

Agenda Item No. 7(l)

DERBYSHIRE COUNTY COUNCIL

CABINET MEETING

20 January 2015

Report of the Strategic Director – Economy, Transport and Environment

PERMIT SCHEME FOR STREET WORKS AND WORKS FOR ROAD PURPOSES (HIGHWAYS, TRANSPORT AND INFRASTRUCTURE)

(1) **Purpose of Report** To seek the approval of Cabinet to the Derbyshire County Council Permit Scheme, designed to improve co-ordination of street works and works for road purposes.

(2) **Information and Analysis** At its meeting on 5 August 2014, Cabinet received a report into the proposed Derbyshire County Council Permit Scheme, intended to co-ordinate and reduce the time taken to undertake road works and street works efficiently and safely.

As reported at that time, co-ordination of street works already falls within the scope of work carried out by the Council. Under the New Roads and Street Works Act (NRSWA) 1991, there is a system of notification for works carried out by the utility companies (Statutory Undertakers). The County Council as local highway authority is required to register the description, timing and location of its own proposed works. This notification allows the timing and duration of works to be co-ordinated to some extent, and enables the Authority to reduce impacts upon network users. The incentives for those affecting the network to seek efficiencies to reduce the time of works or delays are, though, quite limited under the NRSWA process.

In recognition of this, the Traffic Management Act 2004 enables the introduction of Permit Schemes. As the name suggests, this operates through a process of applications being made to the local highway authority for a permit to carry out works. This can improve the degree to which the Authority can control activities in the highway, giving it influence over their duration and over the information provided to the public, and a strengthened ability to influence the timing. It also allows, through penalties for contraventions of the scheme, direct financial incentives for the scheme promoter to minimise disruption. Under a Permit Scheme, it is illegal for anybody to undertake work in the highway without a Permit, meaning that the County Council would also have to apply for a Permit for its own works.

The introduction of a Derbyshire Permit Scheme was set out as an objective within the current Local Transport Plan, and work has been underway for some time to prepare this. At its meeting on 5 August 2014, Cabinet resolved to approve the introduction of a Scheme, acknowledging a draft submitted to the Department for Transport (DfT) and noting that a further report would be submitted to Cabinet for the formal approval of the final Scheme before its implementation (Minute No. 282/14 refers). At the time of the August report, public consultation on the draft Scheme had already been carried out and some changes made in response to comments received. Following submission of this draft Scheme, some points of clarification were raised by the DfT to ensure that current guidance which stipulates that a standard (national) set of conditions on permits was to be applied. The Council was also asked to confirm that it would offer discounts against Permit fees for works carried out wholly outside 'traffic sensitive' times of day.

On 30 October 2014, the DfT advised the Council that, taking into account clarification on the above points, the Secretary of State for Transport was prepared to make an Order to introduce the Scheme set out in Appendix 1 to this report. As the final stage in the approval process, Cabinet is requested to give its approval to this.

The implementation date will be 31 March 2015. As reported previously, the Scheme applies to Category 0, 1 and 2 streets plus those Category 3 and 4 streets that are designated as traffic sensitive at any time. Category 3 and 4 streets that are not traffic sensitive will continue to be covered by the NRSWA and will still represent the majority of the network. The reason for this is that the limited benefits of reduced delays and congestion on these quieter roads would be outweighed by the bureaucracy imposed by the Permit Scheme for a very large number of small-scale or low-impact schemes.

In its submission to DfT, the Council offered to monitor a number of Key Performance Indicators for the scheme, set out in Appendix 2 to this report. It is also intended, given that the intention of the scheme is to reduce disruption caused by works, to carry out a programme of congestion and delay surveys. An annual performance report will be produced and published following consideration by the Cabinet Member for Highways, Transport and Infrastructure.

(3) Financial Considerations Work undertaken on the development of a Permit Scheme have been met from existing Capital Programme design fees. The administration costs of the scheme, once in place, can be met through the charges paid by applicants for Permits.

Income from the Scheme will be determined entirely by the number and size of applications made by Statutory Undertakers. The maximum fees to be applied to each type of application are fixed, and are set out in Appendix 3 to

the report. Based upon recent levels of activity, income could be as much as £500,000 per annum, but it must be noted that the objective of the scheme is to encourage efficiencies in streetworks and the reduction in disruption to traffic. If, as anticipated and intended, it results in changes to working practices, income could fall significantly below the initial forecast.

The staffing structure required to operate the Scheme is yet to be finalised. However, Cabinet should note that whilst its costs can be met from fee receipts they cannot exceed these.

Other Considerations

In preparing this report the relevance of the following factors has been considered: legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(4) **Key Decision** Yes.

(5) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(6) **Background Papers** Guidance and background information on permit schemes can be found on the Department for Transport's website at: <http://www.dft.gov.uk/publications/street-works-permits/> Officer contact details – Jim Seymour, extension 38557.

