

## **Devon Permit Scheme for Road and Street Works**

Report of the Chief Officer for Highways, Infrastructure Development and Waste

### **1. Summary**

The introduction of a roadworks permit scheme is designed to minimise transport disruption on the highway network associated with roadworks. It offers enhanced measures for local authorities to deploy beyond those we are currently able to with our existing 'noticing' arrangements which simply requires works promoters to notify us of planned works rather than seek our permission to work on the highway.

Works promoters would be incentivised to plan their works outside of traffic sensitive times and work collaboratively. As highway authority we could place various conditions on works being undertaken and charge works promoters by the day for their network occupation, incentivising them to plan and work efficiently.

### **2. Background/Introduction**

Devon County Council had been investigating the suitability of introducing a Roadworks Permit scheme to consider whether it was the right thing to do, particularly from a network management and financial perspective. However, all Highway Authorities, including Devon County Council, which were not currently operating such a scheme were written to by the Secretary of State for Transport in July 2018 requesting we consider introducing roadworks permitting arrangements.

Cabinet, in June 2018, resolved that subject to there being a positive business case for the introduction of Permit scheme a proposal should be consulted on with statutory undertakers. Therefore, an outline business case was developed with the assistance of Jacobs, our professional services contractor who have assisted other Highway Authorities in delivering such schemes. We have also sought advice and input from other Highway Authorities who have been through the transition of moving from a noticing regime to a permitting arrangement. This work has subsequently identified a strong business case for the introduction of a Roadworks Permit Scheme in Devon.

The introduction of a Roadworks Permit scheme offers an opportunity to reduce journey delay and associated congestion/fuel emissions through better control and planning of works on the highway.

### **3. Proposal**

Devon currently operates a countywide streetworks 'noticing scheme'. This requires all works promoters to obtain a 'licence' for works or submit a 'notice' to highlight their intention to work on the road network. In 2004, the Traffic Management Act introduced powers for highway authorities allowing 'permit' schemes to replace current noticing schemes. Devon County Council, as with other highway authorities in the Southwest, have continued to operate a 'noticing' scheme rather than introduce a 'permit scheme'.

Further to review of our existing arrangements, the subsequent business case development and strong encouragement from DfT, it is proposed to introduce a Roadworks Permit Scheme in Devon in early 2020.

By implementing a Roadworks Permit Scheme we will be able to set conditions on working arrangements ranging from timing of works to method of working. The recently updated Traffic Sensitive Street network will form the basis of how we will deal with and prioritise applications.

To ensure the scheme is implemented in a controlled and managed way, it is proposed that Phase 1 would include all DCC works and utility company (statutory undertakers) works. A 12-month review will be held after scheme go-live to ensure effectiveness. Within this review, a Phase 2 roll out to privately licenced works activities will be considered, such activities could include skips and scaffolds, development management works and vehicle crossings. It would be intended that this review be presented to Scrutiny for their consideration at a future meeting.

There will be cost to the Authority to administer the scheme, for example there will be a need to recruit additional staff and amend existing software to cater for permits. However, the costs associated with the additional work involved will be recovered through the fee income associated with the scheme. The scheme is intended to be broadly cost neutral over a three- year period in line with DfT guidance.

It is important to stress that a Permit Scheme can only recover its costs. It cannot generate 'profit' for reinvestment on other Council services and maximum permit fee levels are set by DfT.

Full detail of the proposed scheme (the Draft Permit Plan) can be found in Appendix 1. It is intended that the Draft Permit Plan will form the basis of the informal consultation referred to below. Following this consultation, feedback will be considered by the service and the Permit Plan will be reformulated as appropriate. This will then be presented to Cabinet for approval in conjunction with permission being sought to introduce an associated Traffic Regulation Order for the scheme.

#### **4. Consultations/Representations/Technical Data**

An informal consultation phase (workshops and website) is being undertaken between May – July 2019 not just with statutory consultees but a range of known works promoters and their associated supply chain.

A press release has been issued to promote the informal consultation period and development of a consultation web page is ongoing which can be accessed here. <https://www.devon.gov.uk/worksp permit-scheme>

Social media is also being utilised through the corporate communications team to help raise public awareness.

Subject to Cabinet approval, it is anticipated that a formal consultation period will be held around October/November 2019 as part of the Traffic Regulation Order process.

Internal consultation has also begun. This includes teams that commission works on the highway not just within Highways & Traffic Management but services such as Planning, Transport & Economy.

To deliver such a project is a complex task which requires the input from across the Council, as such a virtual team has been assembled to deliver the project drawing from Communications, ICT, Finance, Legal, HR, Estates and others as required.

## **5. Financial Considerations**

Details of the proposed permit fees can be found in Appendix 2. N.B. Appendix 2 currently outlines indicative fee levels on a sliding scale. It is the intention that these figures are refined and finalised once the thorough informal consultation with works promoters and stakeholders is complete. Each proposal for charging has been cross referenced and sit in line with the DfT guidance for permit charges. It is our intention to set fees which encourage working out of traffic sensitive times and encourage collaboration, for example the sharing of road space. The final fee structure will be set in such a way that additional costs to the Authority for administering the scheme will be recovered through the fee income, in line with DFT guidance.

Through the business case modelling it has been estimated that each set of roadworks costs wider society around £850 per day, clearly there is fluctuation across works type and location but for a County the size of Devon cumulatively this is a high cost. In broad summary the benefit cost ratio to wider society of us administering a scheme would be approximately 13:1.

## **6. Environmental Impact Considerations (including climate change)**

Based upon the anticipated 5% reduction in network occupation figure, it would be argued that emissions could be reduced further to less delay being caused by roadworks, for example less queuing and congestion or traffic having to divert to avoid works.

The scheme could potentially also offer further environmental and climate change benefits by allowing reduced permit charges for companies that either site share or work in the same trench lines. This would result in less excavations and subsequently less waste material being produced. Other benefits could be achieved by offering discounted permit fees for works promoters who propose the use of environmentally friendly methods of working, such as use of recycled materials.

A full impact assessment is being prepared and will form part of the Cabinet papers later in the year. This will consider the impacts not just in relation to the environment, including climate change but also for economy and equality.

## **7. Legal Considerations**

A Traffic Regulation Order is required to be published before the scheme can become operational. This is a requirement of Section 33A of the Traffic Management Act 2004. When making a Traffic Regulation Order it is the County Council's responsibility to ensure that all relevant legislation is complied with. This includes Section 122 of the Road Traffic Regulation Act 1984 that states that it is the duty of a local authority, so far as practicable, secures the expeditious, convenient and safe movement of traffic and provision of parking facilities.

Devon County Council also has a duty under the Traffic Management Act 2004 to ensure the expeditious movement of traffic on the network. The introduction of a roadworks permit scheme will help ensure compliance of this duty.

## **8. Risk Management Considerations**

This policy/proposal has been assessed and all necessary safeguards or action have been taken/included to safeguard the Council's position

## 9. Options/Alternatives

- The option of implementing a roadworks permits scheme solely on the strategic road network was considered: This would mean that a dual process for noticing on the minor road network would be required. This option was rejected as it required two shadow processes to operate. This could lead to confusion from works promoters and an inconsistency of application quality. It would also reduce the financial sustainability of the scheme.
- Introducing a permit for works scheme for all types of works in Phase 1, including privately licenced works, skips and scaffolds, development control works: This option isn't being pursued we are keen to implement a focussed scheme which could evolve in future. There is a risk that this could not be achieved for all works within the proposed timeline of early 2020 start.
- There is the option of doing nothing and continuing to operate a 'noticing scheme' the Secretary of State has though implied that to do so could result in him instructing us to do so under Section3(2) of the Traffic Management Act 2004. It would also seem at odds with the strong Benefit Cost Ratio to stay as we are.

## 10. Conclusion

In conclusion it is intended to move from our existing noticing system to a roadworks permit system in early 2020. Works promoters, including DCC will be required to seek permission to work on the highway rather than notify us of their intention do so. Permits would be charged for by the day. Subject to the feedback received as part of the informal scheme consultation it is intended that works promoters will be incentivised to work collaboratively and out of traffic sensitive times. The scheme will cover all roads for which we are the Highway Authority. A review would be undertaken one-year post introduction on whether the scheme has met its intentions and whether to widen to other licenced activity on the highway.

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[Local Government Act 1972: List of Background Papers](#)

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Background Paper	Date	File Reference
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Nil

*Appendix 1 – Permit Plan (Draft)*

*Appendix 2 - Proposed indicative fee levels.*

Appendix 1  
To HIW/19/50

# Devon Permit Scheme for Road and Street Works

June 2019 Rev P02

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## **Authorisation Sheet**

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# 1 Introduction

## 1.1 Background

- 1.1.1 A Permit Scheme gives Devon County Council (DCC) an alternative way to manage street and roadworks activities on the public highway. Permit Schemes were introduced under Part 3 of the Traffic Management Act 2004 (TMA) as amended by the Deregulation Act 2015. They were introduced to enhance Local Highway Authorities (LHAs) ability to minimise disruption as a result of street and roadworks.
- 1.1.2 DCC's Permit Scheme is known as the 'Devon Permit Scheme for Road and Street Works'. Hereafter in this document as 'the DCC Permit Scheme'.
- 1.1.3 The DCC Permit Scheme applies to all for all publicly maintained highway for which DCC is the Highway Authority.
- 1.1.4 The DCC Permit Scheme is based on Part 3 of the TMA (Sections 32-39), the Traffic Management Permit Scheme (England) Regulations 2015 and has been developed in accordance with the Department for Transport (DfT) Statutory Guidance for Highway Permit Schemes (October 2015) and DfT advice note for Local Authorities developing new or varying existing permit schemes (June 2016).
- 1.1.5 The DCC Permit Scheme conforms to Highways Authorities and Utilities Committee (HAUC) (England) Guidance, Operation of Permit Schemes, February 2017. The DCC Permit Scheme will also conform to any future relevant legislative and regulatory documents by means of amendment

## 1.2 Chosen Design for DCC's Permit Scheme

- 1.2.1 The DCC Permit Scheme has been created based on best practice taken from schemes across England, specifically similar shire counties. This best practice has also been tailored to best meet the priorities of the Devon residents and road users.
- 1.2.2 Two options for the DCC Permit Scheme were assessed for implementation. A full scheme whereby permits would be required for works on all roads, and a partial scheme where permits are only required for works on Traffic Sensitive Streets.
- 1.2.3 The full scheme was assessed as the most appropriate scheme for Devon in bringing the greatest benefits to residents and road users to reduce disruption. It was also shown to be financially viable for DCC. This approach is consistent with DfT Guidance.

