



## LEAD MEMBER FOR TRANSPORT AND ENVIRONMENT

**DECISIONS** to be made by the Lead Member for Transport and Environment,  
Councillor Nick Bennett

**TUESDAY, 18 JULY 2017 AT 2.00 PM**

**COMMITTEE ROOM, COUNTY HALL, LEWES**

### **AGENDA**

- 1 Decisions made by the Lead Cabinet Member on 19 June 2017 (*Pages 3 - 6*)
- 2 Disclosure of Interests  
Disclosure by all Members present of personal interests in matters on the agenda, the nature of any interest and whether the Members regard the interest as prejudicial under the terms of the Code of Conduct.
- 3 Urgent items  
Notification of any items which the Lead Member considers urgent and proposes to take at the appropriate part of the agenda.
- 4 Parking Services Commissioning Review (*Pages 7 - 26*)  
Report by the Director of Communities, Economy and Transport
- 5 Statement of Community Involvement revision (*Pages 27 - 54*)  
Report by the Director of Communities, Economy and Transport
- 6 Statement of Common Ground on Soft Sand between the South East Mineral Planning Authorities (*Pages 55 - 80*)  
Report by the Director of Communities, Economy and Transport
- 7 Council Order for the East Sussex Permit Scheme (*Pages 81 - 136*)  
Report by the Director of Communities, Economy and Transport
- 8 Any urgent items previously notified under agenda item 3

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10 July 2017

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## LEAD MEMBER FOR TRANSPORT AND ENVIRONMENT

DECISIONS made by the Lead Member for Transport and Environment, Councillor Nick Bennett, on 19 June 2017 at CC1, County Hall, Lewes

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Councillors Belsey, Rodohan, Swansborough and Ungar spoke on item 5 (see minute 5)

### 1 DECISIONS MADE BY THE LEAD CABINET MEMBER ON 20 MARCH 2017

1.1 RESOLVED to approve as a correct record the minutes of the meeting held on 20 March 2017.

### 2 DISCLOSURE OF INTERESTS

2.1 Councillor Belsey declared a personal interest in Item 5 as a resident of Kings Drive, one of the sites under discussion. He did not consider this to be prejudicial.

### 3 REPORTS

3.1 Reports referred to in the minutes below are contained in the minute book.

### 4 SUSSEX ENERGY TARIFF

4.1 The Lead Member considered a report by the Director of Communities, Economy and Transport.

#### DECISIONS

4.2 RESOLVED to agree that the County Council becomes a partner in marketing the take up of the Sussex Energy Tariff to residents.

#### Reasons

4.3 The tariff enables local residents to make financial savings by reducing their energy bills.

### 5 HAILSHAM-POLEGATE-EASTBOURNE MOVEMENT AND ACCESS CORRIDOR

5.1 The Lead Member considered a report by the Director of Communities, Economy and Transport.

#### DECISIONS

5.2 RESOLVED to (1) note the outcome of the Hailsham/Polegate/Eastbourne Movement and Access corridor study as detailed in Appendix 1 of the report;

(2) approve consultation being undertaken on the proposed measures in September 2017; and

(3) agree that the outcomes of the consultation are reported back to a future decision making meeting, with a package of proposals to be recommended for taking forward for detailed design and construction.

#### Reasons

5.3 The increase in traffic generated from the proposed additional housing and employment in the South Wealden and Eastbourne area will result in increased levels of congestion on the road network, unless a package of mitigation measures is delivered. The Hailsham/Polegate/Eastbourne Movement and Access Corridor study identified a package of measures as set out in Appendix 3 of the report, and includes improvements to key junctions, along with the provision of bus lanes and other bus infrastructure, together with new cycle routes and pedestrian improvements.

## 6 REVIEW OF THE EAST SUSSEX PRELIMINARY FLOOD RISK ASSESSMENT (PFRA)

6.1 The Lead Member considered a report by the Director of Communities, Economy and Transport.

#### DECISIONS

6.2 RESOLVED to (1) note the content of the report and supporting material; and

(2) endorse the East Sussex Preliminary Flood Risk Assessment and authorise its submission to the Environment Agency by the statutory deadline of 22 June 2017.

#### Reasons

6.3 The information provided by the Environment Agency is a reasonably accurate depiction of risk in the County given that its focus is on those areas which pass tests of national significance. There are implications for the County Council's Flood Risk Management Team. The risks identified by the EA are understood by the County Council and notwithstanding the uncertainties of managing the subsequent tasks required by statutory instrument, its findings should be endorsed.

## 7 REVIEW OF THE EAST SUSSEX LOCAL FLOOD RISK MANAGEMENT STRATEGY'S DELIVERY PLAN 2017/18

7.1 The Lead Member considered a report by the Director of Communities, Economy and Transport.

#### DECISIONS

7.2 RESOLVED to (1) note the progress made on delivering the actions set out in the Local Flood Risk Management Strategy Delivery Plan (Appendix 1); and

(2) endorse the proposed draft Delivery Plan 2017/18 (Appendix 2)

#### Reasons

7.3 The adopted Local Flood Risk Management Strategy commits the County Council to regular reviews of the Delivery Plan.

## 8 FEES AND CHARGES FOR THE PLANNING AND ENVIRONMENT SERVICE

8.1 The Lead Member considered a report by the Director of Communities, Economy and Transport.

### DECISIONS

8.2 RESOLVED to agree to implement the proposed new and revised fees and charges within the Planning and Environment Services.

### Reasons

8.3 The new and revised charges strike the right balance between enabling the County Council to recover a greater proportion of costs for providing discretionary services and having fees and charges that do not dissuade engagement with our statutory consultees.

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**Report to:** Lead Cabinet Member for Transport and Environment  
**Date of meeting:** 18 July 2017  
**By:** Director of Communities, Economy and Transport  
**Title:** Parking Services Commissioning Review  
**Purpose:** To consider the options for managing and enforcing parking controls in East Sussex.

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**RECOMMENDATIONS:** The Lead Member is recommended to:

- (1) Note the Commissioning work on the need for undertaking the Parking Service, and**
  - (2) To approve the commencement of procurement work on the contracting out of the parking enforcement service.**
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## **1. Background information**

1.1 East Sussex County Council (ESCC) has adopted and operated Civil Parking Enforcement (CPE) since May 1999.

1.2 The County Council, as the highway authority, is responsible for all on-street parking enforcement in the areas covered by CPE. The areas covered by CPE are Lewes district, Eastbourne borough and Hastings borough. The two Borough councils have retained control of their off street car parks.

1.3 ESCC has an agency agreement with Lewes District Council (LDC) to undertake on their behalf the management of parking controls within their off-street car parks. LDC receives the income from parking charges and parking fines. ESCC receives a management fee for the delivery of this service to LDC.

1.4 ESCC has contracted out parking enforcement and most recently engaged with NSL to deliver the service. The current contract started in 2011 and provides a service across the boroughs of Eastbourne and Hastings and the towns and villages of Lewes district. This contract is due to expire in June 2018 and a decision is now required on whether to continue outsourcing the parking enforcement service, due to the time scales that are necessary to procure a new contract.

## **2. Supporting information**

2.1 A review has been undertaken to ensure there is a clear understanding of need as a precursor to re-tendering the service. This review also looked at the performance of the service and how the future service should be commissioned. The detail of the review and recommendations can be found in Appendix 1.

2.2 The review found that:

2.2.1.1 The delivery of CPE plays an instrumental role in assisting the achievement of the Local Travel Plan (LTP3) objectives.

2.2.1.2 There is a legal duty for ESCC to continue to operate CPE as there are no legislative procedures that enable the authority to relinquish its CPE powers and duties.

2.2.1.3 It should be stressed that the County Council cannot outsource its duty to determine the outcome of formal Representations and Appeals against the issue of Penalty Charge Notices (parking fines).

2.2.1.4 The performance and effectiveness of the operation has been assessed through benchmarking key performance with other parking schemes which shows ESCC to be performing well.

2.2.1.5 It is considered most efficient and cost effective to manage the on-street parking enforcement in East Sussex as one operation rather than having a number of agency operations which would introduce duplication of work and reduced flexibility.

2.2.1.6 The two main options for commissioning the service are to operate an in-house parking enforcement service or to continue to outsource the service to an appropriate contractor.

2.2.1.7 Whilst the council has an experienced team delivering a number of key back office functions as well as monitoring and managing the contract, it does not have the direct experience of delivering front line on-street enforcement.

2.2.1.8 To demonstrate continuous improvement it is suggested that future KPIs should not be restricted to the outsourced area of the service. It is just as important to measure the performance of the in house back office team using more meaningful performance indicators.

### **3. Conclusion and Reasons for Recommendation**

3.1 The review has demonstrated the continued need for the parking service, both in its support of meeting the LTP3 objectives as well as the legal duty for ESCC to continue to operate CPE.

3.2 ESCC, by outsourcing, is currently delivering a good quality and effective parking service. It is recommended that the parking enforcement contract should continue to be outsourced and that work is to commence on the required procurement process immediately.

RUPERT CLUBB

Director of Communities, Economy and Transport

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#### LOCAL MEMBERS

All

#### BACKGROUND DOCUMENTS

None



## **East Sussex County Council**

### **Parking Services –Commissioning Review**

#### **1 Introduction**

- 1.1 A review has been undertaken to ensure there is a clear understanding of 'need' for the parking enforcement service, before identifying the best method of meeting this need.
- 1.2 The review focused on the transport needs as defined by the Local Transport Plan and outline the statutory requirements for parking enforcement.
- 1.3 The review also consider the options for managing and enforcing parking controls in East Sussex. The effectiveness of the existing contract arrangements have been reviewed and consideration given to more or less of the parking enforcement service being undertaken in-house or through a contracted provider.

#### **2 Background**

- 2.1 East Sussex County Council (ESCC) has most recently engaged the current contractor to deliver the parking enforcement service from 2011 across the Boroughs of Eastbourne, Hastings and the District of Lewes and this contract expires in June 2018. It should be noted that ESCC in order to comply with current UK legislation has retained the duty of considering and determining all challenges / representations made against the issue of a Penalty Charge Notice (PCN).
- 2.2 The Parking Agency Agreement with Hastings Borough to deliver on-street parking enforcement operation was terminated in 2013 and now forms part of the current contract, it having been demonstrated that bringing the service back in house was the most cost effective option.
- 2.3 The County Council, as the highway authority, is responsible for all on-street parking enforcement in the areas covered by the Civil Parking Enforcement powers however the Boroughs have control of their off-street car parks.
- 2.4 Lewes District Council on the other hand doesn't enforce its off-street car parks, this is carried out by ESCC via its enforcement contractor on their behalf and the District receives the income from the parking charges and parking fines. ESCC receives a management fee for the delivery of this service to the District Council.
- 2.5 The agreement with Lewes District Council eliminates any duplication of enforcement activities and results in financial savings for the District Council, as well as benefitting from a more effective enforcement regime.

#### **3 What is the need for parking enforcement?**

- 3.1 Parking enforcement is vital for the successful implementation of many of the local plan objectives
- 3.2 LTP 3 - Vision and objectives:

- 3.2.1 Over the remaining nine years of the life span of LTP 3, East Sussex County Council's aim is to continue developing an effective, well managed transport infrastructure with improved travel choices.
- 3.2.2 To make East Sussex a prosperous county by:
- helping businesses to thrive
  - delivering better access to jobs and services
  - creating safer, healthier, more sustainable and inclusive communities.
- 3.2.3 Transport contributes to a wide range of other policies and plans that include high-level objectives such as:
- improve economic competitiveness and growth
  - improve safety, health and security
  - tackle climate change
  - improve accessibility and enhance social inclusion
  - improve quality of life.
- 3.3 The delivery of Civil Parking Enforcement can play an instrumental role in assisting the achievement of the above objectives.
- 3.4 There are substantial benefits to the local authority and its whole community from the operation and delivery of Civil Parking Enforcement, including but not limited to the following:
- i. Indiscriminate on-street car parking can create unnecessary obstruction of the carriageway and footways. In respect to the highway network this can lead to unnecessary congestion and increased pollutants in the air.
  - ii. Congested roads are also extremely detrimental towards making town centres attractive to the general public and as a result can severely damage a town's commercial viability.
  - iii. The free flow of traffic can be managed more effectively with the strategic planning and implementation of waiting and loading restrictions for example, especially where the older towns have narrow carriageways.
  - iv. Local commercial businesses and retail outlets benefit from strategically placed loading / unloading bays placed on the public highway, but these need to be enforced to ensure that lorries are able to use them rather than double parking and as a result creating an obstruction as they deliver or collect goods.
  - v. Town centre Businesses and retail outlets benefit significantly from well managed and appropriately located off street car parking through a mixture of long term and short stay parking.
  - vi. On street car parking, where road widths and safety implications permit, allows for short term parking periods that allows shops and businesses to benefit from passing trade. The effective control and enforcement of these parking bays is essential to maximise the amount of passing trade, but the charging regime for on street parking should ideally be higher so those motorists wishing to stay for longer periods are encouraged to use the car parks that have lower charging rates.

- vii. The Traffic Management Act 2004 allows local authorities to enforce parking across dropped kerbs that do not have any waiting restrictions, in order to preserve the movement from and to footways by those in wheelchairs and prams as well as the less mobile pedestrian.
- viii. Traffic management measures that can be controlled by parking enforcement is a major contributory factor towards not only preserving the road safety records, but indeed can improve road safety. This is being used in many areas including outside school entrances for example.
- ix. Residents living in tourist areas, close to visitor attractions, town centres and or railway stations often suffer from extraneous car parking. Traffic management measures such as controlled parking zones and residents parking schemes can be introduced to protect the living conditions of the residents, but to make them work the need for effective enforcement is essential and the local authority will be best placed to achieve this.
- x. Permit schemes are vital for local tradesmen to deliver their services, hotels would severely suffer without any form of parking provision, as well as many other permit types. East Sussex County Council have been working closely with all parts of the community and as a result issue vast numbers of permits and examples can be found in the table below:

Type of Permit	Volume
Resident	154,000
Trade	25,000
Hotel	121,000
Healthcare	43,000

- xi. The presence of a uniformed Civil Enforcement Officer also brings a welcomed benefit to the community, because the public and businesses see them as a form of security presence that deters criminal activity which is not restricted to parked cars.

## 4 Statutory requirement for parking enforcement

### 4.1 The Traffic Management Act 2004

*The principal legislation affecting parking enforcement is the Traffic Management Act 2004 (TMA 04) and Part 2 imposes a network-management duty on all local traffic authorities. This is aimed at ensuring the efficient management of the road network to reduce congestion and delays. It should be recognised that part of the network-management duty is to manage parking and other traffic regulations, to achieve the required aims.*

### 4.2 “Parking Policy and Enforcement”. <sup>(1)</sup>

- 4.2.1 In June 2005 the House of Commons Transport Committee produced a report that opened with the following statement:

*Failure to comply with parking restrictions disrupts traffic, increases road congestion, heightens levels of danger, results in injuries, and delays public transport schedules. Fifty million estimated illegal parking acts take place each year in London with a cost of £270 million a year in additional delays and accidents. The scale and cost of illegal parking throughout Britain is not known but is clearly significant. The police have failed to enforce parking regulations in Britain properly for decades as other policing priorities have taken precedence. The result is that illegal parking is widespread.*

<sup>(1)</sup> Parking Policy and Enforcement **HC 748-I** Published on 22 June 2006 by authority of the House of Commons London: The Stationery Office Limited

- 4.3 There are some 300 local authorities in England and Wales undertaking parking enforcement through the powers of the TMA 04.
- 4.4 To date there are still approximately 24 local authority areas in England that have not applied to adopt the powers to carry out parking enforcement and this includes the East Sussex districts of Rother and Wealden.

## **5 Can a local authority relinquish its parking enforcement powers?**

- 5.1 There is currently no legislative procedure that enables a local authority to apply to relinquish the powers to operate Civil Parking Enforcement that they have adopted.
- 5.2 It should be noted that Section 75 the Traffic Management Act 2004, actually gives Central Government the powers to compel each local authority to adopt the powers to carry out Civil Parking Enforcement. There is a precedent in that all London Borough Councils were compelled to adopt these powers in 1994.

## **6 Conclusion on the need for parking enforcement**

- 6.1.1 It is not presently compulsory for a local authority in England and Wales to adopt the powers of the TMA 04. However, as East Sussex County Council adopted those powers many years ago there is a legal duty for them to continue to operate Civil Parking Enforcement as there is no legislative procedure that enables local authorities to relinquish them.
- 6.1.2 If East Sussex County Council hadn't taken on the responsibility for parking enforcement, other functions that the Council has a duty to deliver would have been severely impacted against and the local economy of the various towns throughout the County would have undoubtedly suffered.
- 6.1.3 Parking Enforcement is also playing a significant role in assisting the County Council to achieve many of its LTP 3 objectives and overall vision.
- 6.1.4 It is therefore considered that East Sussex County Council should not only continue to deliver parking enforcement, but it should be constantly looking as to how the service could not only be improved but how it could widen the current service offering.

## 7 Parking Services Review

7.1 In order to assess the overall effectiveness of the current operation, in terms of performance and the financial position a number of areas have been looked into, including:

- i. ESCC in house operational performance
- ii. The current Service Provider's operational performance
- iii. Staff retention
- iv. Finance

7.2 Consideration has also been given to the existing parking market, because it is extremely limited in the number of companies that deliver parking enforcement services.

7.3 The Borough and District Councils were consulted as part of the review in order to obtain their views:

- i. **Lewes District Council** has stated it is very satisfied with the level of service they receive from both ESCC and the current contractor. In terms of the contract they do not see any need to alter anything, however the District Council stated that the level of car park occupancy in both Lewes and Seaford is almost at full capacity and additional car parking would be beneficial, but do recognise that the potential for land becoming available is highly improbable.
- ii. **Eastbourne Borough Council** elected not to participate in the original CPE contract following the County's decision to introduce on-street parking charges to Eastbourne. As such EBC has continued to carry out their own enforcement of their off-street car parks.

Eastbourne BC report that their off-street compliance levels are high and as a result they only need to operate approximately a half of one FTE. As a consequence it is unlikely that the EBC will participate in the CPE scheme, but there may be scope for closer working between the County Council and EBC.

- iii. **Hastings Borough Council** also retains its own off-street enforcement of its car parks and those of the Foreshore Trust that operates the seafront car parks. Officers at HBC report they are satisfied with the support they received from the current contractor especially with representation on matters such as multi-agency Safety Advisory Group meetings.

They are also satisfied with the working relationship it has with the County's Parking Team.

Hasting's Borough employ between 1 to 2 FTEs to enforce their car parks and therefore it is unlikely that the Borough will look to participate in any future joint CPE scheme.