(7) **OFFICER'S RECOMMENDATIONS** That Cabinet:

7.1 Gives its approval to the Derbyshire County Council Permit Scheme, contained within Appendix 1 to this report.

7.2 Notes the intended monitoring arrangements for the Scheme.

Mike Ashworth
Strategic Director – Economy, Transport and Environment



**THE Derbyshire County Council Permit
Scheme**

31 March 2015

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1 INTRODUCTION

1.0 The Derbyshire County Council Permit Scheme (the DCCPS) has been introduced, to enable Derbyshire County Council in its capacity as a Local Highway Authority (hereinafter referred to as the Permit Authority) to better manage Activities on its highway network, as well as minimising disruption from utility companies' street works and the Permit Authority's own highway works, both of which are covered by the DCCPS.

In the DCCPS the term "Promoter" is used where the sense includes both utility companies and highway authorities, and "Activity" is used rather than "works", even though the DCCPS applies at present only to street works and highway works.

Under the DCCPS both statutory undertaker's Activities and Highway Authority Activities are treated in the same way with regard to co-ordination and the setting of conditions. The Permit Authority shall demonstrate at all times parity between Promoters ensuring non-discrimination between Permit applicants

1.1 The DCCPS operates under the powers of the Traffic Management Act 2004 (TMA) Part 3, the Traffic Management Permit Schemes (England) Regulations 2007 (the Regulations) and with regard to the relevant guidance issued by the Secretary of State. All current TMA legislation, regulation and codes of practice apply to the DCCPS.

1.2 Subject to the exemption in 1.3 the DCCPS requires that before the specified works commence all Promoters to apply and obtain a Permit from the Permit Authority for all the Activities defined in 5.1. The Permit will allow the applicant to carry out the specified Activity:

- At the specified location;
- On the dates shown;
- For the duration shown. (which is inferred from the start and end dates);
- Subject to Conditions that apply to all Permits; and
- Subject to the specific conditions that may be attached;

1.3 Activities not requiring a Permit:

- Works carried out under a New Roads and Street Works Act 1991 (NRSWA) s50 licence;

- Maintenance and inspection of fire hydrants carried out by fire service vehicles, where the Activity is undertaken outside of traffic sensitive times; and
- Immediate Works, because they are emergency or urgent situations, can commence before applying for a Permit. However such Activities do require a Permit which must be applied for within 2 hours or, in the case of the Activity commencing out of normal working hours, within two hours of the commencement of the next working day.

2 THE PERMIT AUTHORITY

2.1 The DCCPS is operated by Derbyshire County Council as the Local Highway Authority for the County of Derbyshire and is therefore the Permit Authority for the DCCPS.

3 SCOPE

3.1 The area covered by the DCCPS is The County of Derbyshire excluding the area administered by Derby City; this is the “specified area” as set out in the Regulations.

3.2 The DCCPS will apply to all Reinstatement Type 0, 1 and 2 Streets and all Traffic Sensitive Streets within the administrative boundaries of Derbyshire County Council. These streets form the Derbyshire strategic road network and are the “specified streets” as set out in the Regulations.

3.3 It will not include roads managed and operated by the Highways Agency and streets not adopted by Derbyshire County Council as maintainable.

3.4 The streets within the DCCPS are clearly defined on the National Street Gazetteer (NSG) Associated Street Data (ASD) files. The DCCPS will operate along with the NRSWA notice system. The same or equivalent definitions and requirements will be used as in the NRSWA notice system:

- Registerable Works;
- Categories of Activities;
- Street gazetteers and the unique referencing;
- Reinstatement categories; and,
- Street designations (Protected Streets, Special Engineering Difficulties, Traffic Sensitive Streets).

3.5 The DCCPS, in accordance with the Regulations will disapply or modify of the following sections of the NRSWA:

- Sections of NRSWA dis-applied: s.53; s.54; s.55; s.56; s.57; s.66;
- Sections of NRSWA modified: s.58; s.73A; s.74; s.88; s.89; s.93; Schedule 105; Schedule 3A; and,
- Regulations modified: The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 SI 2007/1951.

4 OTHER CONSIDERATIONS

4.1 A glossary of terms is provided in Appendix A.

4.2 All electronic Permit notification will comply with the Electronic Transfer of Notifications (EToN) Technical Specification.

4.3 The use of the word electronic (ally) in this document will refer to EToN. Should the electronic system fail then all Permit notification types must be emailed to the email address published on the Permit Authority Web site.

4.4 In the event of a dispute between the Permit Authority and the Promoter in connection with any matter related to the DCCPS, the dispute resolution procedure as documented in the Code of Practice for Permits will be applied to the DCCPS.

5 ACTIVITIES

5.1 Permits must be obtained from the Permit Authority by Promoters for

- Street Works;
- Works for Road Purposes; and
- Major Highway Works.

This includes all Activities comprising Registerable Works in terms of The Street Works (Registers Notices Directions and Designations) (England) Regulations 2007 and any subsequent amendments. These are the “specified works” as set out in the Regulations.

5.2 Further details of what is covered by Registerable Works and where there are exemptions is given in the NRSWA Co-ordination of Works Code of Practice: these exemptions are carried across into the DCCPS.