## 1.3 General Principles

- 1.3.1 DCC's Permit Scheme is designed to provide a way for DCC to manage street and road works on the public highway to improve the Authority's ability to minimise disruption to members of the public and road users.
- 1.3.2 It replaces DCC's existing Street Works operations road booking process as set out in the New Roads and Street Works Act 1991 (NRSWA) whereby Statutory Undertakers are required to give notice of any works they propose to carry out to DCC. The DCC Permit Scheme introduces a similar concept as the notice system in several key areas and endeavours to maintain consistency wherever possible, the key difference being that Works Promoters need to gain a permit to work prior to commencement.
- 1.3.3 The DCC Permit Scheme is intended to come into operation from the 2nd January 2020.

- 1.3.4 Under Regulation 3(1) of The Traffic Management Permit Scheme (England) Regulations 2007, a full consultation complying with The Traffic Management Permit Scheme (England) Regulations 2007 has been successfully carried out. This consultation included all stakeholders specified in Regulation 3(1).
- 1.3.5 During the development of the DCC Permit Scheme, DCC has taken into consideration the requirements of the Equalities Act 2010. An Equalities Impact Assessment has been undertaken and is displayed on the DCC Permit Scheme website <https://www.devon.gov.uk/worksp permit-scheme/>
- 1.3.6 Once implemented, the DCC Permit Scheme will be operated by Devon County Council as the Street Authority for Devon (excluding Plymouth and Torbay unitary authorities). The scheme will apply to all publicly maintainable roads and road categories as set out in paragraph S1.3.1 of the Specification for the Reinstatement of Openings in Highways (Third Edition) within the LHAs boundaries. This is with the exception of the Strategic Road Network (SRN) (motorways and some A-Roads) which is responsibility of Highway's England.
- 1.3.7 The DCC Permit Scheme will apply to any person or organisation responsible for commissioning works-related activities in streets covered by the Permit Scheme. In the DCC Permit Scheme these persons or organisations will be referred to as a Works Promoter. The DCC Permit Scheme will also apply to works undertaken by Devon County Council as the Highway or Traffic Authority.
- 1.3.8 Devon County Council must apply for permits in the same manner as a Statutory Undertaker or other Works Promoters.
- 1.3.9 All works comprising and categorised as "specified works" in Regulation 3(6) of The Traffic Management Permit Scheme (England) Regulations 2007, The NRSWA and HAUC (England) Guidance for the Operation of Permit Schemes February 2017 Version 1.0 (or its' successor) describes the registerable activities that will require a permit under the DCC Permit Scheme.

## 2 Objectives of Permit Scheme

### 2.1 Permit Scheme Purpose

- 2.1.1 Any activity undertaken in a street has the potential to cause disruption. Activities, especially road and street works, can reduce the width of the street available to traffic (including pedestrians, cycle traffic, equestrians and other vulnerable road users); impact route directness; have a noise and environmental impact; and be an inconvenience for residents and businesses.
- 2.1.2 The scale of disruption caused is relative to the type, duration and timings of the activities being undertaken; capacity of the street, traffic volumes (including pedestrians, cycle traffic, equestrians and other vulnerable road users), and the work methods being used.
- 2.1.3 The DCC Permit Scheme is intended to enable more efficient co-ordination of roads and street works activity and empower DCC to minimise disruption. This is in line with the TMA to enable the management of traffic (including pedestrians, cycle traffic, equestrians and other vulnerable road users) to carry out statutory duties outlined in the Network Management Duty.

### 2.2 Permit Scheme Objectives

- 2.2.1 The strategic objective for the DCC Permit Scheme is to assist DCC in the execution of its Network Management Duty under Section 16 of the TMA whilst Works Promoters install and maintain services and assets with minimum disruption to residents, road users and local businesses by improving planning, scheduling and management of road and street works.
- 2.2.2 The sub-objectives of the DCC Permit Scheme are:
- To proactively manage the local highway network to maximise the efficient use of road space;
  - To improve the quality of works information and compliance with required legislation and relevant guidance, specifications and Codes of Practice;
  - To improve the reliability and accuracy of works information to the public;
  - To protect the right of the public to use the highway in a lawful manner;
  - To protect the structure of the street and any apparatus within it;
  - To ensure parity of treatment for all activity of Works Promoters;
  - To manage road and street works activities to support public transport reliability.
  - To support the economic prosperity of Devon whilst managing reliable journey travel times.
  - To consider the impact of works on the environment whilst considering a prosperous and healthy communities/businesses.
  - To contribute towards the safety of the travelling public.

### 2.3 Aligned Policies

- 2.3.1 DCC's transport strategy is set out in its joint Local Transport Plan (LTP) (2011-2026) with Torbay Council. The LTP describes DCC's strategy and policy framework for transport. The

LTP recognises that a reliable transport system will help to deliver a low carbon future, a successful economy and a prosperous, healthy population.

2.3.2 DCC has a legal and statutory duty to manage the highway network and to improve the movement of traffic. This includes the co-ordination of all activities on the road network, including road and street works.

2.3.3 DCC's five key objectives in the LTP are:

- Deliver and support new development and economic growth;
- Make best use of the transport network and protect the existing transport asset by prioritising maintenance;
- Work with communities to provide safe; sustainable and low carbon transport choices;
- Strengthen and improve the public transport network; and
- Make Devon the 'Place to be naturally active'.

2.3.4 The DCC Permit Scheme has been developed to be consistent with DCC's LTP (2011-2026).

2.3.5 DCC Permit Scheme shall also compliment the strategic objectives of the Better Together Vision, focusing on 'getting from A-B'.

## 2.4 Benefits

2.4.1 The following benefits are likely to be derived from the DCC Permit Scheme:

- Improvement's to overall network management;
- Reduced congestion & disruption on the road network;
- Improved journey time reliability;
- A reduction in costs to local businesses caused by delays;
- Improved general quality of life, particularly for residents;
- Reduced greenhouse gas emissions and levels of noise; and
- Improved customer satisfaction.

2.4.2 Works will always need to be carried out by Works Promoters, but the activities shall be regulated by DCC and Works Promoters in ways that minimise impact by introduction of the Permit Scheme.

2.4.3 A cost benefit analysis has been undertaken in line with DfT guidance for local authorities developing Permit schemes. Analysis shows that works activity typically have a wider economic cost of approximately £850 per day per works activity through disruption and delay. A permit scheme is expected to provide a reduction in disruption of around 5% to 10% based on evidence from other highway authorities who have implemented similar schemes.

## 3 Permit Scheme Principles

### 3.1 Principles for Co-ordination

- 3.1.1 Effective co-ordination and management to ensure traffic disruption is minimised as far as reasonably practical, whilst allowing Works Promoters the required time and space to safely complete their works effectively is essential for the scheme to be a success.
- 3.1.2 It is not intended that the DCC Permit Scheme should delay or prevent any necessary and lawful activities from being undertaken; rather achieve a balance between the interests of users of the highway and those wishing to work on it.
- 3.1.3 Before any specified works are carried out on a specified street the Works Promoter must obtain a permit from DCC, in accordance with the requirements set out in this DCC Permit Scheme document.
- 3.1.4 All Works Promoter activities will be treated in the same way as when setting of restrictions and co-ordination. This will include DCC's own works contractors.
- 3.1.5 The DCC Permit Scheme objectives will be facilitated by improving performance in line with DCC's Network Management Duty.

### 3.2 Principles for Works Promoters

- 3.2.1 It is essential that all involved in the activities on the highway adhere to the objective of the DCC Permit Scheme, TMA, and NRSWA. This will lead to reduced congestion and more reliable journey times wherever possible through better advanced planning of streetworks.
- 3.2.2 To meet these objectives DCC and Works Promoters must adhere to four key principles:
  - The need to balance potentially conflicting interests of road users with the Works Promoters and their customers;
  - Close co-operation and liaison between work Works Promoters and DCC;
  - Acknowledgement that activity programmes and practices may have to be adjusted to ensure that disruption is minimised and that statutory requirements are met; and
  - The provision of timely, clear, accurate and complete information.
- 3.2.3 The DCC Permit Scheme gives DCC greater control over how and when activities are carried out. However, the responsibility of planning, supervising and executing safe activities remains with the Works Promoter.
- 3.2.4 Works Promoters must consider the needs of all road users, particularly the needs of vulnerable road users including those who may have a disability, and for whom work-related activities may have an impact and require specific mitigation measures.
- 3.2.5 Works Promoters will consider existing road activities and consider how their proposals will integrate with them and the broader operation of the local and strategic road networks. This has implications for:
  - The timing of activities e.g. avoiding peak traffic times, seasonal constraints, special events and working at unsociable hours
  - The method with which works are carried out, including but not limited to complying with:

- Health and Safety legislation;
  - Construction (Design and Management) Regulations 2015;
  - Equalities Act 2010;
  - Programming and co-ordination of activities with other Works Promoters and activities on the network; and
  - The effective management of noise, lighting, emissions and traffic management.
- 3.2.6 Works Promoters must seek to identify parties directly affected by proposed works and discuss their proposals with them, amending proposals where appropriate to minimise specific impacts.
- 3.2.7 All activities that are likely to cause significant disruption should have their permit applied for as early as possible and statutory application periods must be considered an absolute minimum. This provides DCC and the Works Promoter more time to consider, apply and act on any conditions or modifications that may be required.
- 3.2.8 Whenever possible Works Promoters, including DCC should engage with the Highway Authority's Traffic Manager (or delegated others) to discuss schemes causing significant disruption. This will allow the works to be planned to mitigate the impacts.
- 3.2.9 Works Promoters must consider the space needed to undertake the whole works, including any areas needed for storage and parking etc. Conditions may apply when storage of plant or materials and parking could cause disruption or impact on the highway network.

### 3.3 Collaborative Working

- 3.3.1 Collaborative working should be considered wherever possible and safe to do so. This includes not only the sharing of works space, but also any follow-on works or multiple works within a street. The primary objective of collaborative working is to co-ordinate activities so that they take place in the same traffic management layout or trench, thereby reducing working durations and minimising disruption.
- 3.3.2 Works Promoters shall also consider the options for shared trenching to help minimise the number of reinstatements in the road structure, which has a potential to impact on the integrity of the structure. It also benefits the reduction of overall works durations.
- 3.3.3 In addition to considering activities on a single site, when assessing an application for a permit, DCC will consider known planned works nearby including those on other roads that may affect the same traffic flows. In such a case activity timings or restrictions may be applied to minimise the impact on traffic flow.
- 3.3.4 Reduced permit fees will be charged for any permit where the works are carried out with collaborative working, including shared trenching. This may involve one or more Works Promoter and/or trench/works area sharing.