## 8 Parking Services Performance

- 8.1 The general performance of ESSC's parking services is seen to be good and this is demonstrated by comparing it against other local authorities. (Appendix 1)
- 8.2 Benchmarking data has been obtained from various Councils together with information obtained from Annual Parking Reports that have been published on line. It should be stated that all data and information obtained from the various councils should be treated with some caution, because it is not possible to be certain as what methodology was used and how each council measured the different aspects of their service.
- 8.3 The Penalty Charge income recovery rate is currently at 78.20% which is considered to be very good, however there are a few councils that do claim to achieve slightly higher recovery rates.
- 8.4 While the average number of PCNs issued per year per CEO in East Sussex is relatively low compared with other operations, the income per PCN (£33.50) appears to be much higher than many, including that of Brighton City Council (£30.57 per PCN).
- 8.5 The level of PCN cancellation is extremely low and this would add further credence that ESCC Parking Services are actively delivering a quality service.
- 8.6 It may well be down to the parking policy that has been adopted, together with the PCN issue guidelines that has seen more warning notices being issued that has resulted in achieving such good results. This is surely assisting in providing a better and fairer service that benefits the whole community.
- 8.7 The above would suggest that the enforcement scheme in East Sussex is fair and the quality of the PCNs being issued is very good.
- 8.8 There are two areas that are not currently covered by the TMA 04, which are the district councils of Rother and Wealden. Work is underway with both RDC and WDC to determine the costs of Civil Parking Enforcement for these two districts.
- 8.9 It should be recognised that close working between the County and its Boroughs and Districts is key to achieving the objectives of the TMA 04 in terms of the effective management of the highway network.

## 9 Service Providers Performance (Appendices 2)

- 9.1 The performance of a contract / operation is usually measured against a set of performance indicators.
- 9.2 Reviewing the KPI reports and interviewing various members from both ESCC and the current contractor, it would suggest that:
  - i. The level of performance, in terms of meeting the current Key Performance Indicators (KPIs) is satisfactory, but due to the number of advisory comments appearing in the KPI reports, there does appear to be room for improvement.
  - ii. There is little evidence that the current contractor is actively promoting new / innovative operational systems and procedures for the benefit of this contract.
  - iii. More needs to be tried to improve the staff retention levels.
- 9.3 The monthly KPIs results do not indicate the need for real concern about the contractor's performance.
- 9.4 Consideration should be given to future KPI reports to report on the contractor performance

- 9.5 The current contract has the contractor being responsible for the provision of a suitable Parking Enforcement IT system. This appears to have worked quite well, but consideration should be given to greater ESCC interaction with the IT supplier to fully understand what developments are being proposed and what other Councils are experiencing.
- 9.6 It is noted that the current IT supplier has recently been acquired resulting in a different working relationship.
- 9.7 Communication between the contractor and ESCC will be an important consideration in selection of a new contractor.
- 9.8 The level of communication is not presently specifically measured by the current KPIs and careful consideration should be given to creating a specific KPI associated with communication for any future contract.

## 10 Staff Retention Levels

- 10.1 Staff retention is a factor that will always impact on the performance of an operation and it would appear that currently the contractor is experiencing difficulties in retaining staff. The main issue being raised by the contractor is the salaries being offered to the CEOs.

## 11 Finance

- 11.1 The current Parking Services contract was won by the current contractor on an open competitive tendering procurement exercise.
- 11.2 Three factors that influence the decision when considering whether to outsource a service, and these are:
  - 1. Improve the quality of the service,
  - 2. To secure financial savings, and
  - 3. Which organisation is best placed to manage the associated risk in delivering such a complex service.
- 11.3 To enable the implementation of an efficient and effective on-street parking scheme in East Sussex, a consistent approach to the deployment and administration of parking enforcement and services must be provided throughout. A single management structure is instrumental in providing this. The business case prepared to support the withdrawal of the Agency Agreement with HBC concluded the most efficient and cost effective way to manage the on-street parking enforcement in East Sussex was as one operation rather than having a number of agency operations.
- 11.4 Previous market testing has demonstrated there are both financial and operational advantages in running a single commercial contract for the County's parking schemes. A contractor would be expected to have the ability to introduce a number of new key skills and technologies as may be required under legislation. This would increase the effectiveness of on-street parking enforcement throughout the life of a contract
- 11.5 Whilst it is possible that a more streamline management structure to deliver the service could be put in place if the service was to be brought back in house there are a number of risks associated with this.

- 11.6 The major risk for ESCC is that over the period of time that the current contractor has been delivering the parking enforcement contract the County has very limited in house experience of operating front line enforcement. ESCC core skills lie in managing the contract, but this doesn't provide the team with the full day to day operational experience.
- 11.7 To avoid the risk of losing income due to an inexperienced in-house team that may wipe out any savings it is wiser to consider what other parking related services could be outsourced in addition to the main enforcement contract that could deliver significant savings without the risk.
- 11.8 One such example for consideration is that the current contractor is charging ESCC an annual fee for the provision of the Parking Enforcement IT system, when similar systems are available for lower cost.
- 11.9 Whilst the contractor charges ESCC in accordance with tendered rates, it is questioned whether ESCC could have gained better value if some of the activities were procured and delivered directly.

## **12 Parking Enforcement Suppliers Market (Appendix 3)**

- 12.1 Local authorities have little choice in the parking enforcement as the market has reduced to just two major companies, together with a 3rd smaller player.
- 12.2 This limited choice severely restricts the options open to local authorities and questions whether the lack of competition affects the drive to achieve continuous improvement.

## **13 Conclusion on the Review of the Existing Parking Service Arrangements**

- 13.1 ESCC, together with the current contractor are delivering a good quality and effective parking service, but there is always room for improvement.
- 13.2 To demonstrate continuous improvement it is suggested that future KPIs should not be restricted to the outsourced area of the service, it is just as important to measure the performance of the in house team.
- 13.3 The current KPIs do not provide any indication as to how the contract is performing and that they are not necessarily concentrating on the critical success areas and therefore careful consideration as to what the KPIs are measuring and why is required for any future contract.
- 13.4 While the current contractor is delivering a good enforcement service at an operational level, it is not clear as to whether the contractor is providing new / additional skills that are expected from outsourcing a service.
- 13.5 There has been criticism that the very limited choice of companies providing parking enforcement services hasn't been good for the industry. This review certainly hasn't found anything to suggest that the contractor, apart from deploying CEOs, has really brought anything else to the contract that ESCC couldn't manage.
- 13.6 The current contractor's staff retention has been a recent concern, but it is suggested that close monitoring of this matter is carried out before any other measures are considered.



## 14 Commissioning Options

14.1 The two main options are 1) to operate the Parking Enforcement service in-house or 2) to outsource the service. There is no evidence, or indeed industry trends to suggest why some local authorities decide to outsource this service, and others don't. Some local authorities consider it wise to acquire the expertise of a private contractor at a known contract price, and this approach clearly separates the enforcement role from the back-office function to determine the challenges being made against the issue of the parking fine.

14.2 It should be recognised that under current legislation the local authority cannot relinquish its duty to deal with and determine the outcome of formal representations and Appeals received against the issue of Penalty Charge Notice.

14.3 There are however a number of permutations in respect to the type of supplementary services that could be added to an enforcement contract that is to be outsourced, for example the appointed Service Provider procures and manages the Parking Enforcement IT system.

### 14.4 Option 1 – To bring the Enforcement operation back in house

- i. ESCC staff would need further knowledge and expertise to run a successful and effective enforcement operation and therefore to bring the service back in house at this time may be a little premature, and the risks may outweigh the benefits.
- ii. There is no industry trend to suggest whether contracts that are currently outsourced being taken back in house. It very much appears to be to keep the same and avoid the unknown / risk. Each Authority will reach their own decision based on a host of reasons and balance of risks.
- iii. In terms of potential financial savings for ESCC that may exist if the current contract was to be brought in house, this has to be weighed against the risk of an in-house team that is lacking some knowledge and experience.
- iv. **There are a number of risks running a fully in-house operation**
  - Having sufficient in-house skills and knowledge and if not, the ability to recruit appropriate members of staff.
  - Financial operating costs and this will include support services such as HR, Legal, IT and procurement.
  - Inheriting, staff under TUPE from the current Service Provider and the change of organisational culture from the private to public sector

### 14.5 Option 2 – To outsource the enforcement operation

- i. The current parking services operation is performing well and therefore the option to retain and outsourced parking enforcement service should be given serious consideration.
- ii. There could be improvements in respect to the capability and quality of the Service Provider's Contract Management and this would need to be addressed in a future contract specification as well as on going monitoring once a new contract has commenced
- iii. Improved KPIs are essential for any future contract and at least one would need to focus on the performance of the Service Provider's contract management.

iv. A future outsourced contract would need to consider whether the provision of Parking Shops is still necessary, because of the cost of operating the parking shops and that the footfall is very low.

v. **The risks to outsource the Parking Enforcement service include:**

- The primary risk associated with outsourcing a service is related to how the contract is managed and the level of appointed personnel's capabilities:
- The Service Provider's contract management team may not be capable of operating the contract satisfactorily and this could result in a lot of additional time and effort being required from the County Council in order to support the Service Provider.
- Experience shows that many outsourced contracts can suffer through a lack of innovation and review of operating practices that will take a service forward, should the Service Provider appoint inexperienced staff.
- There are now only two or three companies that deliver parking enforcement services which may be reflected in tendered rates.

14.6 **Option 2 A – To outsource the enforcement together with the Pre-NtO correspondence**

- i. A number of local authorities include pre-Notice to Owner correspondence within their enforcement contracts.
- ii. Somerset County Council had outsourced all notice processing to their contractor, but in their latest tender the authority has decided to bring this function back in house.
- iii. It should be recognised that ESCC's in-house team are performing extremely well with this function and have achieved a very low number of Penalty Charge Notices that need to be cancelled due to their continuous striving to improve the service.

iv. **The risks to outsource this function include:**

- The public may perceive the Service Provider as being the judge and jury with regard to the Penalty Charge Notices it issues and that could damage the County Council reputation and that of the enforcement regime.
- The ability of a service provider to ensure good quality, clear and coherent letters with good grammar is key to avoid the risk of damaging the County Council's reputation.

14.7 **Option 2 B – To include the provision of the Parking Enforcement IT system in the outsourced contract.**

- i. One of the risks facing ESCC at this time is developing an effective IT system to benefit the service.
- ii. Some local authorities see the outsourcing of the IT system results in a financial saving, because it eliminates the need to undertake an expensive procurement exercise. This is not necessarily the case due to the number of Frameworks that can be accessed. The most appropriate one for Parking is ESPO Framework 509, which is to be found on this link. (<https://www.espo.org/Frameworks/ICT-office-machines/Pay-Display-Solutions-and-Parking-Management-Infor>).
- iii. Looking at the cost that the current contractor is currently charging ESCC for the delivery of the Parking Enforcement IT System, it is evident that there may be savings if ESCC procured the system themselves.

iv. **The risks of outsourcing the IT system include:**

- Paying a much higher price because the Service Provider will demand a margin
- Not having direct control over how the IT system is to be developed and operated for the benefit of taking the service forward
- Does ESCC have the right level of IT support to assist the Parking Services team should it be required?

#### 14.8 Option 3 – A minimal in-house operation

- i. The option to outsource as much as possible has to be considered, however it should be recognised that in respect to Civil Parking Enforcement the Secretary of State's Statutory Guidance states:

**Formal representations**

*Many enforcement authorities contract out on-street and car park enforcement and the consideration of informal representations. Enforcement authorities should not contract out the consideration of formal representations. Enforcement authorities remain responsible for the whole process, whether they contract out part of it or not, and should ensure that a sufficient number of suitably trained and authorised officers are available to decide representations on their merits in a timely and professional manner.*

*i. In order to preserve the quality of the service and to be compliant with the Secretary of State's Statutory Guidance, ESCC should therefore not consider outsourcing this aspect of the parking operation.*

*ii. Due to the administration of the Notice Processing function having to remain in house, this requires a smallish team of knowledgeable and experienced staff and therefore they will be able to deal with some other functions for the overall benefit of the service.*

ii. **The risks of outsourcing all functions**

The risk of not being compliant with the Secretary of State's Statutory Guidance is one the County Council should not entertain.

#### 14.9 Recommendations

14.10 It is recommended that ESCC:-

1. Continue to outsource the parking enforcement service at this time,
2. It is further recommended that outsourcing as much of the parking service as possible is not appropriate to allow ESCC and its community to maximise the benefits that derive from the Parking Services Team having more control over the delivery of this important operational service.
3. To have the in-house team procure and manage some of the parking related services will result in the team gaining more experience together with the County achieving some financial savings, for example the Parking Enforcement IT system and the Cashless Parking service.
4. To mitigate against poor management from a private contract service provider, any future contract specification must be specific in terms of what ESCC will expect in the level of management capabilities and experience of operating a successful parking services operation.
5. New and appropriate SMART performance indicators must be introduced that will demonstrate the level of performance and that improvements are continuously being achieved.

6. It is also recommended that regular contract meetings (possibly twice a year) must include senior personnel from the Service Provider's corporate team.
7. Procurement should be requested to investigate whether the entry criteria could be reviewed in order to attract more car parking companies that have not yet operated on street parking enforcement contracts. This is to create more competition and to increase the level of innovation.
8. It is recommended that the function associated with determining challenges, representations and appeals against the issue of Penalty Charge Notices must remain with ESCC in-house team.

A handwritten signature in black ink, appearing to read 'Jack Creeber', with a large loop at the end of the signature.

Jack Creeber MBA MIHIE MCMi

Parking Consultant

## Appendix 1

### Benchmarking

	ESCC	Dover	Chichester	Mid Sussex	Adur & Worthing	Fareham	New Forest	Test Valley	Brighton
Number of PCNs issued	40,875	12,132	9,657	12,331	21,688	8,403	6,942	10,006	123,556
Number of Representations									
Number of PCNs cancelled	2,622	300	914	1,279	1,797	838	922	1,765	18,447
Number of Appeals	60	4	42		172	7	20	20	465
Allowed	26	2	8		30	2	1	6	161
Refused	28	1	20		82	4	19	9	288
Non Contested	6	1	14		60	1	0	5	127
Percentage of PCNs paid	78%			83.61%	80%	79.47%	77.70%		72%
PCN Income	£1,369,312	£66,390	£326,499	£409,686		£245,072	£191,000	£280,358	£3,777,375
On street Income				£122,781					£9,693,532
Off Street Income		£1,286,989		£1,805,990				£2,049,848	
Permit Income		£30,812		£39,226					
Income per PCN	£33.50	£5.47	£33.81	£33.22	£0.00	£29.16	£27.51	£28.02	£30.57

## APPENDIX 2

### Key Performance Indicators

#### 1 Introduction

- 1.1 Key performance indicators (KPIs) are important to a business because they help it focus on common goals and ensure those goals stay aligned within the organisation's objectives. It is important however that the operational objectives and strategies are regularly reviewed and to make necessary adjustments on the key performance indicators when appropriate.
- 1.2 It is a common failure that too many KPIs are introduced, without careful consideration as to what their intended purpose is and therefore it is not always easy to determine where improvements may be required and what progress is actually being made.
- 1.3 It must be recognised however that management information is vital to the successful running of a contract and for continuous improvement to be achieved, but this information should not necessarily be used to assess the Service Provider's performance.
- 1.4 With the above in mind many local authorities do not apply KPIs to their in-house operations, but this is as important as to monitoring the service providers performance.
- 1.5 It may be useful to break down the three components before considering what the most important KPIs are.

#### **Key**

- 1.6 What aspects of the parking services are key? The indicators should deal only with the aspects of the business that help it succeed.
- 1.7 For example, the amount of turnover in a department is something you can measure, but it does not make or break the company's success. On the other hand, year-over-year income for on and off street parking may indicate whether its business is growing or shrinking.

#### **Performance**

- 1.8 The objective for the "performance" portion of KPI is to find actions and events that the business can clearly identify, measure and quantify, and that the company itself or its employees can influence.

#### **Indicators**

- 1.9 An "indicator" should be a metric that helps predict future results. Too many metrics are looked at and kept for historical purposes. For example, your aging report might give a good indication of how long it takes you to collect on PCN debts, but it has no bearing on how well the company can do in the future. For instance, if £X.XX has always achieved in the month of November, the objective of a KPI might be to determine what level you want to be at based on historical results.

#### 2 What could be relevant Parking Services KPIs

- 2.1 The main question is what are the main areas that are pivotal for the parking services to be successful?
  1. staffing resource required for the contract / in house operations
  2. properly trained and experience staff

3. visit frequencies for on street restrictions and car parks
4. quality of the PCNs being issued
5. prompt and accurate responses to all correspondence
6. quality designed and implemented traffic regulation orders / schemes
7. maximising income potential

2.2 Therefore the KPIs that could be considered may include the following:

<b>Area of Operational Excellence</b>	<b>Purpose</b>
Level of attendance	It is vital for the operation to be properly resourced
Frequency of CEO patrols, especially where contraventions are high;	Having the desired presence should improve compliance and present a safe environment to the public
Level of training CEOs and office staff receive and pass	It is essential for staff to receive regular adequate and appropriate training
Quality of the PCN issue	To protect the reputation of the parking regime
Percentage of PCNs successfully challenged, but this needs to be identified between a. Council Policy b. Poor Traffic Regulation Orders c. Service Provider error	Understanding why a PCN has been cancelled is essential in order to identify how and where improvements can be made. It should be recognised that not all cancellations will be down to the workmanship of the Service Provider
Percentage of representations and other correspondence properly answered within a specified time.	It is necessary to set clear expectations of what is required  The public expect prompt responses, but they also expect all issues and points raised to be properly considered and answered.  Good grammar is also important
Level of complaints	All complaints received whether they have been upheld or not must be reviewed in order to assess whether changes to procedures and / or training may be required

2.3 In addition to the above suggestions that need to be given careful consideration to are

Production of performance / management information reports	Without the production of the reports it is not easy to assess the overall performance of the contract
Communication of issues / incidents	Non communication could be detrimental to the reputation of the contract as well as the effective operation and potential loss of income

### 3 KPI Targets

- 3.1 Knowing how the contractor is performing is valuable information in its own right, but a good measurement system will also help identify the triggers for any changes in performance. These days performance measurement is often linked to service failure deductions in order to exact some form of recompense for below standard performance, or act as the baseline for mechanisms to reward over performance.
- 3.2 The main reasons for measuring performance are to:
- Learn and improve
  - Report internally and externally
  - Demonstrate compliance
  - Provide information to help managers make better informed decisions
  - Comply with external reporting regulations and information requests
- 3.3 What cannot be determined from the current KPI reports is whether the targets currently being used by ESCC are aligned with benchmarked services with other local authorities and if not, this will not allow ESCC to ascertain whether their services are comparable with an industry standard.
- 3.4 One of the objectives of a performance indicator is to assess how well a contract is performing and to identify areas that may require improvement. It is therefore suggested that having 100% as a target from day one is not going to be beneficial in achieving this objective.
- 3.5 It may be better to have a sliding scale year on year throughout the life of the contract and this will then also assist in being able to demonstrate continuous improvement.
- 3.6 Another option would be to have 100% for one part of the KPI but to have other sub-targets e.g. respond to correspondence within 10 days (100%), with the following sub-targets 1) quality in addressing all the points raised (90%) and 2) grammar used (90%). This would allow elements of the KPI targets to be raised in future years and this will focus on the improvement of the quality of the responses.
- 3.7 To focus purely on the volume of responses being achieved can have an adverse impact on achieving the appropriate level of quality required for the responses.
- 3.8 If there are limited and / or no clearly defined standards to measure against, targets can be established in many ways by using:
- 3.9 **Best In Class**  
Benchmarks using available data from other local authorities recognised as being leading edge
- 3.10 **External Benchmark**  
Obtained from readily available data and / or information from within the Parking Industry
- 3.11 **Internal Benchmark**  
Comparing, where possible, similar services with other ESCC departments
- 3.12 **Experience**  
Where industry benchmarking data is not available, then targets could be based upon the experience and knowledge from within the service area itself. It is essential when using this method that the targets are robust but achievable and that in the early days the targets are periodically reviewed and adjusted if and when appropriate to do so.