- 5.3** Permit Applications will be limited to one Permit per street where a street equates to a USRN. Where Activities involve a number of streets a separate Permit Application will be required for each street. All related Permit Applications will be cross referenced to assist with coordination. The Permit Application will also be cross referenced with any notices served for related work on neighbouring streets that are outside of the scope of the DCCPS.
- 5.4** A separate Permit Application will be required when the Promoter returns to make an interim reinstatement permanent. New Permit applications for a new phase of the same works must use the same activity reference. Where the permanent reinstatement of interim works fall into the Major Works category a Provisional Advance Authorisation (PAA) is not required.
- 5.5** If remedial works are required after the end date of the Permit, then a separate Permit Application will be required. The new permit application should use the same works reference as the original permit. Where Remedial Works fall into the Major Works category a PAA is not required.

6 REGISTER

- 6.1** The Permit Authority will maintain a register of Permits in respect of the DCCPS, in accordance with regulation 33 and regulation 34, Part 7 of the Regulations.
- 6.2** All information held in the Permit register will be referenced to the USRN.
- 6.3** The Permit Authority will retain a register under s53 of NRSWA for street information. This will also cover those streets that are not part of the DCCPS.
- 6.4** Access to the register will comply with regulation 34, Part 7 of the Regulations.

7 PERMIT APPLICATION TYPES

7.1 The DCCPS will include the following Permit types:

- Provisional Advance Authorisation (PAA), which is only, required for Major Works that have a duration of 11 working days or more; and
- Permits

7.2 A PAA must be applied for 3 months in advance of proposed Activities starting.

7.3 A PAA must be served for each street on which Major Works as defined in 7.1 are being proposed.

7.4 A PAA must include the following information:

- Location of Activity;
- Proposed start and end dates;
- An outline description of Activity proposed;
- Times of working, including hours of the day and any weekend provisions;
- The road space occupancy;
- Method of working; and
- Traffic Management.

7.5 It is understood that the information may be provisional at this early stage and dates are likely to change.

7.6 The granting of a PAA will not prevent the Permit Authority from subsequently refusing to grant a Permit for the specified Activity proposed in the PAA.

7.7 When requested to do so by any person having apparatus in the part of the street for which a Permit application is being made, the Promoter must supply that person with a copy of the Permit application.

7.8 Where the NSG/ASD indicates other interested parties then Permit applications should be copied to those parties. Where the Permit Authority issues a Permit on such streets, then the Permit and conditions will be copied to such interested parties. The Promoter also has a duty under NRSWA s88, s89, s90, s91 and s93 to consult with structure / apparatus owners.

8 PERMIT ACTIVITY CATEGORIES

8.1 The Permit Activity categories included in the DCCPS are:

8.2 Permit for Major Works

Major Works are those which:

- have been identified in an organisation's annual operating programme or, if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the Activity; or

- other than Immediate Works, require a temporary traffic regulation order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other Activities; or
- other than Immediate Works, have a duration of 11 working days or more.

8.3 Permit for Standard Works

Standard Works are those Activities, other than Immediate or Major Works, which have a planned duration of between 4 and 10 working days inclusive. (Activities lasting less than 10 working days will be classified as Major Works if they require a temporary traffic regulation order, e.g. to close a street or ban a turn.)

8.4 Permit for Minor Works

Minor Works are those Activities, other than Immediate or Major Works, where the planned working is 3 working days or less.

8.5 Permit for Immediate Works

Immediate Works comprise:

- Emergency works as defined in s52 of NRSWA; and
- Activities (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):
 - (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the Promoter;
 - (ii) to avoid substantial loss to the Promoter in relation to an existing service; or
 - (iii) to reconnect supplies or services where the Promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; including works that cannot reasonably be severed from such works.

9 PERMIT APPLICATION PERIODS AND RESPONSE TIMES

APPLICATION AND RESPONSE TIMES (in working days)						
Activity Type	Minimum application periods ahead of proposed start date **		Minimum period before permit expires for application for variation (including extension)	Response times for The Permit Authority for issuing or refuse a permit (seeking further information or discussion must be done prior to issue or refusal)		Response times to applications for permit variations
	Application for provisional advance authorisation	Application for permit		Application for provisional advance authorisation	Application for permit	
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longest	1 month	5 days	2 days
Standard	n/a	10 days		n/a	5 days	
Minor	n/a	3 days		n/a	2 days	
Immediate	n/a	2 hours after		n/a	2 days	

10 APPLYING FOR A PERMIT

10.1 Permit Applications must be made electronically.

10.2 Permit for Major Works – the application must include:

- Proposed start date and end dates of the Activity. (If the proposed Activity or the start and end dates differ from the dates given in the PAA, then an explanation must justify the reason for the variation); and
- The date DCCPS detail was submitted to Derbyshire's Co-ordination Meeting or an explanation of why the Activity was not presented.

10.3 The Permit Authority will designate in the ASD certain streets as particularly vulnerable to traffic disruption to indicate that the Permit Authority requires early warning by telephone of Immediate Activities where the activity will result in carriageway incursion on these streets. In these cases, the Promoter must telephone the Permit Authority's specified number given in the Additional Street Data as soon as it is identified that an Activity becomes necessary. The Permit Application must be submitted within 2 hours or, in the case of the Activity commencing outside of normal working hours, within two hours of the commencement of the next working day.

