

Open Report on behalf of Richard Wills, Executive Director for Environment and Economy

Report to:	Executive
Date:	06 September 2016
Subject:	Adoption of the Lincolnshire Permit Scheme
Decision Reference:	I011793
Key decision?	No

Summary:

This report sets out the detail for the proposed adoption of a Lincolnshire County Council Permit Scheme under the Traffic Management Act 2004. The Permit Scheme has the potential to improve the Council's ability to manage all works on the highway network, minimise inconvenience and reduce disruption to road users.

Recommendation(s):

That the Executive:

- (a) approves the Scheme attached at Appendix A as the Lincolnshire Permit Scheme prepared under Section 33 of the Traffic Management Act 2004, and;
- (b) approves the fixing of the County Council's Common Seal to the Lincolnshire Permit Scheme for Road Works and Street Works Order 2016 attached as Appendix G to give effect to the Lincolnshire Permit Scheme under Section 33A of the Traffic Management Act 2004 as an all roads, single authority scheme on and from the 5 October 2016.

Alternatives Considered:

1. Not to adopt the Lincolnshire Permit Scheme under the Traffic Management Act 2004. Road works and street works will continue to be managed under existing statutory provisions. The opportunities offered by the introduction of a Permit Scheme to improve the Council's ability to manage all works on the highway network, minimise inconvenience and reduce disruption to road users will be lost.

Reasons for Recommendation:

The adoption of the proposed Permit Scheme has the potential to improve the Council's ability to manage all works on the highway network, minimise inconvenience and reduce disruption to road users.

1. Background

The Authority has been considering the adoption of a Permit Scheme under Part 3 of the Traffic Management Act 2004 to replace the existing Notice Scheme to control third party activity on the highway. It is considered that the introduction of the Scheme would allow the Authority to proactively manage activities and minimise the impact on the highway network and users.

At the Executive meeting on the 2 February 2016 it was decided that preparation and consultation regarding the introduction of such a Scheme should begin. It was also decided that the Executive Director for Environment and Economy, in consultation with the Executive Councillor for Highways, Transport and IT would decide the basis of the Scheme, prepare the draft scheme and to carry out consultation.

During the consultation process, other local authorities were invited to consider joining the Lincolnshire Permit Scheme. Rutland County Council has expressed an interest in joining the scheme at a later date. Therefore it is recommended that the Permit Scheme be made as a Single Authority Scheme and varied to a Joint Scheme once a firm commitment has been received from Rutland County Council. Changing to a Joint Scheme would also allow other local authorities to join the Lincolnshire Scheme in the future.

To ensure all the necessary steps have been taken for the successful introduction of the scheme, the checklist at Annex A of the Statutory Guidance for Highway Authority Permitting Schemes has been completed. The checklist can be found at Appendix A of this report.

As part of the preparation process a trial scheme was invoked. The trial utilised current Lincolnshire County Council street works personnel and Kier to mimic the requirements and conditions that a Permit Scheme would impose. All electronic transfer of notices received for our own major and standard works have been included in this trial.

Street works staff have been placing "conditions" on these notices to direct Traffic Management methods to be used and the length of time for the works. Site inspections have been carried out on the majority of these works to ensure that conditions are met on site and that the requirements relating to correct time periods and information for the public are adhered to.

As of 6 July 2016, 152 jobs have been inspected. The trial has been beneficial for all parties involved in terms of understanding the application of conditions under permitting and how working more collaboratively within our Alliance Partners will

benefit the Council, works promoters and the public in the future. It has also highlighted issues about how we forward plan our own works ordering processes, requiring our staff to become more involved with the longer term impact of both Lincolnshire County Council and other highways works in the future.

The trial has progressed satisfactorily and helped to highlight potential operational issues at an early stage. This allowed solutions to be proactively identified and incorporated by the briefing and training of Street Works personnel and Highways Officers, especially regarding new legislation.

The Scheme has shown that the benefit gained by applying permitting conditions is applicable to the whole highways network, therefore it is recommended that permits are required for all roads, including minor roads, that each application is scrutinized individually with fee discount waivers applied, as laid out in the Scheme document.

In accordance with the statutory guidance a full consultation exercise, lasting 14 weeks, began in March 2016. The consultation response deadline was extended by a further week to allow a small number of utility companies to submit suggestions for consideration. The consultation documents were sent to all primary and secondary stakeholders and were available on the Lincolnshire County Council website. A full list of consultees and responses can be seen in the Consultation Report at Appendix B. The responses were mainly positive, with some suggestions accepted and the Permit Scheme document has been amended accordingly.

The final proposed Lincolnshire Permit Scheme document can be seen at Appendix C. It is this document that the Executive are recommended to approve as the Lincolnshire Permit Scheme.

Regulation 4 of the Traffic Management Permit Scheme (England) Regulations 2007 (as amended) set out a number of matters that the Executive must have considered prior to giving effect to a Permit Scheme by Order. The requirements with accompanying commentary are set out below.