### 3.4 Forward Planning

- 3.4.1 Forward planning information on potentially highly disruptive activities shall be included in the permits register at the earliest opportunity. This will enable Works Promoters to:
- Take part in early co-ordination;
  - Actively engage collaborative working practices (where viable);
  - Consider other works being undertaken in the area; and

- Consider concerns from interested parties and stakeholders.

3.4.2 Forward planning information should be provided as early as possible and with as much information as available. This information should be updated whenever appropriate. Forward planning information does not remove the needs to apply for a Provisional Advance Authorisation (PAA) or a permit at the appropriate time.

### **3.5 Innovative Working**

3.5.1 Innovative streetworks working is promoted by DCC across the network where it can be demonstrated that:

- Value for money is apparent;
- The safety to road users and workers is not put at risk;
- Additional congestion is not created; and
- No adverse environmental pollution is made as a result of the works method.

3.5.2 Reduced permit fees will be charged for any permit where the works are carried using an innovative working practice. This may involve one or more Works Promoter working in conjunction.

3.5.3 Innovation will be assessed on a case by case basis by DCC as to whether it merits a reduction in permit fees. Over time innovative working practices may become the industry norm for that type of work. Therefore, discounts previously applied to innovative working practices may cease if DCC deem this has become standard industry practice.

## 4 Key Performance Indicators and Scheme Success Evaluation

- 4.1.1 DCC must indicate how it will ensure parity to all Works Promoters when implementing a permit scheme. The DCC Permit Scheme will use Key Performance Indicators (KPIs) within the DfT's Statutory Guidance for Highway Authority Permit Scheme (October 2015) to measure performance and ensure parity. DCC will continue to submit performance scorecard data to the National Street Gazetteer (NSG) hub.
- 4.1.2 The DCC Permit Scheme will be reviewed after the first year of operation and thereafter every three years. The review will consider whether the DCC Permit Scheme is meeting the latest KPIs set out by the DfT and those set by DCC and whether the permits scheme fee structure needs to be changed due to any scheme costs surplus or deficit.
- 4.1.3 The DCC Permit Scheme Evaluation Reports will be based on the latest published HAUC (England) Permit Advice Note and Permit Scheme Evaluation Report template. The KPIs proposed are included as Appendix B. *(To be confirmed)*

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## **5 Common Elements with NRSWA**

### **5.1 Street Inclusion**

- 5.1.1 All streets maintained at public expense by DCC are included within the DCC Permit Scheme. The strategic road network (SRN) which is maintained by Highways England is not included in the Devon Permit Scheme. However, if works on the SRN require diversion routes or temporary traffic management on the local highway network then a Permit will be required. A parallel process shall operate for Highway Authority works that operate cross administrative boundaries.

### **5.2 Street Gazetteer**

- 5.2.1 DCC will continue to maintain a Street Gazetteer including a list of Unique Street Reference Number (USRN) and Additional Street Data (ASD). In relation to permits, the term "street" refers to an individual NSG.
- 5.2.2 DCC completed a review of all its traffic sensitive streets in 2018. A further 5-year review will be undertaken to ensure the accuracy of categorised traffic sensitive data with an ever-changing road network.
- 5.2.3 DCC have road reinstatement types defined in its NSG data. As of March 2019, a full countywide review of road reinstatement types is in progress. The results of this are expected by March 2020.

### **5.3 Streets with Special Designations and Controls**

- 5.3.1 Streets designated under NRSWA with special controls, protected streets, streets with specific engineering difficulty, and traffic sensitive streets will have the same designations under the DCC Permit Scheme. These streets will be detailed on the Street Gazetteer.

### **5.4 Reinstatement Categories**

- 5.4.1 The reinstatement categories of streets used in the DCC Permit Scheme are the same as those reinstatement categories under NRSWA.
- 5.4.2 The reinstatement category, as given in the ASD, must be treated as definitive.

## 6 Permit Scheme Scope

### 6.1 Scope

- 6.1.1 The DCC Permit Scheme applies to all registerable activities as defined in The Traffic Management Permit Scheme (England) Regulations 2007 as amended by 2015 Regulations. The DCC Permit Scheme shall include all works by statutory undertakers and highway works.
- 6.1.2 Works currently managed by licences through other powers, such as skips, scaffolds, depositing materials on the highway, vehicle crossings, development management works etc. shall not require a permit and continue to be processed by the individual licencing methods at this time.
- 6.1.3 The DCC Permit Scheme does not apply to activities licensed under Section 50 of the NRSWA, but similar conditions may be applied to such licenses for the purposes of parity.
- 6.1.4 The start and end dates for permits are calendar days and include weekends and bank holidays. The permit will include information on the duration of the works.
- 6.1.5 Agreements for starting earlier than stated on the initial permit application will be only confirmed following the granting of a variation by DCC prior to works commencing. If DCC has requested an earlier start date than that on the original permit application, permit fees may be waived for the additional variation permit submitted.
- 6.1.6 All registered activities must have an appropriate permit. Undertaking such activities without a permit will result in an offence being committed and the Works Promoter will be subject to the appropriate Fixed Penalty Notice (Section 18). Valid immediate works can commence with a subsequent permit application, as defined within the DCC Permit Scheme.

## 7 Types of Permit

### 7.1 Provisional Advance Authorisation

- 7.1.1 Provisional Advance Authorisation's (PAA's) must be obtained for certain works as described in The Traffic Management Permit Scheme (England) Regulations 2007 as amended by 2015 Regulations. PAA's fulfil a similar function to notices served under Section 54 of NRSWA.
- 7.1.2 It is required to obtain PAA's for major works only. The PAA application shall follow the requirements of the HAUC (England) Guidance, Operation of Permit Schemes (February 2017).
- 7.1.3 Where the proposals for a previously granted PAA require change and the full permit has yet to be issued, the Works Promoter must inform DCC of the new proposals. DCC will then decide whether a new PAA must be made.
- 7.1.4 The granting of a PAA does not guarantee that a permit will be subsequently be issued.

### 7.2 Permit Applications

- 7.2.1 The information which is required for each permit application is described in HAUC (England) Guidance, Operation of Permit Schemes (February 2017). This information must, unless due to exceptional circumstances, be supplied electronically using the Electronic Transfer of Notifications (EToN) system.
- 7.2.2 Applicants should also note that in line with The Traffic Management Permit Scheme (England) Regulations 2007 as amended by 2015 Regulations, the Permit Scheme requires Works Promoters applying for permits or PAA's to copy their application to any authority, Statutory Undertaker or other relevant body that has requested to see notices or permit applications on certain streets.
- 7.2.3 Where an activity crosses the Devon administrative boundary between DCC and its neighbouring authorities, the Works Promoter must also apply for a permit from or submit a notice to that authority in addition to DCC.
- 7.2.4 The minimum times within which applications must be made are set out in the HAUC (England) Guidance, Operation of Permit Schemes (February 2017). Works Promoters, however, are encouraged to contact DCC as early as possible to assist in identifying problems and resolving issues to try to achieve early approval.

### 7.3 Permit Categories

- 7.3.1 Applications from Works Promoters when booking road space through the DCC Permit Scheme must use the following activity categories: Major, Standard, Minor and Immediate as defined in the HAUC (England) Guidance, Operation of Permit Schemes (February 2017).

### 7.4 Permits for Emergency Works

- 7.4.1 Urgent and Emergency works shall be defined as immediate for the purposes of permit applications. Immediate Activities apply to emergency works as defined in section 52 of NRSWA and are the equivalent of "urgent works" as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.
- 7.4.2 Permits for Immediate Activities must be applied for retrospectively following completion of the works. Failure to do so will result in a Fixed Penalty Notice (Section 18). Permits must be applied for within 2 hours of works commencing and within the requirements of The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

## 7.5 The Application Process

- 7.5.1 A permit application process starts when DCC receives the application not when it is sent. When using the EToN system this process should be almost instantaneous. The precise time that the application is received is defined by the time of the electronic acknowledged returned by the web services.
- 7.5.2 Where a permit application has failed three times by EToN and the notice or application cannot be sent for valid reasons, notification by email (and phone for immediate activities), followed by a formal EToN application sent as soon as is practical, shall be made.
- 7.5.3 Emails in these extenuating circumstances should be sent to [Highwaycoordination-mailbox@devon.gov.uk](mailto:Highwaycoordination-mailbox@devon.gov.uk). These emails must contain the same information as the EToN application if they do not, they will be rejected.
- 7.5.4 Any Works Promoter, as prescribed by The Traffic Management Permit Scheme (England) Regulations 2007 as amended by 2015 Regulations, who wishes to perform or carry out an activity on a street within an area covered by the Permit Scheme must first obtain a Permit from DCC. This grants the Works Promoter authorisation to execute the works as described on the approved permit.
- 7.5.5 The permit application must, unless due to exceptional circumstances, be supplied electronically using the EToN system. Any alternative forms of permit application must be agreed prior to making the application with DCC.
- 7.5.6 All the format and content of permit applications is given in the Technical Specification for EToN and all applications must comply with the latest requirements of such. The description of activities must be in plain English and not use technical jargon or acronyms.

## 7.6 Permit Application Information

- 7.6.1 The information and minimum times within which applications must be made are set out for each permit application in HAUC (England) Guidance, Operation of Permit Schemes (February 2017). This information should be submitted electronically to DCC via the EtoN System. Works Promoters are strongly encouraged to contact DCC as early as possible to assist in identifying problems, clashes, and resolving issues to aid early approval.
- 7.6.2 Works Promoters are required to copy their applications to any authority, statutory undertaker or other relevant body that has requested to see notices or permit applications on certain streets
- 7.6.3 Works Promoters must provide a plan of the activity with their permit application where disruption to road users will occur. This includes diversions for vulnerable road users especially pedestrians, cycle traffic and equestrians. Where an illustration has not been provided DCC may reject the application. Plan detail should be proportionate to the types of works being proposed in the permit application.
- 7.6.4 Any requirement on the part of DCC or its nominated agent must be included in the application. Applications for TTRO/TRO's shall be made separately to the permit request:
- The need to make Temporary Traffic Regulation Orders (TTROs);
  - The approval for all temporary traffic signals with applications being made using the latest notice or permit in accordance with the latest version of EToN. Activities to use portable traffic signals in "immediate" activities must also be supported by the Works Promoter in accordance with most up to date version of the DfT's "Safety at Street Works and Road Works: a code of practice"; and
  - Suspension of TRO restriction of any type.