10.4 To avoid the refusal of Permit Applications for Activities not exempt under s58 and s58A restrictions, the Promoter must contact the Permit Authority by telephone to obtain consent to submit before applying for a Permit. This will apply to all Promoters including those executing works for road purposes in the interest of parity.

10.5 All applications must comply with the definitive format and content of both paper and electronic Permit Applications given in the Technical Specification for EToN. All Permit Applications must include:

10.5.1 Activity Description

A detailed description of the Activities in plain English without any industry specific jargon

10.5.2 Contact person

The name and contact details of the person appointed by the Promoter to deal with any problems that may occur during the Activity, including any provision made by the Promoter for out-of-hours contact, by use of the Promoter or Contractor contact fields in EToN.

On Permit Applications (and on PAAs if the information is known at the time) the application should include the name of the main contractor carrying out the Activity. This will help with the Permit Authorities consideration of the application and with any discussions that need to take place before the Permit can be agreed.

10.5.3 Bus Stops

If affected by the Activity details of the arrangements entered into with the Permit Authority's Public Transport Unit (PTU) with regards to temporary stops or re-routing of bus services.

10.5.4 Timing and duration

Information is included by Promoters including the proposed start and end dates and a duration, which is inferred from the start and end dates. If the Promoter proposes to undertake Activity on weekends or Bank Holidays to speed up the Activity and reduce disruption, then they must specify this in their application.

To assist the Permit Authority when determining Permit dates and requiring a condition on duration, the following information must be supplied.

- For traffic-sensitive streets, indicate if the Activity will take place within or outside traffic sensitive times.

- For all streets indicate if the start or finish time for any Activity is to be carried out outside the hours of 7:00am to 7:00pm or if the Activity requires night working.
- If, for a major Activity, the dates on a Permit Application differ from those on the preceding PAA, the Promoter must explain the reason(s) for the change.

10.5.5 Depth and Reinstatement type

Promoters must provide their best estimate of the excavation depth; this might be expressed as a range. The application must indicate whether the Activity is intended to be completed with interim or permanent reinstatement or a mixture of both. If it is the latter, then Promoters must provide details as to where interim or permanent reinstatements will be completed within that Permit

10.5.6 Location information

To be provided by Promoters and must include the USRN and clearly state as part of the free text works description if the excavation is to affect the verge, cycleway, footway, right of way, or carriageway. This must be supported by an accurate location based on a National Grid Reference (NGR). For small excavations this must be one NGR in the centre of the excavation and, where there are trenches, this must be a number of co-ordinate pairs representing a poly-line, as detailed in the technical specification for EToN. This requirement is a minimum and may not be sufficient to indicate the space to be occupied, so the Permit Authority may seek additional information by way of descriptive text or a works plan (if not provided with the application).

Ideally the dimensions of the total space taken up by the Activity in the street in the form of a polygon (also covered in the Technical Specification for EToN) should be provided. That space needs to cover all the area used by the Activity, including for storage of materials, working space, safety zone, provision for pedestrians and traffic management. But excluding advance warning signs such as road works ahead.

Promoters applying for Permits for Immediate Activities should do so only once they have begun excavation. Even if they find that the location in which they have started digging is not where the Activity is ultimately required, a Permit is still required because they have broken open the street. A Permit Variation must be obtained if the location has to be changed as the Activities progress (see 17.5).

10.5.7 Consultation with structure / apparatus owners

Where required the result of any consultation which has taken place in accordance with s88, s89, s90, s91 and s93 of NRSWA

10.5.8 Traffic Management, Parking and Traffic Regulation Orders

The Promoter must supply details of traffic management proposals together with any requirement for action by the Traffic Authority including, but not limited to:

- the need for Temporary Traffic Regulation Orders (TTROs);
- the lifting of any parking restrictions; and
- notification or approval for portable light signals.

Where applications for these have already commenced prior to the Permit Application being sent these must be clearly referenced within the application.

These must be included in the Permit Application, or referred to when submitting a PAA, and an allowance must be made for the additional costs associated with them.

All Activities requiring a TTRO are categorised as Major Works. A separate application for a TTRO must be made as well as the Permit Application. There is a specific minimum timescale of 6 weeks for the processing of full TTRO orders, in advance of the start date on site.

The Permit Authority's agreement is required (in its capacity as Traffic Authority) for all temporary traffic signals. The Traffic Signs Regulations and General Directions 2002 (the TSRGD) Part II Direction 53 provides the requirement that permission is required from a Traffic Authority for the placement of portable light signals on the highway.

The appropriate flag in the Permit Application indicating the proposed use of 2 way or 3 way portable traffic lights must be used.

There is a minimum 5 working days advance application for planned works involving temporary traffic signals.

Application for permission to place temporary traffic signals on the highway must be made using the current application process detailed on the Permit Authorities' web site.