### 3.13 Industry Standards

There are some industry standards that are openly available that could be used for benchmarking purposes, e.g. Traffic Penalty Tribunal annual reports and the annual reports from other local authorities.

## 4 The Current Contractor's comments on KPIs

- 4.1 The following are the contractor's thoughts on KPIs and what should be considered going forward.
- 4.2 To ensure ongoing high quality, performance and value for money, the service provider's charges should be linked to meeting KPIs. The KPIs should be weighted with the most critical ones chosen so the incentive to achieve them is meaningful. Too many KPIs will water down the penalty for non-achievement. For example, ensuring that the agreed deployment plan CEO hours are met, that the PCNs issued are valid and customer complaints responded to within a given time-scale.
- 4.3 KPIs that are functions of other KPIs should be avoided, for example, good quality digital photographs are a function of whether a PCN is ultimately valid or not and can be measured as a non-critical KPI and reported, assessed and improved through ongoing management review.
- 4.4 KPIs must not be 'aspirational'. They must be set at a level that signify a good level of performance and bearing in mind it is likely that the workforce will transfer, must be benchmarked against existing performance.
- 4.5 If the KPIs ratchet up year on year to unachievable levels, this will merely encourage bidders to insert a high risk premium within their charges to off-set the risk and thus, the service will cost the Council more.
- 4.6 Historically Local Authorities asked bidders to tender a % of their monthly charges against the achievement of KPIs (essentially a profit mark-up that is at risk), the contractor suggests that the Council specify the % at risk against performance with 10% being the optimal figure.
- 4.7 Or as in the current ESCC contract the Authority offers a bonus for achievement of the KPIs, it is then up to the contractor how much of this bonus they offset against any mark-up.

## Parking Enforcement Market

### 1 Introduction

- 1.1 The parking enforcement market is extremely small and due to local government procurement rules, it is virtually impossible for new entrants.
- 1.2 There are three main companies
  1. NSL
  2. APCOA
  3. Indigo (formally Vinci Park)
- 1.3 The big three companies are all owned by Private Equity companies
  1. NSL – Marstons
  2. APCOA – Centrebridge
  3. Indigo - Ardian
- 1.4 NSL is the market leader with regard to on street contracts that it operates (60 plus), with APCOA in second and due to an inconsistent on street strategy over many years Indigo comes a very poor 3rd.
- 1.5 Indigo has tended to favour the off street market, concentrating on Design, build and operate large multi-storey car parks for the NHS hospital sites. Their recent change of name and “break” from Vinci Park has seen another venture back into competing for on street contracts but without any success as yet.
- 1.6 In 2013 Serco acquired the West London Alliance contract, serving the London Boroughs of Brent and Hounslow. Ealing had the option to join but decided against it. It should be noted that Serco have not added any further contracts and it is rumoured that Serco will be pulling out of the parking enforcement market.

### 2 Potential Strengths of the parking market

- 2.1 These three companies operating a large number of contracts should make them very knowledgeable, especially as one would expect the companies to develop a wealth of expertise from sharing of best practice amongst their various contracts.
- 2.2 Local authorities would expect them to be constantly promoting new solutions, more effective working and introducing innovation.

### 3 Potential Weaknesses

- 3.1 It is highly probable that local authorities will not receive the focus and attention that is required to keep driving the service improvements forward. This is possibly due to the limited number of service providers and the almost impossible opportunity for new entrants which results in no competition.
- 3.2 Because all the main players are owned by Private Equity companies they usually have a 5 to 8 year business plan prior to selling the company on for a profit.
- 3.3 Tenders are usually priced to show relatively low operational margins but to increase their actual margin the Companies will inflate certain rates, which it is suggested has been the case with the current contract together with adding many extra over costs on the quoted rates.

**Report to:** Lead Member Transport & Environment

**Date of meeting:** 18 July 2017

**By:** Director of Communities, Economy and Transport

**Title:** Statement of Community Involvement Revision

**Purpose:** To seek the Lead Member's agreement to publish the revised draft Statement of Community Involvement for consultation.

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**RECOMMENDATION:** The Lead Member is recommended to approve the revised draft Statement of Community Involvement for public consultation.

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## **1 Background**

1.1 Section 18 of the Planning and Compulsory Purchase Act 2004 requires local planning authorities to produce a Statement of Community Involvement (SCI), which should explain how they will engage local communities and other interested parties in producing their Local Plan and determining planning applications. The SCI should be regularly reviewed and accordingly revised in order to ensure that it is kept relevant. Any revisions made to the SCI need to be subject to public consultation.

1.2 The County Council's SCI needs to cover the consultation and engagement arrangements for the Local Plans the Council intends to prepare, as set out in the Minerals and Waste Development Scheme (Appendix 1). It also needs to cover the consultation and engagement arrangements for all planning applications for minerals and waste (County Matters) and for the County Council's own service development (e.g. schools, roads and libraries).

1.3 There have been a number of changes to the planning system since the previous SCI was adopted in 2013 and it is therefore in need of revision. In addition, the SCI needs to be updated following changes to the delegation arrangements regarding the South Downs National Park Authority (SDNPA) and the work that was previously undertaken by the County Council on its behalf.

## **2 Supporting Information**

2.1 The draft revised SCI has been developed following experience of public consultation and engagement undertaken during the development of the Waste and Minerals Plan, the Waste and Minerals Sites Plan and the determination of planning applications. The draft revised SCI is enclosed as Appendix 2.

2.2 The draft revised SCI sets out how and when communities can become involved in planning matters and the methods of consultation, engagement and publicity the Planning Authority will use. It further establishes the minimum public consultation and publicity standards the Council is required by law to meet and sets out how and when these will be exceeded. The draft revised SCI also reflects that East Sussex County Council no longer acts as agent for the South Downs National Park Authority in development management matters within the Park's area of East Sussex.

2.3 In order to obtain the views of communities and other stakeholders on how they wish to engage in the planning process, it is proposed that there is public consultation on the draft revised SCI. Comments received during the consultation will be then be appraised. A final version of the SCI will then be presented to Lead Member for adoption.

## **3. Conclusion and reasons for recommendations**

3.1 The Council has to meet the statutory requirement to produce a Statement of Community Involvement. The draft revised SCI updates the existing document to take into account changes in national government planning policy and the Localism Act and reflects experiences in undertaking public consultation over the past four years. It also reflects the changes to development management delegation arrangements within the South Downs National Park. Following Lead Member agreement,

the draft document will be published for public consultation. A final version of the SCI will then be reported to Lead Member for adoption at a later date.

RUPERT CLUBB

Director of Communities, Economy and Transport

Contact Officer: Sarah Iles

Tel. No: 01273 481631

Email: [sarah.iles@eastsussex.gov.uk](mailto:sarah.iles@eastsussex.gov.uk)

#### LOCAL MEMBERS

All

#### BACKGROUND DOCUMENTS

East Sussex Statement of Community Involvement 2013.

## East Sussex Minerals & Waste Development Scheme

February 2017

This Minerals and Waste Development Scheme sets out the Waste and Minerals Development Plan Documents East Sussex County Council proposes to prepare, and the existing Plans it intends to save or revoke, over the next three years.

Please refer to other Local Development Schemes and Minerals and Waste Development Schemes for other Plans being prepared by other Planning Authorities, such as the District and Borough Council's in East Sussex.

### Schedule of Adopted Development Plan Documents

East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (2013) [Adopted February 2013]

East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (2017) [Adopted February 2017]

East Sussex and Brighton & Hove Construction and Demolition Waste Supplementary Planning Document (2006) [Adopted March 2006]

*See overleaf for Schedule of Proposed Documents*

## Schedule of Proposed Documents

Document Title	Subject Matter	Geographical area	Authorities (jointly responsible)	Timetable
East Sussex Statement of Community Involvement	Review of the Statement of Community Involvement.	County of East Sussex (outside South Downs National Park)	East Sussex County Council	<b>Adoption:</b> Summer 2017.
First Review of the Waste and Minerals Local Plan	A review, as necessary, of the policies contained within the Local Plan, (excluding the Construction and Demolition Supplementary Planning Document, see below).	County of East Sussex. City of Brighton & Hove  The area of the South Downs National Park that lies within the County of East Sussex	East Sussex County Council;  South Downs National Park Authority;  Brighton & Hove City Council.	<b>Call for Sites / Content (Reg18):</b> Summer / Autumn 2017; <b>Preferred Strategy Consultation (Reg 18):</b> Spring 2018; <b>Pre-Submission Consultation (Reg 19):</b> Autumn / Winter 2018; <b>Submission:</b> early 2019; <b>Adoption:</b> Summer 2019.*
Construction and Demolition Supplementary Planning Document - Review	A review of the Construction and Demolition Supplementary Planning Document with a view to revocation.	County of East Sussex. City of Brighton & Hove	East Sussex County Council;  Brighton & Hove City Council.	<b>Review of document:</b> Summer / Autumn 2017; <b>Revocation (Reg 15(b)), if applicable:</b> Spring 2018.

The Adopted Waste and Minerals Policy Map will be revised at the same time as any DPD is adopted so as to illustrate geographically the application of the policies in the DPD revision (Town and Country Planning (Local Planning) (England) Regulations 2012 Reg 9).

\* Timescales may vary.

# East Sussex County Council Draft Statement of Community Involvement





## Statement of Community Involvement Review 2017

### Statement of Community Involvement Review 2017

East Sussex County Council, as a local planning authority is required by section 18 of the Planning and Compulsory Purchase Act 2004 to prepare a Statement of Community Involvement (SCI). This draft Statement of Community Involvement sets out the Council's policy in relation to public engagement in the preparation and review of planning documents and determination of planning applications. The first SCI was adopted in 2006, followed by a revised version in 2013. This document is the draft of the third version which has been updated to incorporate updated legislation and reflect changes in national planning policy.

At this time, views are being sought on the content of the draft document.

#### How to comment

Comments may be made online, by email or post using the addresses below:

- **Online** - <http://consult.eastsussex.gov.uk>
- **Email** - [wasteandmineralsdf@eastsussex.gov.uk](mailto:wasteandmineralsdf@eastsussex.gov.uk)
- **Post** - SCI Review 2017, Planning Policy and Development Management - Communities, Economy and Transport, East Sussex County Council, County Hall, St Anne's Crescent, Lewes, BN7 1UE.

The deadline for comments is **?? ??????? 2017**.

## Introduction

### Introduction

**1.1** East Sussex County Council, as a local planning authority, is required by section 18 of the Planning and Compulsory Purchase Act 2004 to prepare a Statement of Community Involvement (SCI). This Statement of Community Involvement sets out the Council's policy in relation to public engagement in the preparation and review of planning documents and determination of planning applications.

**1.2** This, the third version of the East Sussex SCI, has been updated to incorporate updated legislation and reflect changes in national planning policy. It builds on the Council's commitment to promoting equality, both in the provision of its services and the methods used to deliver them, with specific consideration has being given as-to how to include those who have may have difficulty engaging with planning, sometimes referred to as 'hard to reach' groups. Through the implementation of this SCI the Council seeks to undertake early and meaningful engagement with the local communities of East Sussex, so that plans, as far as possible, reflect a collective vision and a set of agreed priorities; and planning application are effectively publicised and determined in consultation with local communities.

**1.3** We hope you find this SCI useful but please contact us if you have any queries. You can contact us on the details below:

**Email** - [wasteandmineralsdf@eastsussex.gov.uk](mailto:wasteandmineralsdf@eastsussex.gov.uk)

**Phone** - 01273 481846

If you wish to be notified about Waste and Minerals Local Plan Consultations you can register your details at our on-line consultation portal: <http://consult.eastsussex.gov.uk>. By doing this you will automatically be informed when consultations take place.

## Promoting Equality

### Promoting Equality

2.1 The County Council is committed to promoting equality, both in the provision of its services and the methods used to deliver them. The Council will seek to ensure that there is equal opportunity for all to become involved in planning at all stages of plan production and throughout the lifetime of a planning application. Where there are barriers to access, the Council seeks to overcome them. The Council also seeks to specifically include those who may have difficulty engaging with planning, sometimes referred to as 'hard to reach' groups. This may include specific groups such as:

- children and young people;
- older people;
- black and minority ethnic people (BME);
- people with disabilities, or those with special needs;
- people who are unemployed or on low incomes;
- young single parents;
- refugees and asylum seekers;
- people who are homeless;
- lesbians, gay men and other people discriminated against because of their sexuality; and
- the Gypsy and Traveller community.

2.2 It may also include those who have specific difficulties such as:

- illiteracy;
- learning difficulties;
- language difficulties;
- mobility difficulties;
- hearing and visual impairments;
- remoteness from public transport; and
- remoteness from Council Offices and libraries.

2.3 Officers will consider the potential interest and involvement of hard to reach groups or individuals during the production of Local Plans and during the determination of planning applications and the best methods to involve them.

2.4 Additionally, Equalities Impact Assessments are carried out on each of the documents forming part of the Waste and Minerals Local Plan as they are prepared. These help to identify if a group or groups are particularly affected by the Local Plan. Further information on the Equalities Act 2010 and the Council's duty can be found on the [County Council's Equalities webpage](#).

## Community Engagement in Planning Policy

### Community Engagement in Planning Policy

**3.1** East Sussex County Council, as a waste and minerals planning authority, is responsible for the preparation of the Waste and Minerals Local Plan for East Sussex. The Council may also prepare Supplementary Planning Documents which provide area or topic specific guidance. Each of these have different consultation requirements.

#### Local Plans

**3.2** Local Plans must be prepared in line with the Planning and Compulsory Purchase Act 2004, the Localism Act 2011, the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended) and the National Planning Policy Framework. The National Planning Policy Guidance provides further guidance.

**3.3** The County Council is required to consult with:

- Specific Consultation Bodies that the local planning authority consider may have an interest in the subject of the proposed local plan;
- General Consultation bodies that the local planning authority consider appropriate; and
- residents or other persons carrying on business in the local planning authority's area from which the authority considers it appropriate to invite representations.

**3.4** The first stage of consultation, known as Regulation 18 consultation, invites representations to be made on the content of the proposed plan. This may take the form of one or several consultations depending on the form and content of the document being produced. A pre-submission plan is then produced and representations are invited on the 'soundness' of the plan; this is known as a Regulation 19 consultation. The Council will then submit the draft Plan to Government which triggers a Public Examination of the Plan. This is where an Independent Planning Inspector determines if the Plan is 'sound' and legally compliant. During the Examination, should the Council decide that changes to plans are needed, further consultations may occur. At the end of the Examination, should the Inspector find the Plan 'sound' and legally compliant, the Council may then adopt the Plan and use it in the determination of planning applications.

**3.5** During all consultations on Local Plans, the County Council will:

**Table 1** Publicity, Consultation and Comments

Methods used	Comments
Run consultations for a minimum of six weeks. <sup>(1)</sup>	This may be extended to allow for holiday periods.

<sup>1</sup> Minimum period of consultation as outlined by The Town and Country Planning (Local Planning)(England)Regulations 2012.

## Community Engagement in Planning Policy

Methods used	Comments
Maintain a database of General, Specific and other consultees to be consulted during each stage.	The database will also be used to provide updates outside of consultation periods and to advise in advance of forthcoming consultations and topics.
Make relevant documents and material available for inspection at County Council offices and other suitable places for a minimum six weeks consultation period.	This will be extended to district and borough offices, parish councils and libraries when appropriate.
Make relevant documents and material available for inspection on the County Council website for a minimum six weeks consultation period.	Relevant documents and material will be available for the whole consultation period, and will be archived for future reference when the consultation period is over.
Establish a consultation portal on the internet.	Allows documents to be viewed and comments to be made in one place online.

**3.6** During all consultations on Local Plans, the Council may use some or all of the following methods below to consult and engage with communities:

**Table 2** Methods of Community Involvement

Methods used	Comments
Hold public exhibitions and roadshows at selected venues, usually staffed to enable on hand explanation, discussion and feedback.	Unstaffed small displays may also be suitable in libraries or other offices for general publicity or information.
Hold public workshops to discuss and debate issues and/or particular proposals for an area.	These may take place at weekends and outside normal working hours.
Undertake face to face meetings with organisations to discuss specific or detailed issues.	Meetings could be arranged with individuals in certain circumstances.
Attend open meetings subject to staff resources.	N/A
Undertake Action Planning exercises to engage with specific communities, particularly those considered 'Hard to Reach'.	This could be extended for other activities, such as generating

## Community Engagement in Planning Policy

Methods used	Comments
	ideas to explore the type and location of waste facilities.
Invite comments on proposals through the County Council magazine "Your County" or equivalent publications.	N/A
Produce leaflets and brochures to provide non-technical issues for a wider audience.	These may be delivered directly to individuals and stakeholders
Place advertisements in local newspapers and issue other media releases.	N/A
Use of Social Media such as Facebook and Twitter to raise awareness of issues and invite comment.	N/A
Use the County Council's website to raise awareness and invite comment.	N/A

**3.7** The County Council may use all or some of the above methods of consultation. This will depend on the subject of the proposals, the most affected communities, the planning issues raised, the extent to which it may be considered controversial and the resource costs of each method.

**3.8** The amount and mix of consultation methods used for any given document will be at a level which can be reasonably expected for the status of the local plan.

**3.9** Any person may make a request for a copy of the relevant documents in order to make a representation. The County Council will provide a copy as soon as is reasonably practicable to do so, but may have to make a reasonable charge for the document.

**3.10** Staff will usually be available by telephone during standard office hours to answer questions and provide relevant information during the consultation.