- 7.6.5 The processing costs associated with the above orders or approvals are not contained with the DCC Permit Scheme cost structure and will be separately applied.
- 7.6.6 To ensure consistency DCC requires permit applications to include the provisional number of estimated inspection units appropriate for the activity, in accordance with the latest NRSWA Inspections Code of Practice and The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.
- 7.6.7 A permit application requires the Works Promoter to provide their best estimate of the extents and depth of their excavation. This can be provided as a meaningful range providing an indication of the nature of the activity involved.
- 7.6.8 The Works Promoter must outline the proposed Traffic Management in their Permit Application through the provision of a Traffic Management drawing/plan per phase of works. If the proposed Traffic Management is to be in situ for six months or more then these plans should be submitted for a Road Safety Assessment. Evidence of these assessments should be provided as part of the Permit Application (*To Be Confirmed*).
- 7.6.9 The anticipated period of works must be made in the permit application along with the likelihood of known risks prolonging this period.
- 7.6.10 In cases of shared trenching, a lead Works Promoter must be identified for reinstatement purposes. Both Works Promoters must serve applications for permits, and discounts may be applied.
- 7.6.11 The Works Promoter must indicate whether their activity is intended to be completed with temporary or permanent reinstatement (or a subsequent linear combination of both) in accordance with Specification for Reinstatement of Openings in the Highway.
- 7.6.12 Works Promoters are strongly encouraged to support their application with suitable conditions should they find that the location, type of work to be undertaken, road category or any other site-based circumstance require consideration.
- 7.6.13 The approach adopted by the Technical Specification for EToN is based on the Works Promoter including conditions in their permit application.
- 7.6.14 If DCC does not agree with the condition(s) applied, requires additional conditions, or deems that insufficient information has been provided as part of the permit application then it will either:
- Refuse the request with an inclusion of a comment to reflect the change required. This will require a new permit application to be submitted by the Works Promoter and associated charges; or
  - Respond to the request using a Permit Modification Request. This will also require a new permit application to be submitted by the Works Promoter and associated charges.
- 7.6.15 If a permit variation is initiated by the permit authority or the permit authority has to revoke a permit through no fault of the activity Works Promoter fees are not normally charged.
- 7.6.16 DCC will consider all applications on an equal basis.

## 7.7 Form of Issued Permit

- 7.7.1 A permit will be issued or refused for every application that is made by a Works Promoter.
- 7.7.2 A permit will be issued to the Works Promoter electronically in accordance with the Technical Specification for EToN by DCC, unless the application is deemed to have been granted. The

issued permit will contain all relevant conditions so that there is no ambiguity regarding the validity and terms of the permit.

- 7.7.3 Each permit will be allocated a unique reference number. For all permits it is a requirement that where there are any linked permits, references to those other linked permits must be included in any consequential permit application, using the unique reference number.
- 7.7.4 Where remedial works or works to make an interim reinstatement, permanent is to be carried out, following completion of permitted works a separate permit is required. This new permit application must be raised using the same works reference as the parent works by the Works Promoter. An additional Permit fee shall apply.
- 7.7.5 All phases of works shall require a separate permit. A phase of work is a period of continuous occupation of the street (whether or not work is taking place).
- 7.7.6 Where a Works Promoter makes a permit application or variation to a permit application as a result of DCC's action e.g. where DCC has imposed a variation, it is strongly recommended that a comment is included to this effect within the application. This will assist DCC in determining whether no fee will be applicable to that application.
- 7.7.7 The DCC Permit Scheme requires all granted permits to be placed on the permit register and copied to any Statutory Undertaker, authority or other relevant body that has been asked to be informed about activities on a Street via the Street Works Gazetteer.
- 7.7.8 Any approved permit shall be available to view on site at all time during the dates approved on the permit. This includes conditions attached to permits.

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## 8 Timings of Permit Applications

### 8.1 Timing of Applications and Responses

- 8.1.1 For effective planning and co-ordination, information needs to be provided to DCC in good time. Minimum permit application periods and DCC response times shall be as per the HAUC (England) Guidance Operation of a Permit Schemes (February 2017).
- 8.1.2 Although minimum time periods are provided it is strongly recommended that Works Promoters work with DCC prior to submitting their permit application and where possible make applications in excess of these minimum periods.
- 8.1.3 It is essential that applications and variations for permits are made in a timely manner otherwise there is the risk they face being rejected.
- 8.1.4 DCC is aware of the need to be proactive in running a scheme. Time limits have been set out in the (HAUC) (England) Guidance, Operation of Permit Schemes, February 2017 committing DCC to respond to applications within set periods. These are shown in Table 8-A.
- 8.1.5 The time period for a response to an application starts at the time of receipt of the application by DCC. The ETON system will provide an auditable record of the actual date and time of the receipt of the application however, the calculation of the application and response time for a permit received after 16:30 will use the next working day as the effective receipt date.
- 8.1.6 Unless otherwise approved, permits will only be valid from the start date to the end date of the permit on Strategically Significant Streets (category 0 to 2 and/or traffic sensitive streets/winter gritting routes) or where a TTRO is required for the works. For non-Strategically Significant Streets (category 3 and 4 streets) a validity period of 2 days shall be allowable. The start and end dates will be calendar days, notwithstanding reference elsewhere to working days, and may include weekends and bank holidays where agreed by the permit authority, even if these are not working days.
- 8.1.7 Permit applications and validity periods shall be calculated 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 issuing a permit or seeking further information or discussion		Response times to applications for permit variations
	Application for Provisional Authorisation	Application for Permit		Application for Provisional Authorisation	Application for Permit	
Major	3 months	10 days	2 days or 20% of the original duration, whichever is longest	1 calendar 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	

**Table 8-A Permit Application and Response Times (in working days)**

### 8.2 Non-Compliance with the Minimum Application Times

- 8.2.1 Where it is not possible for a Works Promoter to adhere to the minimum permit application periods DCC may consider early applications where mitigating circumstances justify this

failure. Permission to allow a Works Promoter to submit such an application is solely at the discretion of DCC and will only be given in exceptional circumstances.

- 8.2.2 Permission to allow an application to be made with an 'early start' does not necessarily mean the permit will be granted. DCC will still be required to carry out all required checks in terms of data quality, conditions and co-ordination related matters.
- 8.2.3 For applications made requesting an 'early starts', DCC reserve the right to not include associated discounted fees.
- 8.2.4 Where an 'early start' permit application is granted it will be recorded by DCC. Where permission is not granted the permit application will be refused. It is recognised that some early starts will be required to achieve a positive outcome to potential collaborative working arrangements. However, a Works Promoter proceeding with the planned 'early start' work following a refusal would be working without a permit and liable to fixed penalty notices (Section **Error! Bookmark not defined.**).
- 8.2.5 In exceptional circumstances where a Works Promoter can begin works before the stated date in the Permit Application or believes it to be in the best interest of road users they may contact DCC for a permit variation. It is at the discretion of DCC as to whether the request is accepted or not and/or charges are applied.

### 8.3 Variations and Extensions

- 8.3.1 To vary or extend a permit, an application must be made by the Works Promoter a minimum of two working days before the permit expires or at a point when the existing permit has more than 20% of its duration to run (whichever is longer).
- 8.3.2 Where the Works Promoter fails to apply for a permit variation or extension within the relevant time limits, they will not be approved unless mitigating circumstances justifying the failure to adhere to the relevant timings are provided. DCC will respond to these requests within 2 days (Table 8-A).
- 8.3.3 To request an extension to a permit, the Works Promoter shall apply for a 'Duration Variation Application'. DVA. This shall be either:
- Agreed by DCC;
  - Disapprove – a S74 duration challenge is required to re-set the reasonable period; or
  - Refusal due to conflict with other works and event. DCC shall refuse the DVA and instruct the works promoter to remove site.

### 8.4 Agreement Process

- 8.4.1 In situations where a Works Promoter cannot comply with the minimum permit application times, they must initially contact DCC to discuss the application and the associated justification. At such time DCC may agree for the permit application to be submitted. All decisions made will be logged so that they are auditable.
- 8.4.2 In circumstances where DCC will accept such a permit application, the Works Promoter should then submit the relevant application to DCC providing the pre-agreed details, justification and required information, in order to obtain a formal grant for early start, variation or extension to the permit.

## 8.5 Maximum Response Times

- 8.5.1 The HAUC (England) Guidance, Operation of Permit Schemes (February 2017) or successor documents sets out time limits DCC will respond to permit applications (Table 8-A above). If DCC fails to respond to the permit application in the allotted response time the permit is deemed to be granted in the terms of the application.
- 8.5.2 A “response” for the purposes of the DCC Permit Scheme means a decision to grant, refuse, or issue a permit modification request. Where there are reasons why the permit could not be granted in the terms applied for e.g. due to insufficient or obviously incorrect information or due to a clash with other activities, the response indicating that a permit will not be granted in those terms will explain the reasons. This will enable the Works Promoter to make a revised and compliant application. DCC will work with the Works Promoter to avoid clashes however, early engagement with DCC is of paramount importance.
- 8.5.3 DCC will utilise the standard permit condition text as set out in the HAUC (England) Guidance, Operation of Permit Schemes (February 2017) or successor documents for refusal text where possible when a permit is refused.
- 8.5.4 Temporary Traffic Signal Applications must be made using notice type 2700 – Temporary Traffic Signals Application. Providing that a complete application has been received a response granting the approval will be given by DCC using notice type 2800 – Temporary Traffic Signal Application Response, within the response period for permit application. Both notices 2700 and 2800, must be made in accordance with the latest version of EToN.

