environment for cycling and walking and an improvement in travel times.
20. The DfT cost matrix, Appendix 3, Key Outputs sets out some of the benefits of the scheme:
 - Estimating a reduction in 2006 work days, this is based on a calculation using evidence of existing schemes.
 - Decrease in congestion to road users as £1,611,491 per year, this is broken down:
 - i. Journey time savings and reliability £809,418
 - ii. Accident £14,105
 - iii. Fuel/Carbon £76,871

Equality duty

21. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
22. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.
23. The implementation will have no detrimental impact, the scheme will enable better management of the network and provide a better environment for all.

Resource implications

24. Brighton Traffic Management Ltd were commissioned to provide expert advice in moving towards and developing the Hereford Streetworks Permit Scheme. The council and BBLP resources to support the implementation of the scheme have been provided from existing resources and budgets. The appointment of the consultant was subject to a tender and governance, the cost of the supporting resource is circa £20,000.00
25. There will be a 4 month lead in to the implementation once the decision has been made, this is to recruit and train the additional 4 staff required to manage the permit scheme. The cost of the resource being in place and training is £45,000.00.
26. The cost benefit of the scheme has used existing data on noticing of streetworks, this has generated the number of applications for permits and the resource required to process. As this is estimated and can fluctuate, It is estimated that an initial 4 additional staff will be required to manage the scheme plus a proportion of existing resources. This may increase as the number of permits become known. The cost of this is £200,000 per annum. The income is expected to be in the region of £300,000 which would cover additional resource. As identified above, a permit scheme will reduce the number or work requests, as such, the first year will be used to review and if required, additional staff will be recruited. The difference between BBLP costs and income is to cover costs and improvements where necessary in the service in managing the permit scheme.
27. The budgets must be ring fenced for the permit scheme as this is to be self-funding, there will need to be mechanisms in place to allow for amendments to the fees to reduce or increase as annual reporting required. This will be over a 3 year rolling review which will follow the first annual review.
28. The revenue budget will be resourced by income generated by the scheme, the scheme is to be self-funding.
29. The cost for monitoring and permitting the council's own highway works will be met from the existing public realm budget.
30. Revenue implications for the initial 4 staff are shown below.

Revenue budget implications	2019/20	2020/21	2021/22	Future Years	
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					Total
Expenditure	£000	(£200k/12) x full months implementation and cost recovery, potentially 2 months = £33k	£200k	£200k pa	£200k per annum
Income (see paragraph 24)		£50k	Circa £300k	Circa £300k	Circa £300k

Legal implications

31. This is an Executive function under the Council's Constitution Part 3 Section 3 and is a key decision because it is likely to be significant having regard to the strategic nature of the decision; and/ or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards in Herefordshire) affected. It is also likely to result in the council incurring expenditure which is, or the making or savings which are, significant having regard to the Council's budget for the service or function concerned. This key decision has been delegated to the Cabinet Member Infrastructure and Transport as it relates to their portfolio.
32. Section 53, Part III of the New Roads and Street Works Act 1991 (NRSWA) requires a street authority to keep a register showing each street for which they are responsible, with such information that is prescribed with respect to street works, and such other descriptions of works that may be prescribed, executed or proposed to be executed in the street. Regulations allowed this information to be provided by electronic method, of which ETON was used to capture the data. These Regulations have now been repealed but the requirement to keep a register with these details, in section 53 is still in force.
33. Part 3 of the TMA allows a local highway authority to introduce a permit scheme which is a scheme designed to control the carrying out of specified works in specified streets in a specified area following the introduction of further enabling legislation. Section 37 of the TMA provides that regulations be made with respect to the content, preparation, operation, variation or revocation of permit schemes (Permit Regulations). These Permit Regulations (The Traffic Management Permit Scheme (England) Regulations 2007 and the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015), afford compliance with Section 53 of the NRSWA
34. There are no other legal considerations or problems with doing what is proposed.

Risk management

35. Permit Schemes are implemented in most authorities in England, the scheme is new to Herefordshire, to learn from other authority's experiences, consultancy support has been provided to ensure compliance to regulation, financial and legislative requirements.

36. The scheme will manage works by a wide range of utilities who may challenge due to the proposed scheme and fee cost. The consultation is part of the process and will mitigate the risk of challenge, the consultant support has also viewed and provided guidance.
37. Resource is being provided through the Public Realm Contract, the risk is being managed through the council's service providers, Balfour Beatty Living places.

Consultees

38. An 8 week open consultation was undertaken, minor amendments were required to the HCSPS scheme which have been carried out. (Appendix 5 Consultation Responses) The key stakeholders were emailed with the link to the council's website where there was a survey and where the consultation documents were available.
39. Members and group leaders were consulted on the key decision on the 2 of October with a request for comments to be passed to political group leaders for a response by the 14 October 2020, no comments responses were received.

Appendices

Appendix A Herefordshire Councils Streetworks Permit Scheme (HCSPS)

Appendix B HCSPS Cost benefit Analysis

Appendix C HCSPC Department for Transport Cost Matrix Final

Appendix D HCSPS Permit Fee table

Appendix E HCSPS Consultation Responses

Appendix F Statutory Guidance for Permit Schemes National Conditions

Background papers

None