**3.11** Plain English will be used in all documents to ensure everyone who wishes to engage with the planning process can do so without confusion and misunderstanding. Sometimes it is inevitable, however, that in some cases specific terminology will be used in planning literature. When this happens, every effort will be made to ensure that an easy to understand explanation is available somewhere in the document or on the website. In most cases this should be in the text or a footnote, but definitions or a glossary may also be provided. A planning officer will usually be available for further questions relating to any documents produced by the service.

## Community Engagement in Planning Policy

**3.12** Where decisions have to be taken on a document or other material by a County Council committee as part of the Local Plan process, a report will be considered and a decision made by the Lead Member for Transport and Environment, the Cabinet, or the full Council as appropriate. This is in accordance with legal requirements and the County Council's constitution. They will be advised by the Planning Committee where appropriate. Local Plans could be scrutinised by the Economy, Transport and Environment Scrutiny Committee and decisions by the Lead Member for Transport and Environment could be referred to full Council by the Scrutiny Committee.

### Supplementary Planning Documents

**3.13** The Council may also produce Supplementary Planning Documents (SPDs) when required. SPDs expand on policies or provide greater detail than can be included in a Local Plan. Whilst they must undergo public consultation, they do not pass through all the stages listed above for Local Plans.

**3.14** Prior to adopting an SPD, the County Council must:

- Make relevant documents and material available for inspection at County Council offices and other locations that the local planning authority consider appropriate for a minimum four weeks consultation period; and
- Make relevant documents and material available for inspection on the County Council website for a minimum four weeks consultation period.

**3.15** The County Council will exceed these minimum requirements when it is appropriate to do so. The consultation period may be longer than four weeks, for example, where it overlaps with a public holiday or involves a particularly sensitive or controversial issue. The initial consultation on the form of the SPD will be undertaken using appropriate methods from those listed above in Table 2.

**3.16** The SPD would then be adopted by the County Council following any necessary changes identified during the consultation period. SPDs are not subject to independent examination.

### Partnership working

**3.17** East Sussex County Council works in partnership with Brighton & Hove City Council and the South Downs National Park Authority on the preparation of Waste and Minerals Planning Policy documents for East Sussex and Brighton & Hove, including the area within the South Downs National Park. Under the existing arrangements each authority has to approve each plan document. There are no arrangements for a joint approval committee.

## Community Engagement in Planning Policy

### **Duty to Co-operate**

**3.18** The Localism Act 2011 introduced a 'duty to co-operate' between specific bodies, of which the County Council is one. The duty exists to ensure that the authorities involved in land use planning cooperate with each other in the preparation of their respective plans. This particularly applies to strategic matters such as housing provision, waste management and minerals provisions. In the preparation of the Waste and Minerals Local Plan the Council will work with the other prescribed bodies in the spirit of the duty to cooperate. The exact methods used will depend on the topic and bodies involved, but may involve meetings or statements of common ground.

### **Neighbourhood Plans**

**3.19** The Localism Act 2011 also makes it possible for parish councils and neighbourhood forums to prepare neighbourhood plans for their areas. These plans allow local communities to prepare plans indicating where future development should be located in their area. Once these plans are 'made' they are considered to be part of the Local Plan for the area and are used in the determination of planning applications. Whilst neighbourhood plans may not contain policies about 'strategic matters' such as the topics of minerals and waste development, the Council will sometimes comment and engage with the Parish / Town Council or Neighbourhood Forum where waste management or minerals infrastructure exists and may affect their Plan.



## Community Engagement in Development Management

### Community Engagement in Development Management

4.1 The County Council is responsible for the determination of two types of planning application:

- Minerals and Waste development; and
- County Council development, for example, schools, roads, libraries and social services buildings.

4.2 There are currently no joint working arrangements with other planning authorities.

#### Pre-application consultation

4.3 For certain types of development, specifically onshore windfarm developments, the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) requires applicants to undertake a public consultation prior to submitting a planning application. Likewise, National and Local Policy, for example NPPF paragraph 66 and Policy WMP20 of the Waste and Minerals Plan typically encourage applicants for larger developments to undertake public engagement prior to submitting an application for determination. These consultations are normally developer-led and generally do not involve the planning authority.

4.4 There is no requirement on the County Council as a Planning Authority to hold a public consultation when responding to pre-application proposals. However, the Council may seek specialist advice as it sees fit.

#### Publicity of a planning application & consultation arrangements

4.5 The Town and Country Planning (Development Management Procedure) (England) Order 2015 sets out the statutory requirements for publicity and advertisement for planning applications. The table below summarises the minimum requirements for publicising planning applications.

Table 3 Minimum requirements for publicising planning applications

Type of application	Minimum publicity requirements
Minerals and waste applications and other "major development" applications	Advertised in a local newspaper; <b>and</b> Site notice or neighbour notification letter

## Community Engagement in Development Management

Type of application	Minimum publicity requirements
Other applications that: <ul style="list-style-type: none"> <li>are accompanied by an Environmental Statement;</li> <li>depart from the development plan; or</li> <li>affect a right of way</li> </ul>	Advertised in a local newspaper; <b>and</b> site notice
Other applications that: <ul style="list-style-type: none"> <li>affect the setting of a listed building; and/or</li> <li>the character or appearance of a conservation area</li> </ul>	Advertised in a local newspaper; <b>and</b> site notice
Non-Material Amendment Applications	Consultation is discretionary
All other applications	Site notice or neighbour notification letter

**4.6** In each case, the Local Planning Authority must also publish information about each planning application received on its website. This information must include:

- the address or location of the development;
- a description of the development;
- the date by which representations should be received;
- where and when the application can be inspected; and
- how representations can be made.

**4.7** Current planning applications are available to view at County Hall and at the relevant District and Borough Council offices as set out on the councils' websites. For historic planning applications please check with the Council first as these may have to be retrieved from archives and may not be immediately available.

**4.8** The period given to respond to a consultation is 21 days, except for applications requiring an Environmental Statement which is 42 days.<sup>(2)</sup>

**4.9** Representations on planning applications must be made in writing to the County Council online, by email or by post.

**4.10** The County Council will meet and, as appropriate, exceed the statutory requirements for publicity for planning applications.

**4.11** Electronic communication is considered the most appropriate and cost effective way of disseminating information on planning applications to the widest possible number of people and organisations. Whilst it is acknowledged that

## Community Engagement in Development Management

e-communications may not be the most appropriate method for every consultee, the Council wishes to encourage a shift to this form of communication. Therefore, whilst hard copies of planning applications and supporting information may still be requested, the County Council reserves the right to make a reasonable charge for this information.

**4.12** A variety of additional communication methods can be utilised to ensure appropriate communities are engaged during the determination of major planning applications. These will be chosen from the table below:

**Table 4 Additional methods for publicising planning applications**

Methods	Description
Public exhibitions and meetings	The Council will, when appropriate: <ul style="list-style-type: none"> <li>encourage applicants to hold exhibitions, public fora and/or community meetings at an early stage to explain, discuss and seek public feedback on their proposals</li> </ul>
Focus and discussion groups and meetings	In certain circumstances, the Council will: <ul style="list-style-type: none"> <li>encourage discussion with groups of local organisations where there is a particular issue or set of issues raised by a proposal or applications, or the level of interest makes it appropriate</li> <li>arrange meetings with organisations representing hard to reach groups, or with hard to reach groups themselves, where it is an appropriate way of seeking their views</li> </ul>
Liaison groups	The County Council will: <ul style="list-style-type: none"> <li>encourage and, where appropriate, facilitate the establishment of liaison groups to monitor and disseminate information locally on the progress of any subsequent major development to provide a link between the community and local authorities, applicants and developers</li> </ul>
Public surgeries	When appropriate, the Council will: <ul style="list-style-type: none"> <li>use local premises as a drop in point for information and/or discussion for some major or controversial applications</li> </ul>
Planning Aid	The County Council will: <ul style="list-style-type: none"> <li>recommend and publicise the use of the Planning Aid organisation as additional and independent help for people who want to be involved in the consideration of proposals and/or applications, with the particular aim of facilitating the involvement of hard to reach groups</li> </ul>

## Community Engagement in Development Management

**4.13** The case officer will consider the appropriate consultation methods that should be used for each application received, taking into account the nature of the proposal, which communities are likely to be affected, planning issues likely to be raised, the extent to which the application is likely to be controversial and the resource costs of each method.

**4.14** The majority of planning applications do not come before the Planning Committee, but are dealt with under powers delegated to the Head of Planning and Environment Service (known as Delegated Powers). In these cases, where no more than one objection is raised during the public consultation and the scheme is not considered to be major or controversial, a planning officer will produce a report and recommendation which will be approved under delegated powers by the Head of Planning and Environment. The decision notice is then issued.

**4.15** The circumstances where an application will be determined under delegated powers or by the Planning Committee are outlined in the Council's formal [Scheme of Delegation](#). The Scheme of delegation helps to streamline the system and ensure that Planning Committee time is utilised to maximum effect scrutinising the most appropriate applications. However, applications for major and/or controversial proposals will also likely go before the Committee regardless of whether objections have been received.

### Planning Committee

**4.16** If an application is not dealt with under delegated powers it will go before the Planning Committee for determination. As with the delegated decisions, a planning officer will produce a report and recommendation which will then be debated at a meeting of the Planning Committee. The decision notice is then issued.

**4.17** Members of the public can speak at the Planning Committee provided the interested person has made written representations to the relevant case officer in the Council's Planning Policy and Development Management Team on the relevant application at least 7 days in advance of the meeting.

**4.18** If this requirement has been met, those who wish to speak should contact the Democratic Services Officer on 01273 481935 no later than 12 noon on the Friday before the meeting. The agenda for each Committee will be published at least five working days before the meeting. It is not possible to alert each respondent on whether an item is going before the Planning Committee meeting because some applications can attract a large volume of responses.

**4.19** Planning Committee meetings are generally held on a Wednesday, once a month, starting at 10.30am in the Council Chamber at County Hall, Lewes. Speakers should arrive at least 15 minutes before the start of the meeting. The Committee's schedule is published on the Council's website.

**4.20** There are three categories of people who can speak. They are:

## Community Engagement in Development Management

- up to three individuals or group representatives, including any parish or town council representative, who are opposing the planning application;
- up to three individuals or group representatives, including any parish or town council representative, and including the applicant who are supporting the planning application; and
- local County Councillors.

**4.21** Details on procedures of the Planning Committee and what will happen on the day and full details regarding public speaking arrangements are available from the [County Council's website](#).

**4.22** Agendas and minutes of previous meetings are available on the County Council website. Planning Committee meetings are also webcast live and available for viewing for the following six months.

### Development Management - Feedback

**4.23** On matters related to proposals and applications, the County Council will provide feedback to individuals, organisations and the community generally in the following ways. These are in addition to, or an expansion of, the methods set out elsewhere in this SCI:

- progress on an application, including responses and representations by consultees and the public, reports to Committee, and decisions, will be available through the County Council website.
- comments received on applications will normally be acknowledged.
- all applications reported to the Planning Committee (or other committee) will be the subject of a report by the Director of Communities, Economy and Transport (DCET) or the Head of Planning and Environment. This will include a summary of the consultation responses and representations received and how they have been taken into account, an analysis of the issues raised by the application, and a recommendation to the committee by the officer. All comments and representations received will be considered and appraised on the basis of the merits of the planning arguments put forward, regardless of whether a point is made by one or more individuals, groups, or organisations, or whether it is the result of a statutory or voluntary response. The Planning Committee Agenda is published at least five working days prior to the committee meeting. The associated reports are normally published with the agenda, but there may be exceptional circumstances when this does not occur.
- applications determined by the DCET or the Head of Planning and Environment under the County Council's scheme of delegation ("delegated decisions") will also be the subject of a report by the DCET or the Head of Planning and Environment. These reports will be made available on the County Council's website, together with the other documents related to an application;

## Community Engagement in Development Management

- the County Council will notify by letter or email the decision on an application to all those people, community organisations and other bodies which submitted comments;
- copies of the decision notice for an application will be sent to the relevant Borough/District Council and will be made available for inspection at County Hall, Lewes and on the Council's website. This will include any legal agreement associated with a permission.

## Future reviews of the SCI

### **Future reviews of the SCI**

5.1 The County Council will monitor the implementation of the SCI and will include this as part of its Annual Monitoring Report. It will use feedback from stakeholders, community groups and others as well as evidence from consultations and involvement on Local Development Documents and planning applications. The results will be published and will be used to update and review the methods of community involvement and other procedures.

## Future reviews of the SCI

### **Appendices**

1. Consultees for Local Development Documents
2. Typical deposit points for Local Development Documents
3. Publicity and advertisement requirements for planning applications



## Consultees for Local Development Documents 1

### Appendix 1: Consultees for Local Development Documents

The Town and Country Planning (Local Planning) (England) Regulations 2012 set out the requirements for consultation on Local Development Documents at the Regulation 18 and 19 stages.

**Under Regulation 18**, when preparing Minerals and Waste Development Documents the County Council must:

- (a) notify specific consultation bodies, general consultation bodies, and such residents or other persons carrying on business in the local planning authority's area from which the local planning authority consider it appropriate to invite representations, of the subject of a local plan which the local planning authority propose to prepare, and
- (b) invite each of them to make representations to the local planning authority about what a local plan with that subject ought to contain.

**Under Regulation 19**, when preparing Minerals and Waste Development Documents the County Council must:

- (a) make a copy of each of the proposed submission documents and a statement of the representations procedure available in accordance with regulation 35, and
- (b) ensure that a statement of the representations procedure and a statement of the fact that the proposed submission documents are available for inspection and of the places and times at which they can be inspected, is sent to each of the general consultation bodies and each of the specific consultation bodies invited to make representations under regulation 18(1).

Set out below are the lists of these consultation bodies which the County Council must use in meeting the consultation requirements at different stages in the production of Local Development Documents. A more detailed list of named organisations will be maintained and updated by the County Council, together with other groups and individuals who have expressed a desire to be kept informed regarding the progress of Local Development Documents. These lists will provide the basis for consultation at the different stages of Local Development Documents.

#### *Specific Consultation Bodies*

- The Coal Authority
- The Environment Agency
- The Historic Buildings and Monuments Commission for England, (known as Historic England)
- The Marine Management Organisation
- Natural England

# 1 Consultees for Local Development Documents

- Network Rail
- Highways England
- The Secretary of State for Transport, (where they are the Highways Authority for any highway in East Sussex)
- Homes and Communities Agency
- Borough, District, Town and Parish Councils within East Sussex,
- County, Borough, District, Town and Parish Councils adjoining East Sussex
- Surrey and Sussex Healthcare NHS Trust
- Any person to whom the electronic communications code applies by virtue of a direction given under Section 106 (3) (a) of the Communications Act 2003, and who owns or controls electronic communication apparatus situated in East Sussex
- Any person to whom a licence has been granted under section 6 (1) (b) or (c) of the Electricity Act 1989 and who exercises functions in East Sussex
- Any person to whom a licence has been granted under section 7 (2) of the Gas Act 1986 and who exercises functions in East Sussex
- Sewerage undertakers who exercise functions in East Sussex
- Water undertakers who exercise functions in East Sussex

## *General Consultation Bodies*

- Voluntary bodies, some or all of whose activities benefit any part of East Sussex
- Bodies which represent the interests of different racial, ethnic or national groups in East Sussex
- Bodies which represent the interests of different religious groups in East Sussex
- Bodies which represent the interests of different disabled persons in East Sussex
- Bodies which represent the interests of persons carrying on business in East Sussex<sup>(3)</sup>

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3 For the purposes of County Council planning, this refers to those people or businesses carrying out Waste and Minerals activities

## Typical deposit points for Local Development Documents 2

### Appendix 2: Typical deposit points for Local Development Documents

There are occasions when Local Plans and other documents must be put on deposit. Below is a list of typical deposit points. The exact list of deposit points for any consultation may vary and will normally be listed on the consultation notice.

**Battle** - Rother District Council Help and Advice Centre, 6 Market Square, Battle

**Bexhill-on-Sea** - Rother District Council, Town Hall, Bexhill-on-Sea

**Crowborough** - Crowborough Library, Pine Grove, Crowborough, East Sussex TN6 1DH

**Eastbourne** - Eastbourne Borough Council, Economy, Tourism and Environment Department, 1 Grove Road, Eastbourne

**Hailsham** - Wealden District Council, Vicarage Lane, Hailsham

**Hastings** - Community Contact Centre, Hastings Town Hall, Queens Road, Hastings, TN34 1QR

**Lewes** - East Sussex County Council, Communities, Economy and Transport, County Hall, St. Anne's Crescent, Lewes

**Lewes** - Lewes District Council Planning and Environmental Services Department, Southover House, Southover Road, Lewes

**Newhaven** - Newhaven Area Office (Lewes District Council), Saxon House, Meeching Road, Newhaven, BN9 9QX

**Rye** - Rye Library and Information point, 30 High Street

**Seaford** - Seaford Town Council Offices (Lewes District Council), 37 Church St, Seaford BN25 1HG

### 3 Publicity and advertisement requirements for planning applications

## Appendix 3: Publicity and advertisement requirements for planning applications

The Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended) defines the way in which different types of planning applications shall be publicised by the County Council.

All planning applications must be publicised by the local planning authority, either by a site notice or by notification to neighbours. In addition, an advertisement in a local newspaper is required in some cases.<sup>(4)</sup>

There are three categories of application for the purposes of publicity and advertisement.

**For applications for “major development”**, i.e. the winning and working of minerals or the use of land for mineral-working deposits; waste development (meaning any operational development designed to be used wholly or mainly for the purpose of, or a material change of use to, treating, storing, processing or disposing of refuse or waste materials); the provision of dwellinghouses where (i) the number of dwellinghouses to be provided is 10 or more or, if this is not known, (ii) the development is to be carried out on a site having an area of 0.5 hectare or more; the provision of a building or buildings where the floor space to be created by the development is 1000 square metres or more; development carried out on a site having an area of 1 hectare or more;

The County Council is required:

(a) to mount a site display on or near the land for at least 21 days prior to determining the application, or to serve the notice on any adjoining owner or occupier; and

(b) to publish a local advertisement.

**For an application that: is accompanied by an environmental statement; or is a departure from the development plan; or is development affecting a public right of way;**

The County Council is required to:

(a) mount a site display on or near the land for at least 21 days prior to determining the application; and;

(b) publish a local advertisement;

**For all other applications** the County Council is required to either:

4 The Town and Country Planning (Development Management Procedure) (England) Order 2015, Part 2, Subsection 15

## Publicity and advertisement requirements for planning applications 3

(a) mount a site display on or near the land for at least 21 days prior to determining the application, or

(b) serve the notice on any adjoining owner or occupier.