## 8.6 Phasing of Works Activities

- 8.6.1 One permit can only relate to one phase of activity. A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of works e.g. separate permits would be required for interim, permanent and remedial reinstatements.
- 8.6.2 The dates given in a permit application and in the issued permit will denote the dates for that phase. A phase ends only when all plant, materials including any signing, lighting, guarding and excavation materials have been removed from site and the highway is returned to full use. It is the responsibility of the works promoter to ensure any reinstatements are ready for traffic conditions once the highway is returned to full use.
- 8.6.3 A Works Promoter must clarify when an activity is to be carried out in phases on the permit application. Each phase will require a separate permit and if a major activity involving asset activity, also a PAA which will be cross referenced to other permits.
- 8.6.4 Phased activities must relate to the same works with applications submitted using the same works reference.

## 8.7 New Customer Connections

- 8.7.1 A new main or cable run which includes a new customer connection(s) can be classed as one phase if all work is completed in a single occupation of the street. Otherwise a new permit(s) must be obtained for each customer connection that require separate occupation of the highway. Phases are defined in Section 7.6.1.

## 9 Permit Application Decisions

### 9.1 Decision Considerations

- 9.1.1 DCC must act reasonably when reaching a decision for a permit application and must consider whether issuing a permit will accord with the statutory duties to co-ordinate and to manage the network and the objectives of the Permit Scheme.
- 9.1.2 When reaching a decision on permit applications DCC will consider all aspects of the proposed activities and other influences that may impact traffic. These include but are not limited to:
- a. Safety of all road users;
  - b. The road network capacity;
  - c. The scope of collaborative working arrangements including trench and duct sharing between Works Promoters;
  - d. The overall impact upon the local and regional highway network;
  - e. The optimum timing of activities from all aspects, including the legislative requirement of the works taking place e.g. new customer connections, duty to maintain under the Highways Act 1980 etc;
  - f. The effect on traffic, in particular, the need for temporary traffic restrictions or prohibitions;
  - g. Appropriate techniques and arrangements particularly at difficult road junctions and pinch points;
  - h. The working arrangements required in protected streets, traffic sensitive streets and streets with special engineering difficulties;
  - i. The effect of skip, scaffold, storage and hoarding licenses, pavement licenses and other licenses or consents issued in respect of affected streets under The Highways Act 1980;
  - j. The environmental impact of the proposed works;
  - k. Noise impacts from the works
  - l. Developments for which planning permission has been granted on streets affected by the works;
  - m. The benefits to be achieved from extended working hours;
  - n. Impact of a planned activity on a public transport route and/or interaction near to level crossings; and
  - o. Contingency plans for expedient removal of site occupation.
  - p. Community impact issues

### 9.2 Permit Issue

- 9.2.1 Where DCC is satisfied with the permit application having considered all matters set out in their application and all other material considerations, including statutory duties and that the

objectives of the DCC Permit Scheme are met, DCC will issue a permit to the Works Promoter within the response time.

- 9.2.2 The permit will cross reference the details provided in the application including any associated documentation, drawings and conditions imposed by DCC.

### 9.3 Refusal of Permit Applications

- 9.3.1 Whilst DCC cannot refuse statutory activities, it can refuse a permit application (and a Provisional Advanced Authorisation) if elements of the proposed activity are not acceptable e.g. insufficient information being provided.
- 9.3.2 In such cases DCC will respond to the Works Promoter as soon as possible within the response period specified in HAUC (England) Guidance, Operation of Permit Schemes (February 2017) or successor documents, to explain precisely why the application is not satisfactory and which aspect need modification.
- 9.3.3 A Works Promoter may cancel an application by an electronic works notice at any point prior to DCC granting or refusing the permit application. Charges shall not apply for the cancellation notification, but the initial permit may be charged if approval has already been granted/refused.

### 9.4 Permit Variations

- 9.4.1 The DCC Permit Scheme allows for the variation of permits and for conditions to be attached to permits. This allows DCC to actively manage other activities on the network in light of challenging circumstances.
- 9.4.2 Variations can take place at any time after the permit has been issued and before the activity has commenced or during the activity itself. However, if a variation to a permit is required by the Works Promoter, the application to vary the permit must be made before the permit end date has passed and in accordance with EToN requirements.
- 9.4.3 PAAs cannot be varied. In circumstances where a PAA has been given but a full permit has not been granted and proposals change, the Works Promoter must advise the proposed changes to DCC who will indicate whether or not a new application for a PAA is required.
- 9.4.4 Data changes are notified as new applications (prior to approval) or variations (post approval). Error corrections for registration notices and works status corrections are still relevant however, they should be made in accordance with their relevant Code of Practice.
- 9.4.5 Application by the Works Promoter to vary a permit or to vary permit conditions must be made as soon as reasonably possible, but in any event as outlined below:
- a. Where the existing permit has more than 20% of its duration or more than two working days to run (whichever is longer) the Works Promoter shall apply for a variation; or
  - b. In any other case the Works Promoter shall first contact DCC to ascertain whether the Authority is prepared to grant a variation and only apply if the Authority is prepared to do so.
- 9.4.6 Activities can be particularly subject to change where a Works Promoter must make several excavations or registerable openings of the street in order to locate a fault. While the DCC Permit Scheme seeks to avoid too many variations, DCC must be advised of the site situation to enable co-ordination and management of these and other works in the area.

- 9.4.7 For multiple excavations the first application will contain the location of the initial proposed excavation or opening. If any further excavations are required, variation of the permit will also be required.

## 9.5 Variation at DCC's Request

- 9.5.1 DCC may impose variations upon permits already granted or deemed. This may be required where it is considered that upon commencement of a granted or deemed permit, further conditions or requirements are needed to reduce the impact of the activities on the highway. Such imposition should only take place when circumstances could not have been reasonably predicted. This will be assessed on a case by case basis.
- 9.5.2 Once a permit is issued it will prove to the Works Promoter with reasonable confidence that the road space will be available to them. Nevertheless, even where a permit has been issued circumstances beyond DCC's control may require a review of the permit and may lead DCC to conclude that the permit or its conditions require changing.
- 9.5.3 Such changes will be the exception and will only happen when the new circumstances could not have been reasonably foreseen or where the impact is significant. Examples of such circumstances include but are not limited to:
- a. Problems which would lead to traffic being diverted onto the road when an activity was underway or about to start, but the permit had been issued;
  - b. Roads closed by flooding, burst water mains, snow or ice;
  - c. Significantly adverse weather not predicted in forecasts;
  - d. An unknown dangerous building or structure;
  - e. A significant traffic disruption has ensued;
  - f. Additional activities have come to light in the same, or nearby street that will now conflict with the planned activity; or
  - g. Protests or demonstrations.
  - h. Other emergency works / activity on the network.
- 9.5.4 If the consequent disruption cannot be suitably mitigated, it may then be necessary to vary the permit for the activity e.g. by changing the time or manner of working.
- 9.5.5 In such circumstances DCC will contact the Works Promoter to discuss the best way of dealing with the situation whilst meeting the co-ordination duties and other statutory requirements of those involved.
- 9.5.6 If agreement is reached, DCC will issue an Authority Imposed Variation to the Works Promoter. The Works Promoter may then either cancel the existing permit and apply for a new permit in those terms, or they may apply for a permit variation. The latter will be more appropriate if the Works Promoter needs to reconsider elements of their plan within the parameters agreed with DCC.
- 9.5.7 If agreement cannot be reached DCC will revoke the permit. The Works Promoter would have the option of invoking the dispute resolution procedure where they disagree (Section 16).
- 9.5.8 If a permit variation is initiated by the permit authority or the permit authority has to revoke a permit through no fault of the activity Works Promoter fees are not normally charged. This will be assessed on a case by case basis. If at the same time the Works Promoter seeks a

variation which is not the result of the circumstances causing DCC action, a variation fee would be payable.

## 9.6 Permit Revocation

- 9.6.1 There is no mechanism in the DCC Permit Scheme to formally suspend or postpone a permit only to vary or revoke one.
- 9.6.2 A Works Promoter who wishes to cancel a permit, for which they have no further use, must use the cancellation notice as specified in the Technical Specification for EToN. There is no fee for a cancellation notice, but no refund of the fee paid for issuing the permit will be made.
- 9.6.3 DCC can revoke a permit at its own initiative where there has been a breach of a condition.
- 9.6.4 The circumstances in which DCC will revoke permits on its own initiative are as follows:
  - a. As with variations, where circumstances arise which require DCC to review the permit, DCC may conclude that the permit needs revoking rather than being varied;
  - b. Revocation will be the exception and will be where circumstances could not have been reasonably predicted or where the impact is significant; and
  - c. All revocations will be made in accordance with the EToN requirement.
- 9.6.5 No charge will be made when a permit is revoked on DCC's request. If as a result of the revocation the Works Promoter must apply for a new permit there will be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Works Promoter. In these circumstances, revocation will only be used as an alternative to criminal action, where it is reasonable, considering the nature of the breach and where it is proportionate.
- 9.6.6 Where the Works Promoter disagrees with DCC's decision in any of the above respects, they may invoke dispute resolution procedure detailed in Section 14 of this document.

## 10 Permit Fees

### 10.1 When a Fee Will be Charged

- 10.1.1 In accordance with the provisions set out in the Section 37 of the Traffic Management Act 2004 and the 2007 regulations as amended by the 2015 Regulations, DCC may charge a fee for each of the following:
- a. The issue of a permit;
  - b. An application for a permit, where the DCC Permit Scheme requires a PAA to be obtained as part of that application;
  - c. The granting of a PAA which has subsequently been followed up with a permit application in line with the EToN Technical Specification; and
  - d. Each occasion on which there is a variation of a permit or the conditions attached to a permit after it has been granted.
- 10.1.2 DCC will charge fees in accordance with the 2007 regulations as amended by the 2015 Regulations. The permit Fees for the DCC Permit Scheme will be published on DCC's website.
- 10.1.3 Permit fees do not include costs charged or recoverable by Highway Authorities, in relation to consents or other requirements such as for Temporary Traffic Orders, Notices or parking suspensions related to other activities being carried out.
- 10.1.4 It is not the purpose of fee charging under the Permit Scheme to generate revenue for DCC although subject to the constraints set out, DCC may cover its costs.
- 10.1.5 Fees are payable by Statutory Undertakers, but highway authorities are not charged. However, budget adjustments may be made in order to fund the service provided. Data on the fees that DCC would have been charged will be collated to demonstrate parity.