(a) The name of every person who is a highway authority for one or more of the specified streets.

The proposed Scheme only covers streets which are maintainable by the County Council. The County Council is therefore the only highway authority for the streets covered by the proposed Scheme.

(b) What the objectives of the Council are for the Permit Scheme.

The objectives of the proposed Scheme are set out in Section 2 on pages 3 of the proposed Lincolnshire Permit Scheme attached at Appendix C.

(c) How the Council proposes to ensure that it will comply with the obligations set out in Regulation 40 of the 2007 Regulations (which requires the Council to

operate the Scheme without discrimination between different classes of applicant for permits or for provisional advance authorisations)

Parity between the inspection of the Councils works, large contractor, Utilities and small contractors is a condition of the regulatory compliance that specifies that the Scheme will set out how the Permit Authority will ensure non-discrimination between permit applicants. Paragraphs 1.6 and 2.4 of the Scheme document enshrine parity and will be recorded in the Scheme performance indicators.

(d) How the Council proposes to evaluate the Permit Scheme so as to ensure whether the objectives for it have been met.

The Scheme will be monitored by a series of Traffic Performance Indicators and Key Performance Indicators, along with data obtained from the Customer Services Centre relating to praise/complaints. The data and comments will help shape the annual report and allow the suitability of the scheme to be monitored and revisions to be made, if necessary.

More detail is provided in Section 20 on Page 31 and in Appendix E on Page 47 of the proposed Scheme at Appendix C to this report.

(e) The costs and benefits (whether or not financial) which the Council anticipates will result from the Scheme and how such costs and benefits will be demonstrated when the Scheme is evaluated.

The Scheme will require twelve additional staff in addition to the staff currently deployed on the street works operation. The additional cost will be offset by the income received from permit fees. A cost benefit analysis (CBA) has been carried out to ensure that the Authority is not exposed to any cost risk, with the conservative figure giving a positive CBA of 1.92. A summary of the CBA can be found at Appendix D.

To ensure that the costs for the first year are controlled, staffing and resource levels have been measured against current and projected costs for the additional work using the Department for Transport cost matrix model, attached at Appendix E. Costs for year 2 onwards can be adjusted to maintain the cost neutral stance, in line with the statutory guidance. The estimated budget for the first year is as follows:

Income Estimated

Permitting Scheme	-£1,543,029
-------------------	-------------

Expenditure (estimated)

Permit Application Employee Costs	£1,234,378
Permit Application Operational Factor Costs	£246,876
Permit Variation Employee Costs	£49,420
Permit Variation Operational Factor Costs	£12,355

TOTAL	£1,543,029
Net position	£0

Due to the nature of the Permit Scheme, especially compliance matters and enforcement issues that may arise, it would be prudent to ensure Year 1 has a small financial reserve that enables additional costs to be absorbed. The financial projections for Year 2 and onwards can be adjusted and, if required, the future permit costs would be varied to meet the cost neutral balance. However final costs will be liable to change, especially as a result of the implementation of the future operating model and restructuring of departments.

As the economic appraisal of option 1 in the CBA is a small positive, and the majority of sensitivity testing scenarios result in fairly consistent low positive benefit to cost ratios (>1.1), it has been demonstrated that the scheme is feasible as an all streets scheme. The net benefits to road users and wider society exceed the additional costs of the scheme.

(f) The evidence considered by the Council when it decided to include any provisions in the Permit Scheme as to the fees which may be charged and the reasons for its decision.

The permit fee levels are derived from the completed DfT permit fee matrix which analyses and quantifies individual tasks associated with the administrative function of permit assessment offset against potential income to reach a cost neutral position.

(g) The date on or after which the Council proposes that the Permit Scheme should come into effect.

The proposed date is 5 October 2016. This is the earliest date on which the proposed scheme could take effect as not less than 4 weeks' notice must be given to various stakeholders.

(h) Details of any transitional arrangements which the Council would wish to apply in relation to the Permit Scheme coming into effect.

The proposed transitional arrangements are set out in Section 21 on Page 32 of the proposed Scheme at Appendix C.

(i) The responses received to the consultation undertaken under Regulation 3 of the 2007 Regulations.

The results of the Consultation are set out for the Executive's consideration in the document at Appendix B.

In addition to the above, the Council must confirm in the Permit Scheme that the Scheme has been prepared in accordance with the 2007 Regulations and that it had regard to Statutory Guidance. This is included at paragraph 1.1 of the proposed Scheme at Appendix C.

Equality Act 2010

As part of the consultation process an Equalities Impact Assessment was completed and can be seen at Appendix F. Any potential impact relates more to the way works are designed and carried out rather than as a result of the conditions imposed by a permit. However, the Permit Scheme does provide some positive aspects for those with protected characteristics such as age, disability, pregnancy and maternity, along with health benefits associated with encouraging a safer environment. The negative aspects due to roadworks were also explored and mitigating action identified.