**In all cases** the local planning authority must publish the following on its website:

- the address or location of the proposed development;
- a description of the proposed development;
- the date by which any representations about the application must be made, which shall not be before the last day of the period of 14 days beginning with the date on which the information is published;
- where and when the application may be inspected;
- how representations may be made about the application; and
- that, in the case of a householder application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Secretary of State and there will be no opportunity to make further representations.

**East Sussex County Council**  
County Hall  
St Anne's Crescent  
Lewes BN7 1UE  
Phone: 0345 60 80 190  
Website: [eastsussex.gov.uk](http://eastsussex.gov.uk)

September 2017

**Report to:** Lead Member for Transport and Environment

**Date of meeting:** 18 July 2017

**By:** Director of Communities, Economy and Transport

**Title:** Statement of Common Ground on Soft Sand between the South East Mineral Planning Authorities

**Purpose:** To respond and agree to the Statement of Common Ground which has implications for the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan and its imminent review.

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**RECOMMENDATION:** To authorise the Director of Communities, Economy and Transport to sign the Statement of Common Ground and review/update and agree to amendments to it as necessary

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## **1 Background**

1.1 The County Council as minerals planning authority (mpa) is required to plan for a steady and adequate supply of aggregates (sand and gravel) to serve the constructional needs of the area. The County Council works jointly with Brighton & Hove City Council (B&HCC) and the South Downs National Park Authority (SDNPA) to prepare waste and minerals planning policies. Policies for aggregates provision are contained in the East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan 2013 (WMP) and the corresponding Sites Plan adopted in February this year. The County Council is committed to a review of these policies and anticipates the first stage of the process ("call for sites") starting later this year.

1.2 In accordance with national policy the County Council also participates in the operation of the South East England Aggregate Working Party (SEEAWP), which is made up of mpas in the South-East area. Advice from this Party is taken into account in the preparation of the County Council's annual Local Aggregate Assessment (LAA). Section 110 of the Localism Act sets out a "duty to cooperate" under which planning authorities are required to engage constructively, actively, and on an ongoing basis where there are significant cross-boundary issues, such as the supply of minerals. Involvement in SEEAWP activities is therefore important for the County Council in fulfilling the Duty to Cooperate requirement.

1.3 Monitoring data from 2014/15 indicates that some authorities in the South East have issues with supplying soft sand, an important aggregate mineral that is used specifically in building mortar and asphalt by the construction industry. Sales and reserves have declined over the last decade due in part to landscape constraints covering many of the areas where soft sand exists. The SEEAWP authorities have therefore drafted a Statement of Common Ground (SoCG) to underpin effective cooperation and collaboration in addressing supply of this aggregate. Each authority, including the County Council, B&HCC and SDNPA, has been asked to sign the SoCG.

## **2 Supporting information**

2.1 Soft sand (also known as building sand) is extracted in some but not all of the mpa areas in the South East and has historically been extracted from three geological formations. One of these, the Folkestone Formation (the Folkestone Beds) extends across Kent, Surrey, Hampshire, West Sussex and East Sussex. The outcrop of the sand deposit is very limited, and in the western part of the WMP area consists of a narrow strip, which is exclusively located in the SDNP.

2.2 Policies in the joint WMP require provision of land won aggregates throughout the Plan period and the maintenance of a 7 year landbank of permissions for extraction. This supply includes soft sand from an existing site, Novington sandpit (currently inactive) in the SDNP area of the WMP, and sharp sand from Lydd quarry in the east of the county. The landbank is not however divided into

separate provision for soft sand, and sharp sand and gravel because the resources in the WMP area are particularly constrained and production has been intermittent.

### **3 The Statement of Common Ground**

3.1 The SoCG seeks to ensure that the approach to planning for the supply of soft sand is coordinated and consistent between authorities, whilst recognising that provision by the mineral industry is based on commercial considerations. The SoCG approach is for authorities to positively plan to meet the demand for soft sand in their areas. This includes making appropriate provision in their local plans, including, as required, the allocation of sites for new quarries and transport infrastructure (wharves and railheads). A copy of the draft SoCG and accompanying map is attached as Appendix 1 of this report.

#### ***Safeguarding***

3.2 One of the actions identified is for authorities to safeguard the entire soft sand resource in their Mineral Local Plans (MLPs) from surface development that would otherwise sterilise the mineral, and to include policies for the prior extraction of the mineral. It should be noted that safeguarding a resource does not imply future working; it is a mechanism to protect unnecessary sterilisation of a mineral. The current WMP does not safeguard soft sand and so this will be a matter for consideration in the forthcoming review of policies. As there are no soft sand resources within East Sussex outside of the National Park, safeguarding arrangements will be a matter for the SDNPA to determine, although this would still form part of the joint WMP.

3.3 Previously it was understood that there were no substitute materials for certain soft sand end uses. However, various resources of marine sands with similar properties have now been identified, for example in the Bristol Channel and also close to the Netherlands, which could provide future alternatives to land won soft sand. The allocation and safeguarding of wharf and railheads for possible imports of this material in the future would therefore be important to the soft sand strategy. The WMP already contains robust safeguarding policy for railheads and wharf capacity. The review of policies will examine whether any future additional provision is necessary. Wharves in East Sussex which currently import aggregates are located at Newhaven and Rye, and at Shoreham Harbour in Brighton & Hove. A railhead at Newhaven currently imports crushed rock, recycled and other sources of aggregate.

#### ***Extraction in the National Park***

3.4 With regard to extraction of soft sand within National Parks and Areas of Outstanding Natural Beauty, the SoCG sets out the following "... consistent with national policy (NPPF), the general approach will be to not allocate sites, or areas of search, for soft sand extraction". The NPPF would provide for extraction in "exceptional circumstances"; however the SoCG goes on to say that these may not exist in the south east partly because there may be sufficient opportunities for meeting the demand for soft sand from alternative sources located beyond these protected areas (e.g. the marine sands). Apart from the existing site at Novington there are no allocations for soft sand in the WMP. This will be a matter for the SDNPA to consider as part of the review of policies. The SDNPA are currently working jointly with West Sussex County Council to prepare a MLP and have pursued a "managed retreat" to soft sand in their area, allocating no further sites within the National Park. It could be that this will be the case with the forthcoming review of policies.

#### ***Landbanks***

3.5 The SoCG also seeks that authorities "plan, where appropriate, and on the basis of sub-regional markets, for the supply of soft sand separately from sharp sand and gravel due to its distinct properties and end-uses." As referred to in paragraph 2.2 of this report, the WMP does not have separate landbanks. However, the SoCG does not actually specify that this aspect of planning needs to be addressed by "landbanks" and also is caveated by being "where appropriate". This subject will need to be examined by the review of policies but provided robust evidence on constraints and patterns of past working are demonstrated it is not anticipated to present a problem for future planning policy.

#### ***Monitoring***

3.6 The SoCG also requires that the authorities monitor sales and reserves of soft sand on an annual basis and report, within their LAAs, on the extent to which a seven year soft sand landbank is



being maintained within their areas; and this should be monitored collectively in the annual South East Aggregates Monitoring Report, prepared by SEEAWP. The SoCG will be subject to review. The County Council produces a joint LAA annually and so this point is already covered by existing arrangements.

#### **4. Conclusion and reasons for recommendations**

4.1 The draft SoCG is to be welcomed as a collaborative attempt to address supply issues facing an important mineral used by the construction industry. Participating in this joint approach to soft sand planning will also help the County Council to fulfil its Duty to Cooperate obligations. The measures set out in the SoCG do not conflict with existing policies and any additional requirements can be examined as part of the forthcoming Review of the Waste and Minerals policies. The Lead Member is therefore recommended to authorise the Director of Communities, Economy and Transport (CET) to sign the SoCG, and delegate authority to the Director of CET to review/update and agree amendments to the SoCG as considered necessary in the future.

RUPERT CLUBB

Director of Communities, Economy and Transport

Contact Officer: Sarah Iles

Tel. No. 01273 481631

Email: [sarah.iles@eastsussex.gov.uk](mailto:sarah.iles@eastsussex.gov.uk)

#### LOCAL MEMBERS

All

#### BACKGROUND DOCUMENTS

None

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**Statement of Common Ground on Soft Sand Supply in the South East**

**Version 4.0: Final for South East MPA Formal Agreement**

**Date: 11 April 2017**

**The Parties to this Statement of Common Ground are as follows:**

Bracknell Forest Council  
Brighton & Hove City Council  
Buckinghamshire County Council  
East Sussex County Council  
Hampshire County Council  
Isle of Wight Council  
Kent County Council  
Medway Council  
Milton Keynes Council  
New Forest National Park Authority  
Oxfordshire County Council  
Portsmouth City Council  
Reading Borough Council  
Royal Borough of Windsor and Maidenhead  
Slough Borough Council  
South Downs National Park Authority  
Southampton City Council  
Surrey County Council  
West Berkshire Council  
West Sussex County Council  
Wokingham Borough Council

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## 1 Introduction

1.1 The minerals planning authorities of the South East of England comprise the following authorities:

- Bracknell Forest Council
- Brighton & Hove City Council
- Buckinghamshire County Council
- East Sussex County Council
- Hampshire County Council
- Isle of Wight Council
- Kent County Council
- Medway Council
- Milton Keynes Council
- New Forest National Park Authority
- Oxfordshire County Council
- Portsmouth City Council
- Reading Borough Council
- Royal Borough of Windsor and Maidenhead
- Slough Borough Council
- South Downs National Park Authority
- Southampton City Council
- Surrey County Council
- West Berkshire Council
- West Sussex County Council
- Wokingham Borough Council

1.2 These authorities are all members of the South East England Aggregates Working Party (SEEAWP) and each is responsible for planning for the supply of minerals in their areas, through the preparation of minerals local plans. A minerals local plan can cover the area of a single mineral planning authority or a larger area administered by more than one mineral planning authority where they decide to act together to prepare joint plans. Figure 1 shows the location of each of the above authorities within the South East.

**Fig. 1 – Location of South East Minerals Planning Authorities**

{map to be inserted showing:

- location of all MPAs
- main transport links (railways, ports, Motorways and trunk roads)}

- 1.3 Section 110 of the Localism Act sets out a “duty to cooperate” in relation to planning of sustainable development, under which planning authorities are required to engage constructively, actively, and on an ongoing basis in any process where there are significant cross-boundary issues or impacts. This includes the preparation of development plan documents so far as relating to “strategic matters”, such as the supply of minerals. The Duty to Cooperate therefore applies to the preparation of minerals local plans.
- 1.4 In addition, the National Planning Policy Framework (NPPF) refers to planning authorities having a duty to cooperate on planning issues that cross administrative boundaries, particularly those which relate to strategic priorities defined in paragraph 156 which includes the provision of minerals. Local planning authorities are required “to demonstrate evidence of having effectively cooperated to plan for issues with cross-boundary impacts” (NPPF, Para 181). The ‘tests of soundness’ (NPPF, Para 182) also require planning authorities to work with their neighbours: to be “positively prepared” a plan should seek to meet “unmet requirements from neighbouring authorities where it is reasonable to do so”; and to be “effective” a plan should be “based on effective joint working on cross-boundary strategic priorities”.
- 1.5 Soft sand is an important aggregate mineral that, for certain end uses, cannot be substituted by other materials. Soft sand is used specifically in building mortar and asphalt by the construction industry.
- 1.6 Soft sand (often known as building sand) has historically been extracted in the south east of England from the following geological formations:
- the Folkestone Formation (the Folkestone Beds) in Kent, Surrey, Hampshire, West Sussex and East Sussex;
  - the Corallian Group, in Oxfordshire; and
  - the ‘Reading Beds’ in the Unitary Authorities that make up the former County of Berkshire.

- 1.7 Soft sand is therefore won in some but not all of the Minerals Planning Authority areas in the South East.
- 1.8 The South East Aggregate Monitoring report for 2014/15 specifically noted that certain authorities (namely West Sussex, West Berkshire and Hampshire) have soft sand supply issues partly because of landscape constraints. The Report also notes how the location of the soft sand resources within protected landscapes might make it increasingly difficult to find reserves in certain areas and thereby maintain land-won supplies at historic levels.

## 2. **Purpose**

- 2.1 The purpose of this Statement of Common Ground is to underpin effective cooperation and collaboration between the minerals planning authorities of the South East of England in addressing the strategic cross-boundary matter of soft sand supply.
- 2.2 It sets out matters of agreement, reflecting the spirit of co-operation between the Parties to the Statement of Common Ground. It is, however, not intended to be legally binding or to create legal rights.

## 3. **Parties**

- 3.1 The Statement is agreed by the following Councils (*herein referred to as the Parties*): *(to be completed as agreements are confirmed)*.

*Bracknell Forest Council  
Brighton & Hove City Council  
Buckinghamshire County Council  
East Sussex County Council  
Hampshire County Council  
Isle of Wight Council  
Kent County Council  
Medway Council*

*Milton Keynes Council  
New Forest National Park Authority  
Oxfordshire County Council  
Portsmouth City Council  
Reading Borough Council  
Royal Borough of Windsor and Maidenhead  
Slough Borough Council  
South Downs National Park Authority  
Southampton City Council  
Surrey County Council  
West Berkshire Council  
West Sussex County Council  
Wokingham Borough Council*

#### 4. **Aims**

4.1 This Statement has the following broad aims:

- To ensure that planned provision for the supply of soft sand in the South East of England is co-ordinated, as far as is possible, whilst recognising that provision by the mineral industry is based on commercial considerations; and
- to ensure that the approach to planning for the supply of soft sand is consistent between authorities.

#### 5. **Limitations**

5.1 This document sets out areas/matters relating to the supply of soft sand on which there is full agreement between all the minerals planning authorities of the south east. From time to time detailed matters may arise, between two or more authorities, on which there is not full agreement. For the avoidance of doubt, this SOCG shall not fetter the discretion of any of the Parties in relation to any of its statutory powers and duties, and is not intended to be legally binding.



5.2 Whilst specific local environmental and economic factors will affect the movement of soft sand between authority areas, in principle, there are no restrictions on such movement.

## 6. Background

### *Properties and Use of Soft Sand*

6.1 'Soft sand' is generally fine-grained, where individual grains are smooth and well-rounded imparting a relatively soft texture and free-flowing nature. These properties are different to those associated with sharp sand which is rough, angular, and used predominantly in concrete. Soft sands are commonly deposited in marine environments, where constant movement by the sea results in the rounding, polishing and sorting of the grains. The fine, smooth, characteristics of soft sand lend it to be used in products which need to be easily workable by hand for example mortar and plaster.

6.2 There are a number of British Standards that have been informed by European standards, to ensure consistency across Europe in respect of the use of aggregates for different purposes. One of the key British Standards, in respect of soft sand, is BS13139, which stipulates criteria and limitations of sand used in masonry mortar, plastering mortar, rendering mortar, floor/screed, special bedding materials, repair mortars and grouts. The National House Building Council (NHBC) specification for roofing mortar is a 1:3 cement: sand (with plasticiser) mix. The sand is based on sharp sand with soft sand added to achieve workability. The proportion of sharp sand should not be less than one-third of the total sand content.

### *Use of marine won sand in mortar blends*

6.3 Marine sands have mechanical, chemical and physical properties, identical to high quality land-based sands, therefore the end uses are no different. In England, marine sands are widely used in the production of:

- Mortar for bricklaying and blockmaking
- Screeds
- External renders
- Internal rendering
- Masonry blocks
- Paving blocks

- 6.4 Marine won sand with properties akin to land-won soft sand is currently sourced from the Bristol Channel as there are extensive deposits of mobile sand across the upper Severn Estuary. The resource has been exploited as the terrestrial alternatives in South Wales are constrained and the depositional environment favours finer sand resources to be available.
- 6.5 Research<sup>1</sup> carried out by the Crown Estate shows the extent of the potential sand and gravel resource in the English Channel and Thames Estuary. The report shows that there are likely to be areas of fine sand within the area, but that the 'economic potential of individual sites can only be proved by a detailed evaluation programme'.
- 6.6 According to BMAPA, marine deposits off the coast of the Netherlands are dominated by fine to medium sand. The UK exports some coarse sand and gravel to the Netherlands and it is possible that this fine to medium sand could be imported into the UK.
- 6.7 Important considerations include:
- Customer product acceptance (ability to meet colour and grading expectations);
  - logistics of onshore handling and/or processing;
  - retention of fine sands during dredging operations;
  - wharf and fleet capacity.

However, increasingly constrained land-won opportunities for supply soft sand may well provide a prompt for further investigation into these matters in the south-east.

#### *Soft Sand Geology in the South East*

- 6.8 In the South East of England the primary source of soft sand is the Folkestone Formation of the Lower Greensand Group. The Folkestone Formation extends from north west of Lewes in East Sussex, across West Sussex and into Hampshire to Petersfield, where it swings around to the north east and then continues east across Surrey and Kent, meeting the coast at Folkestone. A significant proportion of this soft sand resource is located within and adjacent to the following protected areas:
- South Downs National Park (SDNP)

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<sup>1</sup> The Mineral Resources of the English Channel and Thames Estuary (BGS) (2013)

- Surrey Hills Area of Outstanding Natural Beauty
- Kent Downs Area of Outstanding Natural Beauty

6.9 The Folkestone Formation has traditionally been regarded as a source of 'soft sand' used for construction purposes, and has also been a source of specialist 'silica sand', especially in Surrey and Kent.

6.10 In Oxfordshire, soft sand resources are limited to the Corallian Ridge area between Oxford and Faringdon. In West Berkshire soft sand is associated with the 'Reading Beds' formation and historically the majority of the soft sand deposits that have been worked have been those found in the North Wessex Downs Area of Outstanding Natural Beauty, in particular an outcrop found around Junction 13 of the M4. The Reading Beds extend into central and eastern Berkshire although there has been no excavations from the formation in this area since the early part of the century.

6.11 Other constraints to the extraction of land won soft sand resources include European designations such as Special Protection Areas (SPAs), Special Areas of Conservation (SACs), and nationally designated Sites of Special Scientific Interest (SSSIs) and Ancient Woodland. Urban areas and major infrastructure are also a constraint (although prior extraction during redevelopment is a possibility).

6.12 It should be noted that there can be a lack of clarity in geology between soft sand and silica sand as they occur in the ground. This may have implications for meeting soft sand supply requirements as its potential to be used as silica sand in higher value applications is increasingly being considered by the industry. Silica sand is similar but with fewer impurities (a silica content of 95% is classed as silica sand), generally lighter in colour and more commonly used for specialist end-uses, for example glass manufacture, sports pitches, golf courses and equestrian uses.