Where parking bays are to be suspended, application must be made to the relevant parking authority which will normally be the District Council. This must be separate from any Permit

application. Evidence of the agreement of the relevant parking authority must be included in the Permit Application.

If the advance approval notice period required for any traffic management is longer than that required for a Permit, traffic management can be applied for separately. If this happens it will be necessary to indicate that this is the case on a Permit application, cross-referencing the earlier application for traffic management (including parking) by its unique application reference number.

10.5.9 Inspection units

The application must state the provisional number of estimated inspection units appropriate to the Activity, in accordance with the rules laid down in the Inspections Code of Practice and associated regulations. Where there is trench sharing, only the primary Promoter is required to give the inspection units (see 12) on Collaborative Working.

10.5.10 Technique to be used for underground Activities

Details of the planned techniques, such as open cut, trench share, minimum dig technique or no dig must be provided.

10.5.11 Traffic Management Plan

Required for Major Works of 11 working days or greater duration, this will give full details of the proposed traffic management method. It will include traffic management layout, site layout, pedestrian user facilities (especially for the vulnerable), coning, barriers, signing and traffic control equipment (including portable traffic signals and Stop/Go boards). It will indicate the need for Temporary Traffic Regulation Orders (TTRO).

11 REQUESTS FOR EARLY STARTS

- 11.1** The Permit Authority will consider requests for early starts following a PAA or Permit Application.
- 11.2** Requests must be made by telephone to the telephone number published on the Permit Authority web site.
- 11.3** Where requests are made by the end of the next working day after the PAA or Permit Application has been submitted and if the Permit Authority agrees to the proposed start date, this will be reflected in any Permit granted and no variation charge will be levied.
- 11.4** Requests made later than the end of the next working day will be dealt with as per 11.3 above provided the Permit has not

been granted. If the Permit has been granted and the Permit Authority agrees to an early start a Permit Variation application must be issued by the Promoter for which there will be a variation charge.

- 11.5** A Permit Variation submitted following an early start request initiated by the Permit Authority is not chargeable.

12 COLLABORATIVE WORKING

- 12.1** Collaborative working means more than just trench sharing. It includes situations when one of the activities is works for road purposes and the other street works. It also includes multi-utility working, multi-utility tunnels and compliance testing. The Permit Authority strongly encourages promoters to consider collaborative working.
- 12.2** In the event of collaborative working, one of the promoters must take on the role of primary promoter and take overall responsibility as the agreed point of contact with the Permit Authority. The secondary promoter(s) retain the same responsibility for submitting permit applications for work to be carried out by them or on their behalf.

13 PERMIT CONDITIONS

- 13.1** A Permit granted by the Permit Authority will specify in detail the Activity that has been allowed. Except in the case of an Authority imposed variation, the entire Promoter's information contained within the Permit will be taken from the application, including any associated conditions.
- 13.2** The DCCPS will only use the National Condition Text and codes from the national standardised conditions as updated from time to time and agreed by HAUC UK.

In the case of Major Works which require a PAA a Permit Authority cannot impose a condition upon a PAA. Therefore in order to ensure that an effective advance publicity exercise can be carried out, they will inform the Promoter of such at the PAA stage. When the subsequent application is made for the Permit, the Promoter will be required to supply evidence with that application that the notification exercise has been carried out and this will be reflected in a condition upon the Permit.

14 GRANTING A PERMIT

14.1 If all details of the Permit application are acceptable to the Permit Authority then the electronic Permit will be granted within the response times detailed in (9) above.

14.2 The Permit will specify:

- The Activity permitted at the specified location.
- The duration of the Permit which will be the number of consecutive calendar days between the start and end of the Activity, whether or not work is actually taking place on all those calendar days, and where the Activity includes all setting up and clearing of the site and all associated storage
- Whether the Activity permitted duration includes bank holidays and weekends.
- Whether the Permit excludes working on any particular day or at any particular time
- That the Activity is subject to specific conditions of working.
- The unique Permit reference number.

14.3 Deemed Permits

If a Permit Application is not granted or refused within the required time scale by the Permit Authority the Permit will be deemed to be granted based on the information in the application. The proposed start and end dates, description, location, duration, etc. will be carried across into the Permit and any condition in the application will become conditions for that Activity. The Permit and the conditions will then be binding on the Promoter as they would for a Permit actively issued by the Permit Authority; breaching them will be an offence.

15 ERROR CORRECTION

15.1 If the Permit Authority or the Promoter identifies an error in registered data the process detailed in the Permits Code of Practice and the EToN Specification must be followed. This procedure cannot be used without the prior agreement of both parties.

15.2 If the error was created by the Promoter and to make the correction a Permit Variation is required, a fee will be payable.

16 MODIFICATIONS TO A PERMIT APPLICATION AND REFUSING TO GRANT A PERMIT

16.1 When the permit application does not fully meet the Permit Authority's requirements it can send a modification request requiring changes to be made. This shall be considered a refusal in accordance with Regulation 16(3) if a modified application is not subsequently submitted by the promoter. If a modified application is issued with the same proposed start and end dates as the original application then the response period for the modified permit application will be the later of:

- The original application response period
- 2 days, starting from when the modified application is received.