### 10.2 Level of Fees

- 10.2.1 The 2007 Regulations as amended by the 2015 Regulations and the Statutory Guidance for Highway Authority Permit Schemes (Oct 2015) set a maximum flat fee for permit variations initiated by the Works Promoter with a lower fee for category 3 and 4 non traffic-sensitive streets and a higher fee for category 0, 1 and 2 and traffic-sensitive streets.
- 10.2.2 If a permit variation moves an activity into a higher fee category, the Works Promoter will be required to pay the difference in permit fee as well as the permit variation fee.
- 10.2.3 All the Devon Permit Scheme fee levels are at or within the current Regulations and Statutory Guidance. County Council has made use of existing Regulations and guidance to determine the level of fees needed to recover the costs of additional resources required to achieve the scheme's objectives.
- 10.2.4 The permit fees for the DCC Permit Scheme will be published on DCC's website.

### 10.3 Circumstances where No Fee will be Charged

- 10.3.1 No fee will be charged in the circumstances described below:
- a. Cancellation of a permit – prior to DCC's determination, a Works Promoter cancels a permit application;

- b. Refusal of a permit – when an application for a permit or variation is refused;
- c. Revocation of Permit – where a permit is revoked on DCC's initiative and the Works Promoter had to apply for a new permit, there would be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Works Promoter;
- d. Variation of Permit at DCC's initiative - for permit variations initiated by DCC, unless at the same time the Works Promoter seeks variations which are not the result of the circumstances causing DCC's action - in that case a variation fee would be payable;
- e. Deemed Permits – where DCC fails to serve a response to an application for a permit or variation, within the relevant response time and the permit is subsequently deemed to be granted;
- f. Highway Authority Activities - permits required by the Highway Authority. (Although budget adjustments may be made in order to fund the service provided);
- g. Phasing of Activities to Lessen Risk and Inconvenience to Highway Users - where temporary reinstatement is required by DCC e.g. to minimise risk to the public and allow safe passage and DCC request the Works Promoter submits a new permit application for the remaining activities, no fee will apply for the permit application;
- h. Where the activity is Diversionary Works as a result of Major Highway or Bridge Works, initiated by the Highway Authority as described in S86 of NRSWA

## 10.4 Circumstances where Fees may be Reduced

- 10.4.1 Where an Application has been made (and is subsequently granted), stating clearly that activities will not take place (at any time or any day) within the Traffic Sensitive periods as indicated on the Additional Street Data (ASD) supplied within the Authority National Street Gazetteer submission, so long as such time constraints are met during activities throughout the full duration of the permit then a discount will apply. Such Permit Applications (and Provisional Advanced Authorisations) may be required to contain specific time related conditions.
- 10.4.2 The variation process may be used to alter such timings and conditions; however, such application may be reasonably refused. Any reductions to permit fees may be removed by the DCC in this instance. Where, upon evidence is gained, it is clear that the indications of Traffic Sensitivity impact are not being followed throughout the activities, the fee reduction may be removed by the Authority. If related Timing Conditions are also being breached, an Offence or Offences may have occurred.
- 10.4.3 Where collaborative activities are being undertaken a discounted fee will apply to permit applications to all activities involved. The Works Promoters will clearly need to identify such situations and alert them to the DCC.
- 10.4.4 Where shared trenching opportunities have been achieved.
- 10.4.5 Where a Works Promoter makes use of specific techniques or working methods that significantly reduce traffic disruption then discounted permits may apply. The Works Promoter must provide evidence to support a claim for a discounted permit.
- 10.4.6 Evidence of additional resources being used, e.g. double-shifted gangs.
- 10.4.7 100% discount shall apply to cross boundary authorities and Highways England where permits are required for diversion routes.

10.4.8 Permit fee discounts are described in Appendix A (*To Be Confirmed*).

## **10.5 Fee Review**

- 10.5.1 DCC will continuously monitor costs and there will be a formal review of fees at the end of year three to ensure that overall fee income does not exceed allowable costs. In the event of any surplus in a given year, the fee income will be applied towards the cost of the Permit Scheme in the next year and the fee levels adjusted accordingly.
- 10.5.2 A sustained surplus would indicate that the income was regularly exceeding the prescribed costs and that fee levels should be adjusted. In such circumstances DCC will adhere to relevant regulations to affect any amendments to the DCC Permit Scheme.
- 10.5.3 The outcome of these fee reviews will be published and open to scrutiny.

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## 11 Permit Conditions

### 11.1 Principles of Conditions

- 11.1.1 The Permit Scheme includes for the attaching of conditions to permits and also specifies the types of conditions that may be applied. Any permit issued will specify in detail the activity it allows, and the conditions attached. Any constraints in the original application will be reflected in the conditions in the permit.
- 11.1.2 In applying conditions DCC will consider the proposed activity's potential to cause disruption. Where possible, conditions attached to a permit will provide flexibility for the Works Promoter by requiring an outcome rather than stipulating the method by which the work must be carried out. When setting any condition, DCC must act reasonably and take account of how feasible it is for the Works Promoter to comply not only with the condition being imposed but also on their ability to meet their statutory obligations.
- 11.1.3 Where DCC considers a condition attached to a permit has been breached, it may impose sanctions and DCC may also revoke the permit.
- 11.1.4 DCC may vary the conditions of a permit issued, as an Authority Imposed Variation (AIV). This will also be done in accordance with the prescribed EToN requirements.
- 11.1.5 Works Promoters shall plan works and consider all necessary conditions of work that may help reduce the impact of the scheme on the road network. This should be done in advance of submitting the permit application to DCC and be clearly outlined on the permit application. Failure to do so may result in a delay in response from DCC and/or a rejection of permit application. There may also be associated fees attracted.

### 11.2 Condition Types

- 11.2.1 The conditions DCC can apply to permits will be as set out in the standard condition text as described in the HAUC (England) Guidance. Operation of Permit Schemes (Feb 2017) and the Statutory Guidance for the Highway Authority Permit Schemes — Permit Scheme Conditions.
- 11.2.2 DCC will adopt solely the Nationally agreed conditions text developed and approved by HAUC (England) as our standard conditions, including referencing. It is recognised that these conditions may be subject to change and may develop over time. Any future changes to the conditions text ratified through HAUC (England) formal approval process will automatically be incorporated into this scheme.
- 11.2.3 Any changes will have been consulted on and agreed by the sector and DCC will not undertake further consultation on those agreed changes but will inform stakeholders of their implementation date for use within our permit scheme.
- 11.2.4 Of these, certain conditions apply to all permits. There is no need for the Works Promoter or DCC to formally attach the National Condition Text relating to national conditions that apply to all relevant permits.
- 11.2.5 DCC may take reasonable actions if any of these conditions are breached.
- 11.2.6 Conditions applied to a permit by DCC will be pertinent to the objectives of the Devon Permit Scheme including the reduction of congestion and disruption, recognizing the needs of other users of the highway, the integrity of the highway itself and the need for essential activities and activities to be carried out.

### 11.3 Applying a Condition to a Permit

- 11.3.1 Where DCC considers it necessary and appropriate to impose conditions that differ from the proposals in the permit application, DCC will state the reasons for this action on their refusal of the permit. The Works Promoter can then choose whether to make a modified permit application, cancel the activity or discuss the matter.
- 11.3.2 For the application of permits, the main principle behind the Prescribed Electronic Format Technical Specification is that when the Works Promoter applies to DCC they may enter the conditions of the permit, for example the timing, duration and work methodology. DCC cannot amend the content of a permit, including the conditions attached.
- 11.3.3 If DCC does not agree with the condition(s) applied or requires additional conditions the application may be either:
- a. Refused with the inclusion of a comment to reflect the changes required. A complete refusal should be used in exceptional circumstances.
  - b. Responded to with the issuing of a Permit Modification request which is also a form of Refusal.
- 11.3.4 If a permit is still required, the Works Promoter should submit a subsequent, modified permit application with any agreed changes. It is the responsibility of the Works Promoter to ensure the application meets the permit conditions specified by DCC.
- 11.3.5 Works Promoters are encouraged to consider the inclusion of conditions on their permit during the initial application. By doing so, the likelihood of DCC refusing a permit with a subsequent re-application, could be minimised.
- 11.3.6 Where a Works Promoter recognises that multiple conditions should be used, or as indicated by DCC, all multiple conditions should be included on the permit application.

### 11.4 Conditions upon Immediate Activities before Permit Issued

- 11.4.1 Activities that are necessary for emergency or urgent reasons (i.e. immediate activities) can commence and continue for an initial stage without requiring a permit to be obtained first. DCC has the power to impose conditions. Where an application has been initially granted and further practical conditions, reasonably unforeseen at the time of granting are required to lessen the impact of the activities upon the highway, further conditions may be imposed through an Authority Imposed Variation (AIV) application.
- 11.4.2 Until a permit is issued following an application for an immediate activity, a Works Promoter will be required to work within the terms of their application, for example, if the application refers to specific working hours then the Works Promoter must work within those hours.
- 11.4.3 Works Promoters of immediate activities must contact DCC immediately where the specified strategic street is susceptible to unplanned disruption as indicated in the ASD for DCC.
- 11.4.4 Works Promoters must make application to DCC or its appointed agent, for any Temporary Traffic Regulation Order or Notice for immediate activities by the end of the next working day, even if work on site has been completed.

### 11.5 Conditions Text

- 11.5.1 When applying the use of condition text or conditions both the Works Promoter and DCC must ensure that there is no ambiguity within the description or understanding of the condition. The Works Promoter is encouraged to contact DCC during the application stage to clarify any interpretation or application of conditions, if needed.

## 11.6 Conditions Available on Site

- 11.6.1 DCC recognizes the importance for the Works Promoter work-force to have access to the permit detail, including conditions when carrying out the planned activity Works Promoters shall ensure this information is available to all on site.
- 11.6.2 Work undertaken in breach of a condition, or without a valid permit, on the basis of lack of knowledge from the Works Promoters' work-force will not be accepted by DCC as any form of mitigation for such failure.

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## 12 Inspections, Fixed Penalty Notices and Dispute Resolution

### 12.1 Inspections

- 12.1.1 The procedures for dealing with all aspects of inspections under the Permit Scheme, with the exception of those related to overrun charges under Section 74 NRSWA and permit condition checks, will reflect the procedures set out in The Street Works (Inspection Fees) (England) Regulations 2002 and investigatory works inspections under Section 70(4) of NRSWA.

### 12.2 Section 74 Inspections

- 12.2.1 These inspections are related to activities that should have been completed by a due date or have been notified as completed by the works promoter serving a works stop under Section 74A NRSWA. No charge will be made for such inspections under the DCC Permit Scheme. These will be undertaken as part of other highway inspection activities. However, costs for overrun may be applied as per The Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) (Amendment) Regulations 2012.