**Figure 2 – The soft sand resource in the South East**

*Map to be prepared and inserted. This will show the soft sand resource (there is a BGS layer) and permitted and allocated sites but not sizes and movements. The map will show road and rail network, wharves and main towns as well as AONBs and NPs, to provide spatial context.*

*Land-won Soft Sand Supply Levels*

- 6.13 The overall trend in total land-won sand and gravel sales in south east England is of year on year general decline – in 2015 sales were 40% less than 2005. Over the same period, sales of marine sand and gravel have increased. Compared to marine-won, sales of land-won sand and gravel have decreased as a proportion - in 2015 sales of land-won sand and gravel were 46% of all primary (land-won and marine) sand and gravel sales compared with 62% in 2005. Most of the fall in land-won sales over this period is accounted for by sharp sand and gravel; sales of soft sand fell by only 7%. The trend is therefore of increasing sales of marine dredged aggregates contributing an increasing proportion of total aggregate sales.
- 6.14 In 2014 sales of land-won sand and gravel (including soft sand) from the region’s quarries were 5.9 million tonnes and the level of sales in 2015 remained at this level. There has been a general decline in these sales over the last decade and the soft sand element of sand and gravel has increased as a proportion. In 2005 the sales of soft sand as a proportion of total sand and gravel sales was 18% but this had increased to 28% by 2015.
- 6.15 There has been a decrease in permitted reserves of land-won sand and gravel - generally new planning permissions have not kept pace with extraction rates, so there has been historic depletion of reserves. However, this trend has been reversed in the last two years and the total sand and gravel landbank for the region at the end of 2015 was 9.5 years. In 2015 the mineral planning authorities all had combined (i.e. combining sharp sand and gravel and soft sand together) landbanks of more than 7 years. Soft sand accounted for 33% of the total south east landbank of sand and gravel at the end of 2015.
- 6.16 In 2015 there were 41 wharves in the region. Sales of marine dredged aggregate are over six million tonnes from landing at the region’s wharves, which means marine dredged material contributes more to the region’s sales than land won sand and gravel. The marine dredged aggregate landed in the South East is currently generally sharp sand

and gravel, and is currently not known to be substituting for land-won soft sand to any significant extent. However it is understood that marine won sand is being used for the manufacture of mortar used in the South East.

**Table 1: South East Soft Sand Reserves and Sales (thousand tonnes), 2015**

(c = confidential)

Area	Reserves at start of year	Sales during year	Permissions during year	Reserves at end of year
Berkshire Unitaries	c	c	0	c
Bucks/Milton Keynes	c	c	0	C
East Sussex	0	0	0	120
Hampshire	1,307	123	0	1,516
Isle of Wight	255	12	0	202
Kent/Medway	7,994	480	1,500	8,177
Oxfordshire	1,782	233	0	1,594
Surrey	8,073	495	770	8,170
West Sussex	3,009	188	84	2,752
<b>Total</b>		<b>1,632</b>	<b>2,354</b>	<b>23,110</b>

Source: South East Aggregates Monitoring Report 2014-15

**Table 2: Sales of soft sand 2005-2015**

<b>Year</b>	<b>Sales</b> (thousand tonnes)	<b>% change on</b> <b>previous year</b>
2005	1,749	-33
2006	1,776	2
2007	1,906	7
2008	2,268	19
2009	1,38	-39
2010	1,676	21
2011	1,524	-9
2012	1,593	5
2013	1,560	-2
2014	1,506	-1
2015	1,632	6
<b>Percentage change</b> <b>2005 - 2015</b>		-7
<b>Last 10 year average</b>	1,683	
<b>Last 3 year average</b>	1,566	

*Source: South East Aggregates Monitoring Report 2014-15*

6.17 The key findings of the South East Aggregates Monitoring Report 2014-15 (SEEAWP 16/03) concerning soft sand are as follows:

- **Sales** of land-won primary aggregates, especially sand and gravel (including soft sand), in the south east of England have declined significantly in the last decade.
- **Reserves** of all land-won sand and gravel have also declined but not as sharply as sales. The regional sand and gravel landbank is well above 7 years.

- Based on sales in 2015, the **landbank** for soft sand is nearly 14 years. This is concentrated in Hampshire, West Sussex, Kent, Oxfordshire and Surrey. This contrasts with sharp sand and gravel where reserves are more evenly spread.
- Locally, there is stress in the supply system in the medium term as soft sand reserves are not evenly distributed, with some areas likely to be depleted by 2030. The location of the soft sand resource within protected landscapes is making it increasingly difficult to find reserves in certain areas in order to maintain land-won supplies at historic levels.

#### *Transportation of Soft Sand*

6.18 An Aggregate Minerals Survey for England and Wales carried out by the British Geological Survey (BGS) on behalf of the Department of Communities and Local Government was undertaken in 2015 to collect 2014 data (AM14).

6.19 The England and Wales survey includes data on the supply of aggregate between regions and 'sub regions' (mpa), the mode of transport used and provides information on consumption as well as sales and reserves.

6.20 The radius of economic transportation of sand and gravel is often stated to be generally less than 30 miles. However, soft sand in the South East does, in many instances, travel over greater distances. There would appear to be a number of reasons:

- For national operators, the aggregates are transported to the nearest mortar or asphalt plant, which can often be up to 45 miles (or further) where the end product is made, before onward travel to the end user, One use of soft sand is to mix it with marine aggregates to replace the finer material washed during dredging and to assist in meeting the chloride content required for concreting purposes. In these instances, the soft sand travels to the nearest wharves which may be up to 45 miles distant (or further).
- For the smaller operators, the sand is often used more locally, but manufactured products (such as roof tiles) will again travel up to 45 miles for longer term, larger demand contracts.

*Relevant National Policy affecting the supply of soft sand*

- 6.21 National planning policy requires MPAs to plan for a steady and adequate supply of aggregates, and to make provision for the maintenance of landbanks for sand and gravel of at least seven years. National planning policy also requires MPAs to prepare an annual Local Aggregate Assessment based on a rolling average of 10 years sales data and other relevant local information, and an assessment of all supply options. National planning guidance says that other relevant local information may include levels of planned construction and housebuilding.
- 6.22 National policy also states that local authorities should calculate and maintain separate landbanks for aggregate minerals of a specific type or quality which have a distinct and separate market.
- 6.23 By virtue of its scale, character and nature, minerals development has the potential to have a serious adverse impact upon the natural beauty, wildlife, cultural heritage and recreational opportunities provided by National Parks and Areas of Outstanding Natural Beauty and is therefore considered as 'major development', requiring the demonstration of 'exceptional circumstances' (Paragraph 116 of the NPPF). Further protection of National Parks and AONBs is provided by paragraph 144 which states that as far as is practical, MPAs should "provide for the maintenance of landbanks of non-energy minerals from outside National Parks...Areas of Outstanding Natural Beauty and World Heritage sites, Scheduled Monuments and Conservation Areas".
- 6.24 Paragraph 115 of the NPPF provides further policy on development in National Parks and AONBs as follows:  
"Great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads."
- 6.25 Paragraph 144 of the NPPF confirms that as far as is practical, MPAs should provide for the maintenance of non-energy mineral landbanks from outside National Parks, the Broads, Areas of Outstanding Natural Beauty, World Heritage sites, Scheduled Ancient Monuments and Conservation areas.



## **7. Agreement between the Parties**

### ***General considerations***

- 7.1 The Parties recognise that private sector businesses (and, therefore, commercial considerations) will determine whether proposals for the extraction of soft sand come forward for consideration and, in the event that planning permission is granted, are ultimately developed.
- 7.2 The Parties will work together in the consideration of how to plan for the implications arising from the supply of soft sand to any other authority areas that are not party to this Statement (including MPAs beyond the South East).
- 7.3 The Parties agree that the challenge to be addressed is to supply soft sand from within the South East in a manner which is most sustainable, taking the impacts on the South East as a whole into account as well as on an individual authority basis.
- 7.4 Notwithstanding the above, the Parties agree to continue to positively plan to meet the demand for soft sand in their areas. This includes making appropriate provision in their local plans, including, as required, the allocation of sites for new quarries and transport infrastructure (wharves and railheads).

### ***Consistency with national policy***

- 7.5 The parties recognise that their Plans must be consistent with the NPPF. The parties also recognise that, due to the location of the soft sand resource in the south east, there is a tension in the NPPF, whereby there is an expectation that MPAs plan for a steady and adequate supply of aggregate and, at the same time, protect National Parks and Areas of Outstanding Natural Beauty.
- 7.6 In particular, as set out above, National Parks and AONBs are given particular protection from the impacts of development. Proposals for minerals development in National Parks and AONB's will therefore be rigorously examined by the relevant MPA and will only be permitted if it can be demonstrated that there are exceptional circumstances and it is in the public interest including that the need for the development outweighs any negative impact (the major

development test). The Parties will also apply this 'major development test' as part of their consideration of whether sites should be allocated in Local Plans. In this regard, the parties agree that exceptional circumstances, under which the working of soft sand in the AONBs and National Parks would take place, may not exist in the south east. In part this is because there may be sufficient opportunities for meeting the demand for soft sand from alternative sources located beyond these protected areas.

### ***Distribution of soft sand resources***

7.7 The Parties recognise that the soft sand resource is not evenly distributed across the South East and so the onus for ensuring sufficient land-won supplies lies with those MPAs whose areas are underlain by this mineral.

7.8 It is recognised that provision for unmet requirements from other authority areas should be included in a minerals local plan where this is reasonable and consistent with achieving sustainable development, in line with paragraph 182 of the NPPF. Any additional provision for the supply of soft sand to accommodate the specific needs of other authorities, that cannot supply soft sand, will be a matter for discussion and agreement between the authorities concerned under the Duty to Co-operate and is outside the terms of this Statement of Common Ground.

### ***Demand for soft sand***

7.9 The parties consider it likely that the demand for soft sand in the South East will, in future, increasingly need to be met by imports into the area and from marine won sources.

### ***Transportation of soft sand***

7.10 The parties recognise that, certain South East mineral planning authorities (in particular West Sussex, Hampshire, Isle of Wight and West Berkshire) are facing greater challenges than other authorities in identifying opportunities for soft sand extraction in areas beyond the National Parks and AONBs. In light of this it is likely that the transport of land won soft sand from less constrained areas to more constrained ones will continue and is likely to increase. This may mean that the overall length of journeys associated with the supply of soft sand in the South East will increase. The Parties recognise that, in principle, there are no restrictions on the movement of soft sand between authority areas<sup>2</sup>. The environmental impacts of transport associated with soft sand supply will be factored into decisions on proposals for

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<sup>2</sup> N.B. The separation of the Isle of Wight from the mainland currently prohibits movements of land-won aggregates to or from the Island which, as a result, operates in relative isolation.

soft sand extraction.

### ***Future supply***

- 7.11 The parties will plan, where appropriate, and on the basis of sub-regional markets, for the supply of soft sand separately from sharp sand and gravel due to its distinct properties and end-uses.
- 7.12 Due to the depletion of resources in unconstrained areas, some authorities may not be able to plan for the supply of soft sand from indigenous primary land won sources at the levels based on demand calculations set out within LAAs.
- 7.13 The quantum of soft sand to be planned for will be derived from the LAA which should be based on the average of 10 year sales and other relevant local information including construction activity and constraints on supply. The parties recognise that there is no direct correlation between construction activity and land won soft sand supply,

### ***Soft sand and silica sand***

- 7.14 The parties note that silica sand, which is a mineral of national importance, and soft sand are found within the same geological formations. Where relevant, the parties will include policies in plans and make decisions on proposals which aim to discourage the use of high quality silica sand as an aggregate in construction applications.

### ***Safeguarding and Prior Extraction***

- 7.15 In light of its relative importance and demand for the mineral, the parties agree to safeguard the entire soft sand resource in their Minerals Local Plans. Similarly, policies will be included for the prior extraction of the mineral in advance of surface development that would otherwise sterilise the mineral.

### ***Site Allocation within Protected Areas***

- 7.16 The parties agree that, consistent with national policy (NPPF paras 116 and 144), the general approach<sup>3</sup> will be to not allocate sites, or areas of search, for soft sand extraction within National Parks and Areas of Outstanding Natural Beauty.

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<sup>3</sup> It is recognised that there will be exceptions and the Isle of Wight is an example where the overriding consideration is the location of a scarce resource and of the 5 sand and gravel quarries currently active on the Island, 4 are within the AONB, in addition 4 of the 6 allocated sand and gravel sites are within the AONB.

**Monitoring and Reporting**

- 7.17 The parties will monitor sales and reserves of soft sand on an annual basis and report, within their LAAs, on the extent to which a seven year soft sand landbank is being maintained within their areas; and this should be monitored collectively in the annual South East Aggregates Monitoring Report, prepared by the South East Aggregates Working Party (SEEAWP).
- 7.18 The National Coordinating Group should be informed of the position regarding soft sand supplies via the annual South East Aggregates Monitoring Report prepared by SEEAWP.

**8. Actions and Activities**

- 8.1 The Parties to this statement will continue to share knowledge and information relevant to strategic cross-boundary issues relating to planning for the supply of soft sand including the matters set out in the Agreement in Section 7.
- 8.2 The Parties will seek to ensure that the matters in the statement are reflected in the minerals local plans that they prepare (including, in the case of unitary authorities, any local plans that include minerals policies).
- 8.3 The Parties will take account of the matters in the statement in the consideration of planning applications for soft sand supply.
- 8.4 The Parties will continue to liaise with each other on how soft sand supplies to meet the needs of the South East can be maintained.

**9. Liaison**

- 9.1 Appropriate officers of each Party to this Statement of Common Ground will liaise formally through meetings of the South East mineral planning authorities, normally held in parallel with the South East Aggregates Working Party (SEEAWP) meetings, which generally take place two or three times a year.

10. **Timescale**

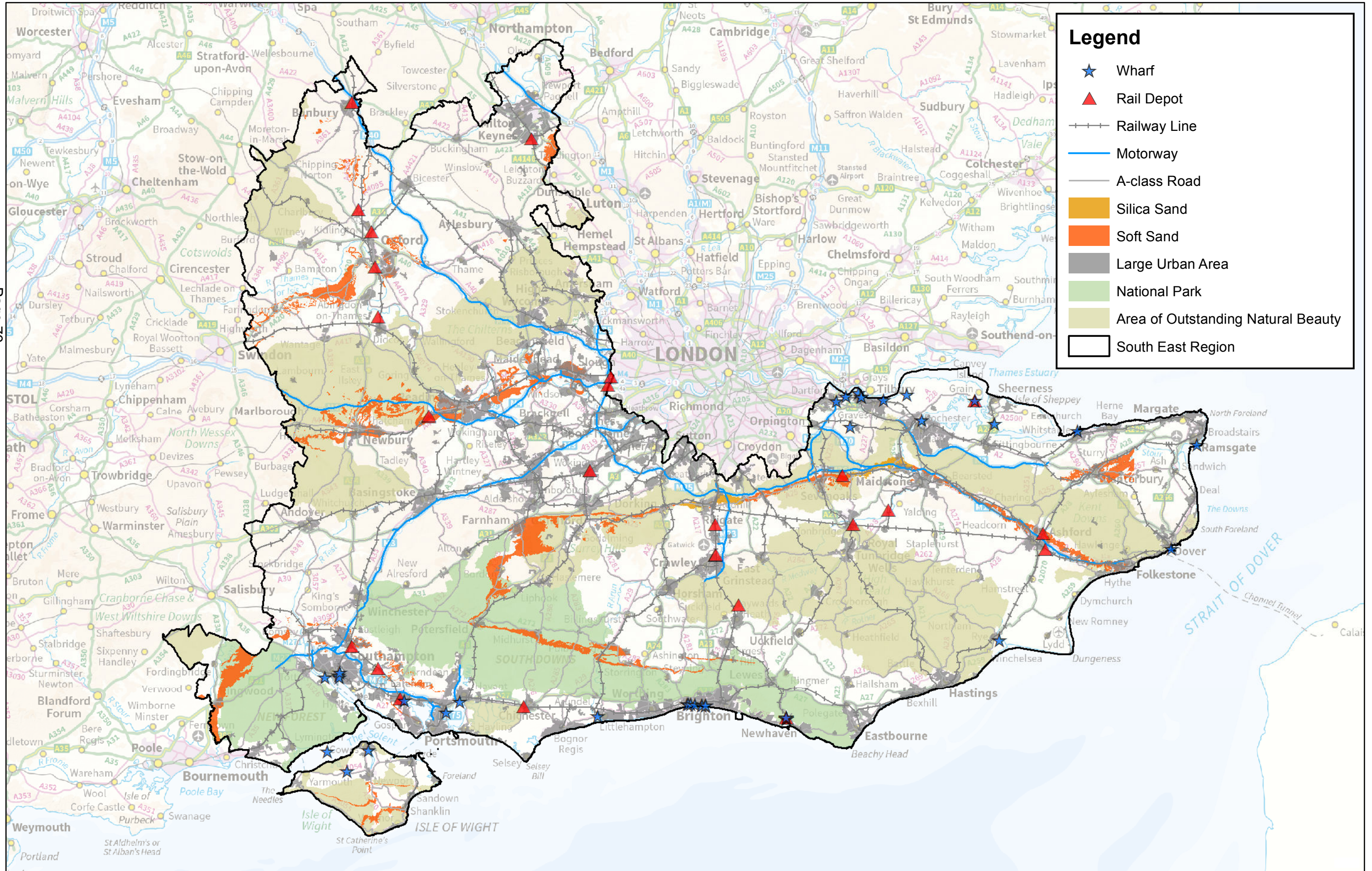
- 10.1 The Statement of Common Ground is for a three-year period from 2017 and will be reviewed and refreshed as appropriate during 2020.
- 10.2 It will be reviewed annually by the Parties to establish how effective it has been and whether any changes are required. SEEAWP will be requested to report the results of the review in the annual South East Aggregate Monitoring Report.

11. **Signatures**

- Bracknell Forest Council*
- Brighton & Hove City Council*
- Buckinghamshire County Council*
- East Sussex County Council*
- Hampshire County Council*
- Isle of Wight Council*
- Kent County Council*
- Medway Council*
- Milton Keynes Council*
- New Forest National Park Authority*
- Oxfordshire County Council*
- Portsmouth City Council*
- Reading Borough Council*
- Royal Borough of Windsor and Maidenhead*
- Slough Borough Council*
- South Downs National Park Authority*
- Southampton City Council*
- Surrey County Council*
- West Berkshire Council*

## 12. References

- 'Soft Sand; Location of Supplies and Intra-regional movement of Aggregates; Overall Provision' - Report prepared for SEEAWP 23 February 2015, SEEAWP 15/03
- South East Aggregates Monitoring Report 2014/15, SEEAWP 16/03
- Marine sands in mortars and screeds, British Marine Aggregate Producers Association □
- Capita Symonds, SDNP Soft Sand Study, 2012
- Cuesta Report, Soft Sand and Silica Sand Report, 2015
- Hampshire Authorities Soft Sand Topic Paper v.3, 2012
- Hampshire Minerals and Waste Plan - Adopted October 2013
- Kent Minerals and Waste Local Plan 2013-30 Adopted July 2016
- Surrey Minerals Plan 2011 Primary Aggregates Development Plan Document Adopted July 2011
- West Berkshire Minerals and Waste Development Plan Document, Issues and Options, January 2014
- Buckinghamshire Minerals and Waste Core Strategy (2012)
- 'Marine sands in mortars and screeds', BMAPA [http://www.bmapa.org/documents/marine\\_building.pdf](http://www.bmapa.org/documents/marine_building.pdf)
- Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy, Proposed Submission Document, August 2015
- Oxfordshire Local Aggregate Assessment 2014, November 2014
- Island Plan: The Isle of Wight Council Core Strategy (including Minerals & Waste) and Development Management Policies DPD adopted March 2012.
- Assessment of the Potential for Mineral Sites on the Island, Site Options Report
- Assessment of the Potential for Mineral Sites on the Island, Site Options Report – Appendices C-F



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### The Soft Sand Resource in the South East

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# Agenda Item 7

**Report to:** Lead Cabinet Member for Transport and Environment  
**Date of meeting:** 18 July 2017  
**By:** Director of Communities, Economy and Transport  
**Title:** Council Order for The East Sussex Permit Scheme.  
**Purpose:** To comply with recent amendments made by the South East Permit Scheme (SEPS), it is necessary to revise the Council Order to continue to operate our current Permit Scheme.