If a response to the request involves a change of date from the original application then the response time is reset to reflect the particular permit time.

16.2 The Permit Authority has the right to refuse a Permit Application if it considers that any of its elements are not acceptable. The Permit Authority will discuss the reasons for refusal with the Promoter.

17 PERMIT VARIATIONS

17.1 A PAA cannot be varied so if a Permit has not yet been granted then the Promoter must inform the Permit Authority immediately of the proposed change and a revised application for a PAA should be made.

17.2 Application for a variation to a Permit must be made whilst the Activity is still in progress or before it starts. Applications for variations must include the information set out in Section 10, with the variant information clearly identified.

17.3 It is strongly recommended that all requests for Permit Variations are made as soon as it becomes clear that the Activity will overrun or otherwise change. Prior discussion by Promoters with the Permit Authority is also recommended so that variation applications can be dealt with quickly.

17.4 A Promoter may apply to vary an existing Permit at any time before it expires as follows:

- where the existing Permit has more than 20% of its duration or more than two calendar days to run, whichever is the longer, the Promoter must apply for a variation electronically;

- in any other case the Promoter should first contact the Permit Authority by means specified by the Permit Authority at its co-ordination meetings to ascertain whether the authority is prepared to grant a variation, and apply again electronically only if the authority agrees;

17.5 The DCCPS includes the following arrangements for Immediate Works requiring a series of fault-finding excavations or Registerable Works. The Promoter must submit the first permit application containing the location of the initial excavation or opening within two hours of the Activity commencing or, in the case of the Activity commencing out of normal working hours, within two hours of the commencement of the next working day, and:

- for any further excavations on the same street within 50 metres of the original excavation, the Promoter must contact the Permit Authority by telephone to the telephone number published on the Permit Authority web site with the new location. No Permit variation will be needed and no Permit charge will apply;
- the Promoter must apply for a permit variation for the first excavation in each further 50 metre band away from the original excavation in the same street, i.e. 50-100 metres, 100-150 metres etc. Standard variation charges will apply;
- for additional excavations within each band the Promoter will contact the Permit Authority by telephone to the telephone number published on the Permit Authority web site with the new location. No permit variation is needed and no permit charge will apply;
- if the search carries into a different street, or a new USRN (including if the street changes to a different authority), then the Promoter must make a separate Permit application or NRSWA notice, as appropriate.

17.6 The Permit Authority may require a Permit Variation in the event of circumstances beyond its control having a significant impact such as; floods, burst mains or a dangerous building. Under these circumstances it may be necessary to vary aspects of the permit these are not chargeable. The Permit Authority will contact the Promoter to discuss and reach agreement to vary the Permit.

17.7 If a Promoter wishes to cancel a Permit or withdraw a Permit Application for which they have no further use, they should use

the cancellation notice containing the relevant number (see Technical Specification for EToN for more details). There is no cancellation fee.

- 17.8** Where a Permit has been granted, the fee for the cancelled Permit will normally remain payable. However, if a Permit is cancelled through no fault of the Promoter, the fee will be credited back to the Promoter

18 ILLEGITIMATE PHASING OF ACTIVITIES

Where the Permit Authority can establish to its reasonable satisfaction that a subsequent Permit application has been made at any given location as a result of:

- The closure of works following a refusal by the Permit Authority to grant an extension to the duration of a previous Permit, or
- The premature closure of the Activity by the Promoter, before all those works specified in the Activity description given by the Promoter are completed, to avoid an overrun under s74 occurring;

The Permit Authority may grant a subsequent Permit with start and finish dates to allow the initial Activity to be completed. However, the duration for this subsequent Permit will reflect the illegitimate phasing of Activities for these works and overrun charges will be applied in accordance with the current s74 regulations.

19 INSPECTIONS

The inspection process as outlined in the Code of Practice for Inspections and the associated regulations will apply.

20 FEES

- 20.1** The Permit Authority has set its Permit fees in accordance with the Permit Regulations and statutory guidance published by the Department for Transport in July 2008. The figures for Permit, PAA and Permit Variation fees can be found on the Permit Authority website.
- 20.2** If the Permit Variation changes the Permit category to a higher category, then the Promoter will be required to pay the difference between the relevant Permit fees, in addition to the Permit Variation fee.

20.3 Fees will not be charged for:

- Works for Road Purposes;
- Major Highway Works;
- Where works are being carried out on behalf of Derbyshire County Council;
- Deemed Permits;
- Cancelled Permits.
- A Permit Variation initiated by the Permit Authority.
- When for operational reasons a change of traffic management is required within the duration of the permit, and the Activity Promoter advises the Permit Authority by telephone before the change of traffic management takes place and the variation is submitted. A variation is not required where such a change of traffic management is a condition of the granted permit
- Permits for Section 81 NRSWA – works which are complete in relation to repairing apparatus to a permanent standard as the result of a non-emergency section 81 notification from the Permit Authority, within 14 calendar days of notification.