Child Poverty Strategy

Regard has been had to the Council's Child Poverty Strategy but the introduction of a Permit Scheme is not considered to impact directly upon the Strategy.

Joint Strategic Needs Assessment (JSNA) and Joint Health and Wellbeing Strategy (JHWS)

The Council in exercising its functions must have regard to both the JSNA and the JHWS.

Consideration has been given to the JSNA and JHWS and the reductions in inconvenience and disruption to road users which the Scheme would deliver will have benefits in the areas of economic, social and environmental wellbeing.

Due regard has also been given to the likely effect of the proposal on crime and disorder and there are not considered to be any effects.

The deregulation of Permit Schemes from the Department for Transport to Local Authorities requires that effect be given to the Scheme by way of Order. The proposed Order is attached at Appendix G. As required in Regulation 3, the Permit Authority will give a minimum of 4 week's notice of commencement of the scheme following the Order being made to all those previously consulted on the Permit Scheme.

2. Conclusion

The Executive is invited to approve the recommendations in this report.

3. Legal Comments:

The Council has the power to adopt a Permit Scheme as recommended in the Report. The legal basis for that power and the considerations that must be taken into account in reaching a decision are addressed in detail in the Report.

The decision is consistent with the Policy Framework and within the remit of the Executive if within the Budget.

4. Resource Comments:

Accepting the recommendation in this report to approve the Lincolnshire Permit Scheme, should have no direct impact on the budgets of the Council. The government guidance states that the costs of a permit scheme should be recovered through the permit fees, but should not exceed the total allowable costs prescribed. As stated in the Lincolnshire scheme the costs and income will be reviewed annually and adjustments will be made to either the fees or the costs to ensure the scheme remains cost neutral, this can be balanced out of a number of years (suggested period is three years).

5. Consultation

a) Has Local Member Been Consulted?

No

b) Has Executive Councillor Been Consulted?

Yes

c) Scrutiny Comments

The Highways and Transport Scrutiny Committee met on 11 July 2016 and considered a report concerning the Lincolnshire County Council Permit Scheme. The Committee considered the outcome of the Permit Scheme consultation and unanimously agreed to support that the Executive approve a decision to adopt the Lincolnshire Permit Scheme.

The Committee agreed to pass on the following comments to the Executive:

(a) The Committee was supportive of the greater oversight of the Permit Scheme would provide of the Highways Network as a whole, as well as the benefits to improved traffic management arrangements.

(b) The Committee queried the impact of the Permit Scheme on traffic sensitive routes and whether the scheme would reduce traffic disruption and help minimise inconvenience to road users. Officers confirmed that during the consultation period a trial to mimic the requirements and conditions that the Permit Scheme would impose had taken place and had progressed satisfactorily. Adherence to project timescales by contractors had also improved.

The Committee highlighted the need to minimise disruption to traffic flow and that the Council should be proactive in monitoring that works were carried out correctly.

The Committee highlighted concern relating to possible proliferation of the immediate activities which covered emergency or urgent works. Officers confirmed that urgent activities were defined in the regulations and site inspections would be carried out and penalties imposed should any works not meet the criteria.

Members queried how the permits would be priced and how the overall costs of the scheme would be recovered. Officers confirmed that the scheme was conservatively priced to ensure that the overall fee income does not exceed the allowable costs. However, if there should be a sustained surplus or deficit over a number of years then the fees would be reviewed accordingly.

The Committee highlighted the benefits of combined works and the need to promote collaborative working. Officers confirmed that collaborative working opportunities would be encouraged and that discounts were available for those services that were able to deliver work in a proactive way to lessen the impact of their activities.

The Committee highlighted the importance of monitoring the performance of the Permit Scheme going forward to ensure that the aim of minimising the impact on the travelling public is achieved. Officers confirmed that performance information from the Permit Scheme would be published.

d) Policy Proofing Actions Required

n/a

6. Appendices

These are listed below and attached at the back of the report	
Appendix A	Statutory Guidance for Highway Authority Permit Schemes - Annex A
Appendix B	Lincolnshire County Council Permit Scheme Consultation Document
Appendix C	Lincolnshire County Council Permit Scheme
Appendix D	Cost Benefit Analysis
Appendix E	Department for Transport Cost Matrix Model
Appendix F	Equality Impact Assessment
Appendix G	Permit Scheme - Order

7. Background Papers

The following background papers as defined in the Local Government Act 1972 were relied upon in the writing of this report.

Document title	Where the document can be viewed
Traffic Management Act 2004 - Part 3	Legal Services
Traffic Management Permit Scheme (England) Regulations 2007 (As amended 2015)	Legal Services

Statutory Guidance for Highway Authority Permit Schemes (October 2015)	Highways
Statutory Guidance for Highway Authority Permit Schemes - Permit Scheme Conditions (March 2015)	Highways

This report was written by Mick Phoenix, Regulation Manager, who can be contacted on 01522 552105 or mick.phoenix@lincolnshire.gov.uk .

This page is intentionally left blank