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**RECOMMENDATION:** The Lead Member is recommended to approve the authorisation of a Council Order to be made in response to recent amendments to the East Sussex Permit Scheme.

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## 1 Background Information

1.1. The Traffic Management Act 2004 empowered Highway Authorities to operate a Permit Scheme, whereby all public utilities and statutory undertakers had to secure a permit before working in the public highway.

1.2. East Sussex County Council secured approval from the Secretary of State in July 2013 for a Permit Scheme, which began operation in November 2013. A Council Order was created in July 2015 in response to the DfT deregulating permit schemes ((Deregulation Act 2015) and making amendments for the purposes of clarity and uniformity for utility companies.

1.3. Since this time the current scheme has continued to operate successfully, improving planning by utility companies and their execution of necessary works in our highways, leading to reduced congestion.

1.4 East Sussex County Council also remains an active participant of the South East Permit Scheme (SEPS).

1.5 In 2016 the SEPS management steering group identified the need for greater control of utility works on minor roads. In order to gain that greater control the principle of charging was introduced enabling more stringent conditions to be placed on minor roads, such as residential streets.

## 2 Supporting Information

2.1 In accordance with Regulation 5 (Traffic Management Permit Scheme (England) Regulations 2007) SEPS carried out formal consultation with stakeholders during 2016, which concluded no objections to the proposals.

2.2 This option to charge on minor roads requires the County Council's current permit scheme to be amended and a Council Order re-issued if it is to continue to operate in parity with other SEPS members in the South East.

2.3 The amended Council Order and East Sussex Permit Scheme have been drafted and are included in Appendix 1 and 2 respectively.

## 3 Conclusion and Reasons for Recommendations

3.1 The Lead Member is recommended to approve the amended Permit Scheme (attached in Appendix 2) and authorise the re-issuing of the full scheme documentation and Council Order if it is to continue to operate alongside SEPS members in the South East.

RUPERT CLUBB

Director of Communities, Economy and Transport

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LOCAL MEMBERS:

None

BACKGROUND DOCUMENTS:

LTME 14 September 2015 - Council Order for The East Sussex Permit Scheme

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# **The Traffic Management** **(East Sussex County Council)** **Permit Scheme Variation Order 2017**

East Sussex County Council, as the local highways authority for the County of east Sussex approves the permit scheme hereinafter referred to as “The East Sussex County Council Permit Scheme” as varied below and in exercise of the powers conferred by sections 36 of the Traffic Management Act 2004 makes this order.

## **Citation and commencement**

1. This Order may be cited as the Traffic Management (East Sussex County Council) Permit Scheme Variation Order 2017 and comes into force on **xxxx 2017**.

## **Interpretation**

2. In this Order -

“The East Sussex County Council Permit Scheme” means the permit scheme set out in the Schedule to this Order in terms commonly known as the “South East Permit Scheme”: and “specified streets” has the meaning given by regulation 8 of the Traffic Management permit Scheme (England) Regulations 2007.

## **Variation and Commencement of Permit Scheme**

3. The East Sussex County Council Permit Scheme which came into force on 11<sup>th</sup> November 2013 is hereby varied to amend the charging regime on Non Traffic Sensitive Type 3&4 Roads and also make other minor amendments to update the order in line with the recent DFT Statutory Guidance and advice notes, but with the effect that it still complies with the Traffic Management Permit Scheme (England) Regulations 2007 as amended by the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015 and shall come into force as varied on **xxxx 2017**.

## **Application of Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007**

4. Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 shall apply to the specified streets within the East Sussex County Council Permit Scheme.

Signed by Authority of [ ]

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**THE SOUTH EAST PERMIT SCHEME  
FOR  
ROAD WORKS AND STREET WORKS  
THE PERMIT SCHEME**

## The South East Permit Scheme

# The South East Permit Scheme

## DOCUMENT SUMMARY

### Document History

The South East Permit Scheme submitted to the Secretary of State has been given Version 1.0. Any further developments as a result of the review process will be detailed below:

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## The South East Permit Scheme

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### 1 INTRODUCTION

#### 1.1 **Background**

Part 3 of the Traffic Management Act 2004, (TMA), introduced permit schemes as a new way in which activities in the public highway could be managed and to improve authorities' abilities to minimise disruption from street and road works.

#### 1.2 **Relationship to NRSWA**

The scheme provides a change from the 'notification system' of the New Roads and Street Works Act 1991 (NRSWA). Instead of informing the street authority about its intention to carry out works in the area, a statutory undertaker will need to book time on the highway through a permit, as would the highway authority, its partners and agents, for its own works.

Under the scheme both statutory undertaker's activities and highway authority activities are treated in the same way with regard to co-ordination and the setting of conditions. The Permit Authority shall demonstrate at all times parity between activity promoters ensuring non-discrimination between permit applicants.

#### 1.3 **The Permit Scheme**

This permit scheme, to be known as the South East Permit Scheme, (hereinafter referred to as The Permit Scheme) which will be operated under the powers of the Traffic Management Act 2004 (TMA) as amended, has been introduced, to enable any South East Local Highway Authority (hereinafter referred to as the Permit Authority) to better manage activities on their highway network, as well as minimising disruption from utility companies' street works and the Council's own highway works, both of which are covered by the scheme.

It is based on Part 3 of the TMA and the Traffic Management Permit Schemes (England) Regulations 2007 as amended, (hereinafter referred to as the regulations) and has been prepared with regard to the Statutory Guidance issued by the Secretary of State and in accordance with the requirements set out in the Regulations. Promoters should make themselves aware of the content of these documents and also The Code of Practice for Permits alongside which the Permit Scheme will be operated. For consistency with the Statutory Guidance and Code of Practice, in the Permit Scheme the term "promoters" is used where the sense includes both utility companies and highway authorities, and "activities" is used rather than "works", even though the scheme applies at present only to street works and highway works.

## 2 SCOPE OF PERMIT SCHEME AND DEFINITIONS

### 2.1 **Areas and Streets**

2.1.1 A Permit Authority operating the Permit Scheme will operate the scheme across the whole of the area encompassed by that authority's boundaries. The area covered by the Permit Scheme is the Permit Authorities geographical area of operation; this is the "specified area" as set out in the Regulations.

2.1.2 All streets, for which the Permit Authority is the highway authority, i.e. publicly maintained by or on behalf of the highway authority, are included in the Permit Scheme; these are the "specified streets" as set out in the Regulations.

2.1.3 Trunk roads and motorways for which Highways England is the highway authority are not included in the scheme.

2.1.4 Privately maintained streets are also not included in the scheme, but will be added if they are subsequently adopted by the highway authority and shown as such in the street gazetteer.

#### 2.1.5 **Street Gazetteer**

The street gazetteer for the street authority, used for NRSWA, will be used for the Permit Scheme, including the Unique Street Reference Numbers (USRN) and the Additional Street Data. This forms part of the National Street Gazetteer (NSG) held centrally on behalf of all local highway authorities by a concessionaire. Streets subject to the Permit Scheme will be identified in the Additional Street Data. In relation to permits, the term "street" refers to an individual USRN.

2.1.6 Streets with special controls designated under NRSWA as protected streets, streets with special engineering difficulty (SED) and traffic-sensitive streets will have the same designations under the Permit Scheme. Where those designations are revised, the criteria and procedures in the NRSWA Code of Practice for the Co-ordination of Works will be followed.

2.1.7 In addition to the designations carried across from NRSWA, the Permit Authority may designate in the Additional Street Data certain streets as especially vulnerable to traffic disruption and where an early warning of immediate activities on streets is required. In these cases, the promoter must telephone the authority's specified number given in the Additional Street Data as soon as it is identified that an activity becomes necessary.

2.1.8 Reinstatement categories of streets, where used in the Permit Scheme, are the same as the reinstatement categories under NRSWA, as defined in the Specification for the Reinstatement of Openings in the Highway. If there are revisions to the definitions of category 0 – 4 streets in the Specification, these will be translated into the Permit Scheme.

#### 2.1.9 **Main and minor roads**

The Permit Scheme distinguishes between main roads and minor roads in certain circumstances.

- Main roads – all streets with reinstatement category 0, 1, or 2 and streets in reinstatement category 3 and 4 that are designated as traffic-sensitive for all or part of the time.
- Minor roads – streets with reinstatement category 3 or 4 which are not designated as traffic-sensitive at any time.

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### 2.2 **Activities Covered by the Permit Scheme**

2.2.1 Subject to the exemptions in 2.2.7 below, permits must be obtained from the Permit Authority by activity promoters for

- street works – as defined in section 48 of NRSWA;
- works for road purposes – as defined in section 86 of NRSWA

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

2.2.2 Further details of what is covered by registerable activities and where there are exemptions is given in the NRSWA Co-ordination of Works Code of Practice: these exemptions are carried across into the Permit Scheme.

2.2.3 Except for immediate activities, promoters must obtain a permit before starting their activities. The Permit Authority, when granting a permit may require specific conditions to be included in a permit application before it will be granted. Promoters must comply with the terms of the permits and any conditions.

2.2.4 One permit can only cover one activity on one street.

2.2.5 Although, street lighting works for the Permit Authority as highway authority are works for road purposes and require a permit, street lighting works and repairs for District and Parish Councils, acting on their own account and not on behalf of Highway Authority, should be treated as street works

#### 2.2.6 **Activities not requiring a permit before they start**

Immediate activities do require a permit but, because such activities are concerned with emergency or urgent situations, a promoter can start work before applying for a permit provided they apply for a permit from the Permit Authority within 2 hours or, in the case of the activity commencing out of normal working hours, within two hours of the commencement of the next working day and comply with any conditions specified by the Permit Authority, whether generic for such activities or specific to one activity.

2.2.7 Works under a street works licence (under section 50 of NRSWA) do not require a permit but have to follow the normal NRSWA procedures through the street authority.

#### 2.2.8 **Categories of activities**

Different requirements apply to different categories of activities, for example longer timescales apply to larger activities.

### **Permit for Major Activities**

Major activities would be those which:

- have been identified in an organisation’s annual operating programme or, if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the activity; or
- other than immediate activities, require a temporary traffic regulation order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities; or
- other than immediate activities, have a duration of 11 working days or more.

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### Permit for Standard Activities

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

### Permit for Minor Activities

Minor Activities are those activities, other than immediate or major activities, where the planned working is 3 working days or less.

### Permit for Immediate Activities:

Immediate Activities comprise:

- Emergency works as defined in section 52 of NRSWA; and
- Activities (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required)—
  - (i) to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;
  - (ii) to avoid substantial loss to the promoter in relation to an existing service; or
  - (iii) to reconnect supplies or services where the promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; including works that cannot reasonably be severed from such works.

These are the equivalent of “urgent works” as defined in the 2007 Notices Regulations under NRSWA

These permit categories of major, standard, minor and immediate activities, have broadly the same definition, as those given in the “interpretation” for works categories in The Street Works (Registers Notices Directions and Designations) (England) Regulations 2007, with the following amendments;

- 'streetworks' replaced with 'activity'
- 'undertaker' replaced with 'promoter' and
- 'street authority' replaced with 'permit authority'

It should be noted that The Street Works (Registers Notices Directions and Designations) (England) Regulations 2007 are subject to change from time to time, and it is the intention of the Permit Scheme that the above permit definitions may change, in line with any changes to these Regulations.

## 2.3 *Phasing of Activities*

One permit can only contain one phase of an 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 the activities, where all the works described in the works description are completed, unless it can be demonstrated that those works have been legitimately interrupted. The dates given in a permit application and in the issued permit will denote the dates for that phase.

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A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site.

- 2.3.1 A promoter must clarify that an activity is planned to be carried out in phases on the application. Each phase will require a permit. With the exception of remedial activities (see 2.5) and the permanent reinstatement of interim works, a major activity will require a Provisional Advance Authorisation (PAA), which will be cross referenced to the subsequent permits.
- 2.3.2 If a promoter is unable to complete all the activity in the permit in one phase for operational or weather reasons and will require a subsequent permit at a later date to complete the activity, they must advise the permit authority and seek agreement on the timing of the subsequent permit. Failure to do so could result in the permit authority treating the subsequent application as an illegitimate use of activity phases (see 5.2.3).
- 2.3.3 Phased activities must relate to the same works. These could be a single or multiple-but-linked excavation, or a trench dug progressively along the street as part of a continuous operation. Or they could be where an interim reinstatement is made and the permanent reinstatement is completed at a later date.

### 2.4 *Linked Activities*

- 2.4.1 Linked activities carried out at separate locations in a street must be treated as belonging to the same set of works. However, unconnected activities carried out by the same promoter in one street must not be treated as parts, or phases, of a single set of works. A new main or cable run, which includes new customer connections, can be classed as one activity if all the work is completed in a single occupation of the street.
- 2.4.2 Even if an activity involving more than one street forms part of one project in management and contractual terms, separate permits and PAAs must be obtained for each street or USRN.

### 2.5 *Remedial Works*

- 2.5.1 Remedial works will require a new permit. Applications for remedial works should be submitted as a new phase of the original activity using the same activity reference. Where remedial works fall within the definition of a major activity then a PAA will not be required.

### 2.6 *Interrupted Activities*

- 2.6.1 In the event of an activity being interrupted and delayed, for instance due to damage to a third party's plant or while specialist apparatus is acquired, the promoter shall contact the Permit Authority to agree what action should be taken. Where no works activity takes place for 24 hrs on a permitted working day (unless further activity is waiting materials curing) the promoter must contact the Permit Authority within 2 hours of the start of the next working day to agree what action should be taken
- 2.6.2 Where the Permit Authority is satisfied that the excavation can remain open while the repairs are implemented or the equipment obtained, then a variation will be required. However, where it is considered that the opening should be reinstated and the road returned to full traffic use then the promoter will need to apply for a further permit to complete the work at a later date.
- 2.6.3 If an activity is interrupted at the request of the Permit Authority, the Authority will discuss this with the promoter and agree to a variation to cover the situation, or if necessary grant a further permit to allow the activity to be completed later.

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2.6.4 Whenever an activity is interrupted, the promoter must first agree a way forward with the Permit Authority before starting any of the processes above.

### 2.7 *Collaborative Working*

2.7.1 Collaborative working means more than just trench sharing. It includes situations when one of the activities is works for road purposes and the other street works. It also includes multi-utility working, multi-utility tunnels and compliance testing.

2.7.2 The Permit Authority strongly encourages promoters to consider collaborative working. It is accepted that there are often issues in such arrangements, particularly contractual complications. Nevertheless every opportunity should be sought to minimise the disruption to users of the highway.

#### 2.7.3 **Responsibilities - primary and secondary promoters**

2.7.3.1 In the event of collaborative working, one of the promoters must take on the role of primary promoter and take overall responsibility as the agreed point of contact with the Permit Authority. The secondary promoter(s) retain the same responsibility for submitting permit applications for work to be carried out by them or on their behalf.

2.7.3.2 If the nature of collaborative working is trench sharing, the primary promoter will excavate the trench and install its own apparatus. The secondary promoters will install their apparatus in the same trench. The primary promoter will then backfill and reinstate the trench. In this case the responsibility for the quality of the reinstatement will lie with the promoter that completed it. A similar approach to primary and secondary promoters will be followed for other forms of collaborative working.

2.7.3.3 Where the work is trench share only those permit applications submitted by the primary promoter are required to show the estimated inspection units attributable to the street works. The primary promoter must detail the other promoters involved and the scope of the collaborative working in the initial application. The primary promoter must also ensure that estimates of works duration are agreed and/or confirmed with the secondary promoter(s) when submitting permit applications. This is necessary in order to comply with the overrun charging requirements in the permit regulations.

#### 2.7.4 **Granting permits**

2.7.4.1 To avoid any ambiguity, the Permit Authority will grant permits to all the promoters involved, not just the primary promoter. However, the fees will be adjusted by the amount provided for in the permit regulations to reflect the collaborative approach; provided all the applications meet the criteria set out in the regulations (see 8.3.3). Further reductions can be made at the discretion of the Permit Authority where the collaborating promoters can demonstrate to the Permit Authority significant benefits in terms of the Permit Scheme objectives. All granted permits shall record the identity of the primary promoter and all the secondary promoters.

### 2.8 *Duration of Activities*

2.8.1 In a permit the duration of an activity is the number of consecutive calendar days between the start and end of the activity, whether or not work is actually taking place on all those calendar days, and where the activity includes all setting up and clearing of the site and all associated storage.

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### 2.9 *Working Days*

- 2.9.1 Working days are used for calculating certain time periods in the Permit Scheme. The same definition of working days is used as for NRSWA. Note that permit start and end dates are not restricted to working days.

### 2.10 *Restrictions on Further Activities*

- 2.10.1 The provisions of sections 58 and 58A of NRSWA (restrictions on activities following substantial road works or substantial street works) will operate alongside permits in the Permit Scheme. The processes are slightly modified to reflect the way that the permit scheme operates, but otherwise the same principles apply, including the variable restriction periods on different streets. Details of the modified procedures and the lengths of restrictions are given in Chapter 8 of the Permits Code of Practice

### 2.11 *Charges for Over-running Activities*

- 2.11.1 Charges for over-running street works, under section 74 of NRSWA, will be made alongside the Permit Scheme. The procedures are modified slightly to work with the Permit Scheme, in particular to integrate the establishing of the reasonable period into the permit application and issuing process. But the principles otherwise remain the same as under NRSWA, including the penalty charges. Details of the modified procedures are given in Chapter 16 of the Permits Code of Practice. Where the permit Authority has reason to believe that overrun charges are being avoided by mis-use of permit phases, it will treat a subsequent permit application as an illegitimate use of activity phase (see 5.2.3).