20.4 Fees will be refunded where

- A Permit is revoked and is not the fault of the Promoter.
- A Permit has to be cancelled by the Promoter through no fault of the Promoter

20.5 Fees discounts will be given where:

- Collaborative Working is to take place and the Permit Applications are received as stated in regulation 31(4) of the Regulations. The discount will be given to all Promoters involved for both PAA and Permits at the rate provided for in regulation 31(5) of the Regulations.
- Works take place on traffic sensitive streets where those works take place outside of traffic sensitive times. The full permit fee will apply to all works that take more than a day to complete, unless the site is cleared before the onset of the traffic sensitive times and the site is clear. In such circumstances the works will be treated as an activity qualifying for a discount of 30%.

The Permit Authority retains the option to waive or reduce fees at its discretion in other circumstances.

21 SANCTIONS

21.1 Regulation 18 of the Regulations empowers the Permit Authority to issue a notice requiring remedial action within a set timeframe if a Promoter is working without a Permit or in breach of any conditions. The Permit Authority will use this power if it considers it necessary. The remedial action could include removing the Activity, remedying the breach of conditions or discontinuing any obstruction. The Permit Authority will set out in the notice the reasonable steps the Promoter must take and the timeframe. Where a Promoter does not take the remedial action within the specified timeframe, the Permit Authority will take such steps as it considers appropriate to achieve the outcome in the notice, and, where the Promoter is a statutory undertaker, may recover any reasonable costs.

21.2 A Permit can be revoked if the Permit Authority considers that a Promoter is failing to comply with the conditions of a Permit. Before revoking a Permit, the Permit Authority will contact the Promoter to inform them of its intention and initiate a verbal discussion followed by electronic communication.

21.3 Section 74 – Works prolonged in the highway - Inspections for overrunning works under NRSWA s74 will be carried out. Fees may be charged to statutory undertakers for overrunning works. The duration (reasonable period) for s74 purposes must be the same as the duration given in the Permit unless the Permit granted by the Permit Authority has included a Permit condition limiting the duration for s74 purposes to a period less than the Permit duration, or where a duration variation has been granted and the Permit Authority has issued a Duration Challenge to limit the Reasonable Period.

The Highway Authorities own activities will be subject to equivalent notices but fees for overrunning works will not be charged for Works for Road Purposes.

21.4 Fixed Penalty Notices (FPNs) – Regulations 21 to 28 (and Schedules 1 and 2) of the Regulations authorise The Permit Authority to issue FPNs in respect of criminal offences committed by statutory undertakers. FPNs offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

FPNs will be in the form set out in Schedule 1 to the Regulations. How a Statutory Undertaker Promoter wishes to receive FPNs should be notified to the Permit Authority. They

must provide details as required by the EToN specification and regulation 39 of the Regulations

- 21.5** If a FPN is withdrawn in accordance with regulation 27 of the Regulations a notification withdrawing the FPN will be given. The notice shall be in the form set out in Schedule 2 of the Regulations. The Permit Authority in such circumstances will repay any amount which has been paid by way of a penalty in pursuance of the FPN.
- 21.6** The Permit Authority shall consider any representations made by or on behalf of the recipient of a FPN and decide in all the circumstances whether to withdraw the notice.
- 21.7** If the FPN remains unpaid then the Permit Authority may bring proceedings in the Magistrates' Court for the original offence.
- 21.8** Penalty amounts for FPNs relating to works for road purposes will not apply.

22 MONITORING

- 22.1** The Permit Authority will evaluate the DCCPS every twelve months of operation.
- 22.2** The DCCPS will be evaluated against its objectives.
- 22.3** The Fee Structure will be evaluated against the costs and benefits of operating the DCCPS.
- 22.4** The delivery of parity and performance will be measured using a set of Key Performance Indicators (KPI). These will be based on a set of base data collected using EToN.as described in the 2015 Statutory Guidance for implementing permit schemes.
- 22.5** The details of the KPIs and how they will be calculated will be published on the Permit Authority web site. In addition they will be discussed at the regular Promoter meetings as appropriate. They will be published at Quarterly Co-ordination Meetings and will be made available to any other person on request.
- 22.6** On completion of each twelve month evaluation it will be made available to those consulted over the DCCPS and the residents of Derbyshire via the Derbyshire County Council website.

23 TRANSITIONAL ARRANGEMENTS.

- 23.1** The DCCPS will apply the basic rules of transition on all roads where the DCCPS operates as given in Chapter 21 of the Code of Practice for Permits.