### 12.3 Permit Condition Inspections

- 12.3.1 Ad-hoc inspections may be used to assess compliance with permit conditions specified in individual permits although there will be no fee charged for specific permit condition inspections. Such inspections will be carried out as part of other inspections by various officers within DCC.

### 12.4 Sanctions

- 12.4.1 Where activities have been undertaken without a notice or conditions have not been adhered to DCC may use the sanctions provided by the Permit Regulations.
- 12.4.2 Where there is proof that a Statutory Undertaker has committed an offence and it is both practicable and appropriate, DCC may contact the Works Promoter before taking action and seek to discuss the matter in order to establish whether such action is required. After repeated offences DCC may seek to take action without first contacting the Works Promoter.
- 12.4.3 DCC may take action for unauthorized activities, where a Works Promoter:
- a. Undertakes, without a permit, works for which a permit is required to have been obtained; or
  - b. Breaches a permit condition.
- 12.4.4 Any Works Promoter not working within the content of an issued permit (either granted or deemed) will be seen as undertaking activities, without a permit, for which a permit is required to have been obtained. It is the Works Promoter's responsibility to ensure the content of the permit accurately reflects the proposed activity.

### 12.5 Criminal Offences

- 12.5.1 It is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake activities without obtaining a permit.
- 12.5.2 Permit offences only apply to Statutory Undertakers, not to highway authorities, however DCC will monitor the performance of its own Works Promoters to ensure a consistent approach is taken. Performance data pertaining to DCC Works Promoters will be collated. It will therefore be a matter of public record if DCC acts in such a way that would amount to

the commission of an offence under the 2007 Regulations as amended by the 2015 Regulations.

- 12.5.3 The 2007 Regulations as amended by the 2015 Regulations provides that it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake activities in breach of a condition.

## 12.6 Fixed Penalty Notices

- 12.6.1 The 2007 Regulations as amended by the 2015 Regulations authorize DCC to issue Fixed Penalty Notices (FPNs) in respect of applicable criminal offences. FPNs offer the offender an opportunity to discharge liability for an offence by paying a penalty amount. DCC will operate FPNs to address most permit and noticing offences and measure performances.

- 12.6.2 FPNs, where issued electronically, shall conform with the Prescribed Electronic Format Technical Specification.

## 12.7 Prosecution

- 12.7.1 DCC may consider the need to proceed to prosecution of an offence. DCC will follow existing processes to determine whether a prosecution is the most appropriate action, taking into account the severity of the offence and the interests of the public. DCC reserve the right to move straight to prosecution if deemed necessary. This will be at DCC's discretion.

- 12.7.2 If the Statutory Undertaker does not pay the FPN within the 36 calendar days DCC may bring proceedings in the Magistrates' Court for the original offence. Legal action must be taken before the expiry of the six months deadline from the date of the offence for bringing a case before the Magistrates' Court, (Section 127 of the Magistrates' Courts Act 1980). This is the case even if the FPN was not given for some time after the offence was committed.

- 12.7.3 In circumstances where an FPN has been issued in relation to an offence, but DCC subsequently forms the view that it would be more appropriate to prosecute the offender, DCC must withdraw the FPN before bringing the proceedings unless the payment of the FPN has been made.

- 12.7.4 Further, in rare or severe instances, DCC may consider the most appropriate action in the circumstances is to proceed directly to prosecution of the offence.

## 12.8 Application of Money by DCC

- 12.8.1 DCC may deduct from the fixed penalties received under Section 37(6) TMA, the reasonable costs of serving FPNs.

- 12.8.2 DCC will need to be able to demonstrate that the costs of managing the process for and serving FPNs are reasonable and that the net proceeds after deducting these costs are being correctly applied. Those enquiring should note that accounts are generated annually.

- 12.8.3 Although it is not a requirement that separate accounts should be kept for operating FPNs it should be possible to follow the audit trail to check income and expenditure.

## 12.9 Other Offences under NRSWA

- 12.9.1 Any offences relating to sections of NRSWA which run in parallel to Permit Schemes will continue to apply. These include offences relating to reinstatements, overrunning activities and failure to send appropriate notices.

## **12.10 Revocation of Permit**

12.10.1 Whilst it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake activities in breach of a condition, as a further alternative to taking criminal action in such circumstances against the Statutory Undertaker DCC may revoke the permit. Similar action is also likely to be undertaken where DCC activities breach permit conditions or work without a permit.

## **12.11 Record Keeping**

12.11.1 DCC will keep all records of all sanctions under the Devon Permit Scheme. Works Promoters should keep records of all permits on their scheme records.

## **12.12 Dispute Resolution**

12.12.1 The TMA provides wide powers to devise a suitable dispute resolution procedure and to identify the stages of the permit application process at which it can be invoked. There are no prescribed statutory dispute resolution procedures as yet and therefore the approach taken is to build on arrangements which already exist through the HAUC (England) at local and national level for resolving disputes.

12.12.2 DCC and Works Promoters are expected to use their best endeavors to resolve disputes without having to refer them to a formal appeals procedure. This might, for instance, be achieved by referring the issue to management for settlement.

12.12.3 Chapter 13 of the Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters sets out a process for dispute resolution. This will be used for the Devon Permit Scheme.

## **12.13 Incidence for Dispute Resolution**

12.13.1 Only four stages of the permit process provide for dispute resolution:

- a. A Works Promoter applies for a permit. DCC confirms it will only issue the permit with conditions attached or with different dates to the application. The Works Promoter believes one or more of these conditions are unreasonable or unrealistic. The two parties are unable to resolve their differences;
- b. A Works Promoter who has been issued with a permit and has started work realizes that they will no longer be able to comply with the original permit. The Works Promoter therefore applies to DCC for the permit to be varied or extended. The two parties are unable to reach agreement on any variation or whether any variation should be allowed;
- c. Where Authority Imposed Variations cause dispute between the Works Promoter and DCC and the situation may require resolution; or
- d. A Works Promoter disagrees with DCC's decision regarding the revocation of a permit.

12.13.2 DCC and Works Promoters should try, wherever possible, to resolve their disagreements between themselves. However, it is recognized that occasionally this may not be possible.

## 13 Related Matters and Procedures

### 13.1 Permit Authority Contact Details

- 13.1.1 DCC is the Permit Authority. DCC will publish its main contact details for the Devon Permit Scheme on its website and make available at local HAUC meetings.

### 13.2 Overrun Charging Scheme — Section 74 NRSWA

- 13.2.1 The following notices under Section 74 are still required to be served to compliment a permit scheme:
- Actual Start (sections 74 (5B) and 74 (5C))
  - Works Clear (section 74 (5C))
  - Works Closed (section 74 (5C))
- 13.2.2 DCC will operate overrun charging under Section 74 NRSWA alongside the Permit Scheme. Section 74 schemes are not compulsory. An authority does not require Secretary of State approval to operate a Section 74 scheme.
- 13.2.3 "Section 74 Regulations" are currently applied by the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations. Any enactment which amends, applies, consolidates or re-enacts the provisions of these Regulations shall be constructed as a reference to the Regulations by virtue of that subsequent enactment.
- 13.2.4 The operation of the overstaying regime however is modified under the Permit Scheme to incorporate the process of setting and modifying the duration of the activity (or "works" in Section 74 terms) through the permit application, approval and variation processes.
- 13.2.5 Activities carried out by or on behalf of the Highway Authority are not subject to Section 74 overrun charges. However, under the Devon Permit Scheme Works Promoters of such activities will be required to follow the same procedures as Works Promoters who are Statutory Undertakers.
- 13.2.6 For all activities the "reasonable period" for NRSWA Section 74 purposes will be the same as the duration of the activity set out in the permit. Variations may be granted to extend the duration of the permit and this will set the revised "reasonable period", however Section 74 durations may still be challenged after a variation to the duration has been granted.
- 13.2.7 The start and end dates will be in calendar days, even though many aspects of Permit Schemes will operate on working days. Where a permit allows working at weekends or on Bank Holidays, the permit start and end dates will also accommodate that, even though those days do not count towards the reasonable period under NRSWA Section 74.

### 13.3 Section 58 & 58a NRSWA Restrictions

- 13.3.1 Details of Section 58 and 58A NRSWA restrictions will be provided as required under the NRSWA Code of Practice for the Co-ordination of Street Works and Works for Road Purposes and Related Matters (Oct 2012).
- 13.3.2 Similar procedures will be followed for highway activities in relation to Section 58 and 58a restrictions, in order to facilitate the operation of the Devon Permit Scheme and, as far as possible, parity of treatment for all Works Promoters.

## **14 Transitioning to and Making Alterations to the Devon Permit Scheme**

### **14.1 Transitional Arrangements**

- 14.1.1 The Devon Permit Scheme will come into operation on the 2<sup>nd</sup> January 2020. The basic rules of transition will apply on all roads where the Permit Scheme operates:
- 14.1.2 The Permit Scheme will apply to all activities where the administrative processes, such as an application for a permit or Provisional Advance Authorization, commence on or after the commencement date;
- 14.1.3 Activities which are planned to start on site more than one month after the changeover date (for standard and minor activities) or more than three months after, (for major activities), must operate under the Permit Scheme. This means that even if the relevant section 54 or section 55 NRSWA notice has been sent before the relevant changeover date, the Works Promoter must cancel the NRSWA notice for that activity, (or phase of activity), and apply for a permit; and
- 14.1.4 Any other activities which have started under the notices regime and which will start on site less than one month or three months, (for Major activities as above), after the changeover date, (according to activity category), will continue under that regime until completion.
- 14.1.5 Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. Activities coordinated in the run-up to the imposition of a restriction might be such a situation. In those few cases, Works Promoters must contact DCC so that discussions can take place to ensure a practical way of dealing with the activities that can be resolved.
- 14.1.6 DCC will operate a 'bedding in period' of 1 calendar month (2<sup>nd</sup> to 31<sup>st</sup> January 2020) where no permit charges or FPN's will be applied. This will enable Works Promoters and DCC to become familiar with the Devon Permit Scheme.

### **14.2 Amending the Devon Permit Scheme**

- 14.2.1 It may be necessary to change the Devon Permit Scheme from time to time or to cease to operate the scheme. Changes will be made as deemed necessary by DCC at a time and in a manner, which minimizes disruption. Consultation will be made as is deemed or legally required.
- 14.2.2 Any variation to the permit scheme must contain the relevant explanation and justification for the change(s).
- 14.2.3 Where revision to permit Regulations by the Secretary of State necessitates changes in existing schemes, new Regulations will make provision for such changes.