APPENDIX A - GLOSSARY

Activity	Street works or works for road purposes.
Additional Street Data (ASD)	Refers to other information about streets held on the National Street Gazetteer (NSG) concessionaire's website alongside the NSG.
Bank Holiday	As defined in s98 (3) of NRSWA.
Day	In the context of the duration of Activities, a day refers to a working day, unless explicitly stated otherwise.
EToN	Electronic Transfer of Notifications, the system defined in the Technical Specification for EToN for passing notices, Permit applications, Permits and other information between Promoters and the Permit Authority.
Excavation	Breaking up of the street.
Fixed Penalty Notice (FPN)	As defined in schedule 4B to NRSWA,
Footpath	As defined in section 329 of the HA 1980,
Frontagers	A person or body occupying premises abutting the street.
HA 1980	The Highways Act 1980.
Highway	As defined in section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway".
Highway Authority	As defined in sections 1 and 329 of the HA 1980.
Immediate Works	Immediate Works are defined in section 8 of the DCCPS
In	As defined in section 105(1) of NRSWA
Local Authority	As defined in section 270(1) of the Local Government Act 1972.
Maintainable Highway	As defined in section 329 of HA 1980
Maintenance	As defined in section 329 of HA 1980 "maintenance includes repair, and "maintain" and "maintainable are to be construed accordingly
Major Works	Major Works are defined in section 8 of the DCCPS

Major Highway Works	As defined in section 86(3) of NRSWA
Minor Works	Minor Works are defined in section 8 of the DCCPS
National Grid Reference (NGR)	Location reference using nationally defined eastings and northings The format in which it is presented must in all cases match that required by the Technical Specification for EToN.
National Street Gazetteer (NSG)	A database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard.
Network Management Duty	As stated in Part 2 of TMA.
NRSWA	New Roads and Street Works Act 1991.
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any breaking up of the street.
Permit	The approval of a Permit Authority for a Promoter to carry out Activity in the street subject to conditions.
Permit Application	The application that is made by a Promoter to the Permit Authority to carry out an Activity in the street.
Permit Authority	Derbyshire County Council.
Permit Scheme	A scheme approved by the Secretary of State under which Permits for Activities are sought and given.
Permit Variation	Is the variation by the Permit Authority of a previously granted Permit as provided for in Regulation 15 of the Regulations
Promoter	Covers both utilities' street works and highway authorities' own works. A person or organisation responsible for commissioning Activities in the streets covered by the DCCPS.
Provisional Advance Authorisation (PAA)	The early provisional approval of Activities in the street.
Registerable Works	Registerable Works correspond to street works or other descriptions of works that are required to be shown on the register in. The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

Reinstatement	As defined in section 105(1) of NRSWA, reinstatement includes making good.
Remedial Work	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and the Regulations.
Road	"Highway" or "Street".
Road Category	This means one of the road categories specified in Chapter S.1 of the Specification for the Reinstatement of Openings in Highways.
Road Works	Works for Road Purposes.
Standard Works	Standard Works are defined in section 8 of the DCCPS
Street	As defined in section 48(1) of NRSWA
Street Works	As defined in section 48(3) of NRSWA,
TMA	The Traffic Management Act 2004.
Traffic	As defined in section 105(1) of NRSWA, "traffic includes pedestrians and animals".
Temporary Traffic Regulation Order	This means an Order made under section 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984.
Traffic Sensitive Street	This means a street designated by Derbyshire County Council as traffic sensitive pursuant to section 64 of NRSWA.
Unique street reference number (USRN)	As defined in the British Standard BS7666.
Working Day	As defined in section 98(2) of NRSWA,
Works for Road Purposes	As defined in section 86(2) of NRSWA,

END

Appendix 2

The Derbyshire Permit Scheme for Road Works and Street Works

Permit Key Performance Indicators			
	Measure	Description	Comments
DPSKPI01	Number of PAA applications submitted, granted and deemed by Promoter.	The total number of PAA applications made, including re-submissions.	
DPSKPI02	Number of initial Permit applications granted by Promoter (including the highway authority) on first application submission.	Of the “initial” permit applications identified, those that were granted without asking for a re-submission.	This will show the effectiveness of the promoter in providing correct information, demonstrated coordination and helps drive ‘get it right first time’ behaviour change.
DPSKPI03	Number of Permit applications deemed by Promoter	Where permit is approved electronically without comment	This can demonstrate the increasing effectiveness of co-ordination / cooperation
DPSKPI04	The number of Permit and Permit Variations applications received, the number granted and the number refused by Promoter	The number of permit variation requested relative to the number of permit applications made by promoter	This will show the effectiveness of the promoter when planning the initial application The number of variations refused could indicate the number of inappropriate request for extensions.
DPSKPI05	The number of interim reinstatement works measured by Promoter	The number of permits with reinstatement completed to an interim standard	This will show the effectiveness of a 1 st time reinstatement policy
DPSKPI06	The number of Reinstatement Remedial measured by Promoter.	The number of permits granted where the phase type is remedial	
DPSKPI07	The number of FPNs that have been issued by Promoter.		This will indicate the level of none compliance with permit conditions or working without a permit
DPSKPI08	The average duration of works by Promoter and works type		This will provide data to assist the Permit Authority with co-ordination
DPSKPI09	The number of conditions applied by condition type.	To be monitored for each promoter.	

Appendix 3

The Derbyshire Permit Scheme

Permit Fees



	Road Category 0,1 and 2 or Traffic Sensitive
Provisional Advance	£72
Major works – over 10 days.	£223
Major works – 4 to 10 days	£130
Major works – up to 3 days	65
Activity Standard	£100
Activity Minor	£50
Immediate Activity	£35
Permit Variation	£45