### **14.3 Revoking the Devon Permit Scheme**

- 14.3.1 DCC reserve the right to revoke the permit scheme. Prior to this application DCC will consult with all relevant statutory consultees. Any revocation to the permit scheme must contain the relevant explanation and justification for its removal.

## 15 Street Works Register and Access to Information

### 15.1 Street Works Register

- 15.1.1 DCC is committed to maintaining a Register of all street works activities. All permit activities will be referenced to an individual USRN and will include details of the activity and a map-based location.
- 15.1.2 Everyone has a right to inspect DCC's register, free of charge, at all reasonable times, except as noted below where there are restrictions. "All reasonable times" means normal office hours (e.g. 09:00 to 16:30, Monday to Friday except Bank Holidays).
- 15.1.3 DCC may publish a limited content version of the register in the public domain. This will 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.
- 15.1.4 Much of the detailed information in the register is unlikely to be of interest to the Public and it is the responsibility of DCC to decide how much information to make available in this way.
- 15.1.5 Permit applications and notices contain information such as names and telephone numbers of contacts in organisations. Whilst DCC will restrict such contact information being published, the Works Promoter should take responsibility to ensure information contained in free-text fields does not contain information that they do not want to be published. DCC will make it clear that they are not responsible for the accuracy of information concerning those activities for which they are not the Works Promoter.
- 15.1.6 Highways England has its own methods of disseminating such information on trunk roads and motorways. Public access to websites will be read-only to prevent unauthorised amendment to records.

### 15.2 Street Gazetteer

- 15.2.1 The DCC Permit Scheme recognises that a key element of controlling or managing an activity is knowing accurately where the activity will take place, in which street and where in the street.
- 15.2.2 There is already a Nationally consistent street gazetteer system for identifying streets that is used under NRSWA whereby every highway authority produces a Local Street Gazetteer (LSG) and a copy is held centrally by the NSG Custodian. Each of these local gazetteers shall contain the information, required by and defined in the NSG Custodian documentation, about the streets in Devon.
- 15.2.3 Works Promoters must obtain full copies and updates of the street data from the NSG Custodian's website.
- 15.2.4 Under this system each street has a Unique Street Reference Number (USRN). The Devon Permit Scheme provides for the same system to be used, along with the Additional Street Data (ASD) linked to those streets.
- 15.2.5 USRNs can refer to a whole street (as identified on the ground) or, if the street is long, to part of a street between significant junctions. Under the Permit Scheme a "street" refers to that length of road associated with a single USRN, i.e. to part of a whole street where a street is subdivided.
- 15.2.6 ASD refers to other information about streets held on the NSG Custodian's website alongside the NSG data. Highway Authorities, Works Promoters and other interested and approved parties may obtain copies and updates to this data from the Custodian.

15.2.7 DCC has reviewed its NSG prior to the implementation of the Devon Permit Scheme and will continue to review it along with ASD data to ensure accuracy and relevancy as far as is practicable.

### **15.3 Who is collecting and using your personal data?**

15.3.1 Devon County Council will act as a 'data controller' for any personal data that you provide to us. As such, we will ensure that the data you give us is processed in line with our organization's data protection policies and in line with your rights under the Data Protection Act 2018 and the EU General Data Protection Regulations.

15.3.2 Should you wish to find out more about Devon County Council's data protection policies please contact our Data Protection Officer.

15.3.3 Please note that failure to provide your personal data may make it difficult for us to process your license application.

### **15.4 Why are we collecting your personal data?**

15.4.1 We are collecting your personal data to process and issue highway licenses. We rely upon the following laws to process your personal data:

- Highways Act 1980;
- New Roads and Street Works Act 1991; and
- Road Traffic Regulation Act 1984.

### **15.5 Who will we share your personal data with?**

15.5.1 To enable us to process licence application's it may be necessary to share your personal data with one or more of the following:

- Contractors;
- County and District Councillors;
- Department for Transport;
- The Emergency Services;
- Local Authorities;
- Adjacent Highway Authorities;
- Environment Agency;
- Health and Safety Executive;
- Public Transport Operators; and
- Town and parish councils.

15.5.2 In order to process Temporary Traffic Regulation Orders (TTRO) applications, we will publish agreed emergency contact details in the local papers, on roadworks.org and/or on DCC webpages.

## 15.6 How long will we hold your personal data?

15.6.1 Devon County Council will retain your personal data for only as long as is necessary, and in line with our organization's record retention schedules.

## 15.7 Automated decisions

15.7.1 No automated decisions are made using the personal data you supply to us for the above purposes.

## 15.8 Exercising your rights

15.8.1 Under the Data Protection Act 2018 and the EU General Data Protection Regulations you have the following rights:

- The right of access to your own personal data;
- The right to request rectification or deletion of your personal data;
- The right to object to the processing of your personal data;
- The right to request a copy of the information you provide us in machine readable format; and
- The right to withdraw your consent to any processing that is solely reliant upon your consent.

15.8.2 Should you wish to exercise your rights, you should contact the Data Protection Officer.

## 15.9 Restricted Information

15.9.1 Restricted information is anything certified by the Government as a matter of National security, or information which could jeopardize the Works Promoter's commercial interests such as details of a contract under negotiation. The Works Promoter must indicate restricted information on the application.

15.9.2 The right of access to restricted information is limited to:

- a. Persons authorized to execute any type of activity in the street; or
- b. Persons "otherwise appearing to the authority to have a sufficient interest".

15.9.3 Any person wishing to see restricted information must satisfy DCC, as a minimum, that his interest is greater than the general interest of the ordinary member of the public

## 16 Payment of Permit Fees

### 16.1 Payments

- 16.1.1 All Works Promoters, except those undertaking works for purposes not covered in this Plan, will be required to pay the appropriate fee for a permit to DCC under the Devon Permit Scheme.
- 16.1.2 Where the Works Promoter does not comply with the terms of the permit, a penalty may be applied using an FPN. This penalty will become payable to DCC. DCC may retain the permit fees and FPN penalties separately for accounting purposes.
- 16.1.3 If a Works Promoter does not already have an arrangement in place with DCC then they must agree one with DCC's Finance Department prior to submitting their Permit or PAA. Details of how fees can be paid will be provided by DCC's Finance Department.
- 16.1.4 As a standard process for permit fee payment and reconciliation it is expected that an account for a specified period will be produced, containing the permit fees to be charged for that period. Each account will have a reference number which can be used as the reference for any payment, instead of the individual permit numbers.
- 16.1.5 DCC will submit this account to the relevant Works Promoter to provide an opportunity for them to reconcile the charges to be invoiced for the specified period, prior to the generation of an invoice for payment.

### 16.2 Standard Payment and Reconciliation Model

- 16.2.1 DCC will confirm with each Works Promoter the invoicing arrangements together with the frequency of the account reconciliation and/or invoicing. This section contains a standard payment and reconciliation model.
- 16.2.2 The following standard procedure for the reconciliation and payment of permit fees (based on the HAUC (England) Guidance. Operation of Permit Schemes 2017) is recommended:
  - a. An account of the permit fees to be charged for during the specified period will be produced by DCC and submitted to the Works Promoter to review for reconciliation. Normally accounts will be sent monthly for permits granted in the previous month;
  - b. There will be a period of 10 working days after receipt of the full account to confirm fees and charges for the entire period;
  - c. During both reconciliation periods it is the Works Promoter responsibility to liaise with DCC if they have any comments or queries on the content of the account;
  - d. Once the reconciliation period is complete, and the payment agreed, a full invoice for the full period will be issued. Payment will be required within 28 calendar days; and
  - e. Once the account charges have been agreed; the Works Promoter must notify the Permits team if they need to issue a purchase order to DCC. This will need to be sent to the Permit team as soon as possible prior to the invoice being raised in order not to cause a delay.
- 16.2.3 If during the reconciliation DCC and Works Promoter cannot reach agreement on a permit fee and any details are still under discussion, these fees will be omitted from the final account for the period and subsequent invoice. Fees under discussion can be included or not included as a result of discussions, in a later invoice.

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- 16.2.4 Held over charges from a previous period may be included in such a statement. For example, these may include charges that were previously queried or PAA charges held back from a previous period which were awaiting the granting of permit for the activities.
- 16.2.5 The account period and subsequent invoicing frequency may vary but only with prior agreement being obtained from the relevant Works Promoter.

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**Appendix A – Permit Fee Discounts [to be confirmed]**

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**Appendix B – DCC Permit Scheme Key Performance Indicators [to be confirmed]**

Potential KPIs common across other permit schemes

Reference Number	Indicator
TPI1	Works Phases Started (Base data)
TPI2	Works Phases Completed (Base data)
TPI3	Days of Occupancy Phases Completed
TPI4	Average Duration of Works
TPI5	Phases Completed involving Overrun
TPI6	Number of deemed permit applications
TPI7	Number of Phase One Permanent Registrations

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**Appendix 2  
To HIW/19/50**

**Proposed DCC Permit Fees**

DCC are currently consulting on potential fees hence the ranges provided below. The final proposed scheme will include precise fees.

For illustrative purposes Maximum Fees prescribed in the Traffic Management Act 2004 (part 3 - permit schemes) are provided for reference.

		Road Categories 0, 1 and 2				Road Categories 3 and 4			
		Max fee	Non-traffic sensitive	Max fee	Traffic sensitive	Max fee	Non-traffic sensitive	Max fee	Traffic sensitive
<b>DCC Proposed</b>	PAA^	£105	£38-84	£105	£74-105	£75	£38-60	£105	£84-105
	Major (11+ days)	£240	£75-192	£240	£240.00	£150	£75-120	£240	£240
	Major (4 - 10 days)	£240	£38-192	£240	£130-192	£150	£38-120	£240	£130-192
	Major (up to 3 days)	£240	£23-192	£240	£65-192	£150	£23-120	£240	£65-192
	Standard	£130	£38-104	£130	£104-130	£75	£38-60	£130	£104-130
	Minor	£65	£23-52	£65	£52-65	£45	£23-36	£65	£52-65
	Immediate	£40	£20-32	£40	£20-32	£40	£20-32	£40	£20-32
	Permit Variations	£45	£45	£45	£45	£35	£35	£45	£45

^ PAA = Provisional Advance Authorisation