### 2.12 *Relationship with NRSWA and Changes to Legislation*

- 2.12.1 The Permit Scheme will replace the part of NRSWA dealing with notices under sections 54, 55 and 57. Other elements of NRSWA, for example in relation to inspections, reinstatements and diversionary works, remain to operate in parallel with the Permit Scheme, modified as necessary so the two, can operate effectively together.
- 2.12.2 The Order for the Permit Scheme disapplies, and modifies in relation to the scope of the Scheme, all those elements of the NRSWA and associated NRSWA regulations identified in Part 8 of the Permit Regulations, namely: Sections of NRSWA disapplied – s53, s54, s55, s56, s57, s66; Sections of NRSWA modified – s58, s73A, s74, s88, s89, s93, s105, Schedule 3A NRSWA Regulations modified – The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.
- 2.12.3 The notification regime in NRSWA will continue to apply to activities (“works” in NRSWA terminology) where permits are not required. The Permit Scheme, in line with the Statutory Guidance, contains key features which are the same as in the NRSWA notification regime which will allow the two regimes to operate effectively alongside each other.



### **3 HOW TO MAKE PERMIT APPLICATIONS**

#### **3.1 *General***

##### **3.1.1 Co-ordination and forward planning information**

3.1.1.1 The Permit Authority will use the processes and principles in the co-ordination process in the Permits Code of Practice issued by the Department for Transport (DfT). Forward planning by all promoters is an essential part of co-ordination, therefore activity promoters must follow the forward planning information process in the Permits Code of Practice issued by the DfT. They are encouraged to maximise use of non-statutory Forward Planning Information Notices (FPIN) to better aid co-ordination.

##### **3.1.2 Requirement to obtain a permit**

3.1.2.1 Any promoter of a registerable activity, who wishes to carry out such an activity on a street designated as requiring a permit must obtain a permit from the Permit Authority. The permit will allow the promoter to:

- carry out the specified activity;
- at the specified location;
- between the dates shown; and
- subject to any generic condition that may apply to the permit and
- any specific conditions that may be included in the permit.

3.1.2.2 Any permit granted by the Permit Authority will include all of the information as supplied by the promoter in the application to which it refers.

3.1.2.3 The intention is to better control activities to minimise disruption and inconvenience and for these activities to be carried out in a manner that takes account of the needs of others.

Although the Permit Scheme applies to all registerable activities on both main and minor roads, the Permit Authority will apply a more rigorous approach to the assessment of category 0, 1 and 2, and traffic-sensitive locations than those categorised as 3 and 4.

##### **3.1.3 Types of permit application**

3.1.3.1 The Permit Scheme contains two types of permit applications:

- Provisional Advance Authorisation (PAA) – only required for major activities, i.e. those which are large and/or likely to be more disruptive. Effectively this is an early provisional permit issued before the final details of an activity have been worked out. For street works PAAs are similar to section 54 notices under NRSWA, in terms of providing early information about planned activities;
- Permits – full permits with final proposed details -for all registerable activities. For street works these are similar to section 55 notices under NRSWA in terms of providing full details of the proposed activities.

##### **3.1.4 Timing of permit applications**

3.1.4.1 The timing of applications will vary according to the proposed activity. Larger activities and those taking place on busier roads, which thus have the potential to be more disruptive to road users, require more time and effort for co-ordination and planning and hence applications should be submitted earlier than the minimum period required by the scheme. Permit approvals will be based on conditions under which the work may take place, so it is in the best interests of the promoter to contact the Permit Authority early. That way conditions can be

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discussed and, if possible, an agreement can be reached so that the application contains the required conditions and is approved quickly. Early applications will improve the co-ordination process; it will enable the Permit Authority to better control all the activities that take place on the highway and will help promoters plan their works more effectively. Table 1, within section 4.3 shows permit application and response times.

### 3.2 *Method of Making Permit Applications*

3.2.1 Permit applications, including PAAs and variations, must be made to the Permit Authority by electronic communication via Electronic Transfer of Notifications (EToN) unless there is a failure in the electronic system, or the applicant is a one-off promoter, whereby e-mail applications are acceptable.

3.2.2 Recipients of copies of permit applications or of other material relevant to those applications, e.g. transport authorities or frontagers, are unlikely to have access to EToN. In such circumstances applications or other information will be given either by e-mail or by post.

### 3.2.3 **System failures**

3.2.3.1 Failure lasting up to 24 hour duration - The Permit Authority will accept applications for permits for immediate works only by e-mail following pre-agreement with the Permit Authority. These applications must be accompanied by a telephone call to the appropriate contact number.

3.2.3.2 Failure lasting between 24 hours and 3 days - The Permit Authority will accept applications for permits for immediate works and works of Activity Type Minor only by email following pre-agreement with the Permit Authority. These applications must be accompanied by a telephone call to the appropriate contact number.

3.2.3.3 For both failure durations following recovery of service, a copy of the application or notice should then be sent through EToN to ensure that the information on the works is correctly recorded. To avoid receiving erroneous FPNs, activity promoters should endeavour to advise the Permit Authority of any significant system downtime.

3.2.3.4 In the event of system failure, any permit variation applications or to seek further information or discussion should be made by telephone to the appropriate contact number. The officer concerned will issue an individual reference number. This number must be displayed on an electronic application through EToN following recovery of service to ensure correct cross referencing.

### 3.3 *Content of Permit Applications*

3.3.1 All applications must comply with the definitive format and content of both paper and electronic permit applications given in the Technical Specification for EToN. The description of activities and other information should be in plain English without any industry specific jargon.

### 3.4 *An Application Must Contain Only One Street*

3.4.1 Each application must contain information about one activity in one street, where a street equates to a single USRN. To improve co-ordination, projects covering more than one street must cross-reference all related applications. This is particularly important when applying for PAAs. Under no circumstances will an application containing activities in more than one street be acceptable.

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### 3.5 *Applications Involving Other Interested Parties*

- 3.5.1 Parties other than the Permit Authority may wish to be informed about activities on a street. Such parties should make sure that their interest is entered in the ASD in the NSG.
- 3.5.2 Before making a permit application, promoters should check whether any parties have registered such an interest in the street. Where the ASD indicates other interested parties, applications for permits, PAAs and variations, and any response to them, must be copied to those parties. Electronic systems meeting the Technical Specification for EToN should deal with this automatically. However, some interested parties may not have access to the electronic systems so they should be sent copies by an alternative method.
- 3.5.3 In addition, within the Permit Scheme, NRSWA sections 88, 89 and 93 are amended as provided for in the Permit Regulations. These sections, along with s90 and s91, deal with notifications to bridge, transport and sewer authorities. The amendments ensure that the same consultation takes place prior to a permit application as under the NRSWA notice regime. The duties on undertakers in relation to streets with special engineering difficulty also remain under the Permit Scheme and the approval to plans and sections from the relevant authorities still has to be obtained. These procedures should take place before the permit application is made. The application should state that the consultation has taken place and where appropriate the necessary approvals have been obtained from the other parties.
- 3.5.4 Works for Road Purposes activity promoters must follow equivalent processes for activities under the Permit Scheme in such situations, and state that they have fulfilled the requirements of these sections in their applications.
- 3.5.5 The consultation requirements with Network Rail are the same as with the NRSWA. Promoters should make themselves aware of these requirements.
- ### 3.6 *Provisional Advance Authorisation Applications – Timing and Content*
- 3.6.1 The promoter shall apply to the Permit Authority for a PAA at least three months before the proposed start of major activities. This replaces the Advance Notice under s54 of NRSWA. Each permit for a major activity must have an equivalent PAA, i.e. one PAA per street.
- 3.6.2 A PAA must always specify proposed start and end dates. However, it is accepted that it may be difficult for a promoter to be certain of the start date three months before the event, so the proposed start date is regarded as provisional and may be amended in the application for a final permit.
- 3.6.3 While it is anticipated that under the Permit Scheme a granted PAA will normally carry through to a successful permit application, the granting of a PAA does not preclude the Permit Authority deciding not to grant a permit for the activity to which the PAA relates.
- 3.6.4 Permit regulations provide that failure to apply for a PAA can be used as a factor in deciding whether or not to grant a permit for a major activity. Under the Permit Scheme the absence of an application for a PAA for a major activity will lead to a presumption against granting a full permit for that activity. Following representation from a promoter the Permit Authority may if it is considered appropriate agree that a PAA is submitted and an early start agreed to enable the submitted permit to be granted.
- 3.6.5 The information to be supplied by a promoter for a PAA is set out in the Technical Specification for EToN. Standard, minor, immediate, remedial and interim to permanent activities do not require an application for a PAA.

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### 3.7 *Timing of Permit Applications*

3.7.1 The time requirements for submitting permit applications are set out in (Table 1 in 4.3).

#### 3.7.2 **Special requirements for immediate activities**

3.7.2.1 The Permit Authority may designate streets that are particularly vulnerable to activity related congestion on the ASD, to indicate that the Permit Authority requires early warning by telephone of immediate activities on these streets immediately after the activity has been identified. Upon receipt of a telephone call, the officer concerned will issue an authorisation code number for the immediate activity. Where such a number is given, this number must be included on the subsequent electronic permit application. Only those streets that are most susceptible to unplanned disruption will be designated.

3.7.2.2 Any immediate activity can adversely affect traffic (including pedestrians) on the street with the activity and on other alternative routes onto which traffic may divert. Even if the street is not designated, where an immediate activity is likely to cause significant disruption, the promoter should telephone confirmation of the commencement of the activity at the earliest opportunity and in any event within 2 hours of the activity being identified.

3.7.2.3 Examples of situations where significant disruption is likely to occur include: immediate activities on traffic sensitive streets in traffic sensitive times; on streets where traffic is likely to be diverted onto a traffic sensitive street at a traffic sensitive time; on streets that are already in use as a diversion route. Promoters should be especially alert in such circumstances.

3.7.2.4 Permits for immediate activities can contain the same conditions as permits for other activities -subject to obvious variations, such as omitting when activities may start. The exact location may not be known when the application is made.

### 3.8 *Permit Start and End Dates and Activity Durations*

3.8.1 A permit will allow an activity to be carried out for a specific duration between the start and end date on the permit. An activity promoter working outside those dates would not have a valid permit and potentially would be committing an offence. It should be noted that if the work should start on a Monday and finish on a Friday, the subsequent weekend cannot be used as additional days without the express approval of the Permit Authority through a permit variation.

3.8.2 Section 74 of NRSWA still applies to statutory undertakers' activities and the noticing requirements of s74 still apply. The Highway Authorities own activities will be subject to equivalent notices. Therefore, when they began the activity the promoter would have had to submit the s74 Start of Works Notice (or highway activity equivalent) giving the actual start date of the activity. The duration (reasonable period) for s74 purposes must be the same as the duration given in the permit, unless the application granted by the Permit Authority has limited the duration for s74 purposes to a period less than the permit period, or where a duration variation has been granted and the Permit Authority has issued a Duration Challenge to limit the Reasonable Period.

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### 3.8.3 Main roads

- 3.8.3.1 On main roads, i.e. all category 0, 1 & 2 streets and category 3 & 4 streets that are traffic-sensitive for all or part of the time, the duration of the activity will exactly match the time from the start date to the end date unless the Permit Authority has limited the duration for s74 purposes (see 3.8.2).
- 3.8.3.2 For example: start date Wednesday 1st June, end date Friday 10th June, duration eight (working) days. The permit start date will be the proposed start date of the activity. If the activity cannot begin on the permit start date, the promoter should, where it is known, inform the Permit Authority the day before the permit start date by means specified by the Permit Authority at its co-ordination meetings. This must be confirmed via an EToN works comment. There is no automatic extension of the permit in these circumstances. If the promoter thinks that they could still complete the work before the permit end date, then they could begin the activity on a subsequent day, submitting a start of works notice under section 74 of NRSWA.
- 3.8.3.3 If the promoter could not complete the activity before the permit end date, they must apply for a permit variation. This would be required even if the extra days were at a weekend (in the above example the permit expires at midnight on Friday night). The Permit Authority may or may not agree to an extension, depending on the circumstances, and the activity promoter may be subject to over-run charges if the over-run days are working days.

### 3.8.4 Minor roads

- 3.8.4.1 On minor roads, i.e. category 3 and 4 streets that are not traffic-sensitive at any time, the permit will be issued with start and end dates, and implied duration for the activity. The start date will allow for a flexible window of 5 working days for major and standard activities and 2 working days for minor activities, from the initial estimated start date. The end date will be amended accordingly depending on the original duration.
- 3.8.4.2 Unless the Permit Authority has limited the duration for s74 purposes (see 3.8.2), or a duration variation has been granted and the Permit Authority has issued a Duration Challenge to limit the Reasonable Period, the duration will be the time from the actual start date to the appropriate end date.
- 3.8.4.3 Thus the start date on the permit will be the planned start date for the activity but the end date may subsequently change due to the activity starting on any day up to the last day of the starting window.
- 3.8.4.4 Once the promoter has notified the actual start of the activity within the window, the permit start and end dates will be re-set so that the permit start date is now the actual start date and the permit end date is then fixed by the duration from the actual start.
- 3.8.4.5 The normal working day rules apply, i.e. weekdays, although there may be conditions placed on the permit that affect the ability of an activity promoter to make use of weekends or Bank Holidays to work.
- 3.8.4.6 The activity start date cannot be later than the last day of the starting window.
- 3.8.4.7 If the promoter could not complete the activity before the permit fixed end date (following the submission of the actual start date) they must apply for a permit variation. This would be required even if the extra days were at a weekend. The Permit Authority may or may not agree to an extension, depending on the circumstances, and the promoter may be subject to over-run charges if the over-run days are working days.

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### 3.9 *Information Required in a Permit Application, Including PAA Applications*

3.9.1 In deciding whether to include any conditions in a permit; the Permit Authority will consider the information that has been provided in support of the application. The Permit Authority recognises that full information may not be fully known at the time an application for a Provisional Advance Authorisation is made. However, activity promoters should make every effort to provide the most accurate information available at each stage. Required information should be provided in the appropriate ETON field or in the description text where no field exists.

3.9.2 Each application must include a unique reference number. Details of the numbering system are given in the Technical Specification for ETON.

3.9.3 A detailed description of the activity must be provided to enable the Permit Authority to assess its likely impact -similar to that already required under NRSWA.

#### 3.9.4 **Location**

3.9.4.1 Activity promoters must provide the USRN and also an accurate location based on NGR, for small excavations this must be one NGR in the centre of the excavation and, where there are trenches, this must be a number of co-ordinate pairs representing a poly-line, as detailed in the technical specification for ETON. This requirement is a minimum and may not be sufficient to indicate the space to be occupied, so the Permit Authority may seek additional information by way of descriptive text or a works plan (if not provided with the application).

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

3.9.4.3 Promoters applying for permits for immediate activities should do so only once they have begun excavation (see 2.2.6). Even if they find that the location in which they have started digging is not where the activity is ultimately required, a permit is still required because they have broken open the street. A permit variation must be obtained if the location has to be changed as the activities progress (see 5.2.6 multiple excavations).

#### 3.9.5 **Timing and duration**

3.9.5.1 Each application for a permit must include proposed start and end dates and a proposed duration, where the duration is inferred from the start and end dates. If the activity promoter proposes to undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, then they must specify this in their application.

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

- For traffic-sensitive streets, indicate if the activity will take place within or outside traffic sensitive times.
- For all streets indicate if the start or finish time for any activity is to be carried out outside the normal working day\* 8:00am to 6:00pm or if the activity requires night working.
- If, for a major activity, the dates on a permit application differ from those on the preceding PAA, the promoter must explain the reason(s) for the change.

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\*The normal working day referred to in the bullet point above is not the working day defined in section 98(2) of NRSWA, as any day except weekends and public and bank holidays.

That working day is assumed to be 08:00 to 16:30. The times are significant only for calculating notice periods. It does not define the day for any other purposes.

In order to allow the Permit Authority to identify works which may have detrimental environmental impacts to residents/businesses, and for it to place conditions on works as appropriate it is essential for them to know if works are proposed to be executed outside the times specified.

### 3.9.6 Illustration

3.9.6.1 PAA applications and 'Major over 10 days' Activity Permit applications must be accompanied by an illustration(s) of the works and should include details of the activity, the extent of highway occupancy, and where the relevant traffic flow information is available to promoters via the Permit Authority website, a disruption effect score as defined in Appendix G of the Permits Code of Practice. The illustration will comprise plans, sections, digital photographs and similar material.

3.9.6.2 Illustrations may be required for more than just major activities as a small excavation in a critical junction may well be much more disruptive. Therefore where it appears to the promoter that any activity may be significant in terms of potential disruption, due to the position or size of the activity, an illustration should be included with the permit application. If the Permit Authority considers that any particular activity may potentially be significant in terms of disruption they may request an illustration as further information to enable them to consider the application.

3.9.6.3 Activities on those streets or parts of a street, subject to a SED designation will in any case require a plan and section or other specified information. Approvals for an SED must be obtained before the full permit application is made. The preferred method of submitting the plan and section is via an EToN illustration. Details of how illustrations can be transmitted as attachments can be found in the Technical Specification for EToN.

### 3.9.7 Technique to be used for underground activities

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

### 3.9.8 Traffic Management, Parking and Traffic Regulation Orders

3.9.8.1 The activity promoter must supply details of traffic management proposals together with any requirement for action by the traffic authority including, but not limited to:

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

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

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

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- 3.9.8.3 For the requirements for TTROs (see 12.1). All activities requiring a TTRO are categorised as major activities. A separate application for a TTRO must be made as well as the PAA or Permit Application.
- 3.9.8.4 The Traffic Signs Regulations and General Directions (the TSRGD) requires that prior permission of the Permit Authority, (in its capacity as Traffic Authority), is required to place portable light signals on or near a road. The NRSWA Safety at Street Works Code of Practice repeats this requirement and recommends that for immediate works the authority must be informed at the time and an application then submitted as soon as possible but not later than 10 am the next working day..
- 3.9.8.5 The appropriate flag in the permit application indicating the proposed use of 2 way or 3 way portable traffic lights must be used.
- 3.9.8.6 EToN includes provision for Portable light Signals functionality referred to as Temporary Traffic Signals (TTS): All Portable Light Signal information will be submitted through EToN using the appropriate submission, unless an alternative method of application is required by the Permit Authority.
- 3.9.8.7 Where parking bays are to be suspended, application must be made to the relevant parking authority. This must be separate from any permit application. It is important to fully consider the parking needs of people with disabilities when seeking the suspension of parking bays. Evidence of the agreement of the relevant parking authority must be included in the permit application.
- 3.9.8.8 If the advance approval notice period required for any traffic management is longer than that required for a permit, traffic management can be applied for separately. If this happens it will be necessary to indicate that this is the case on a permit application, cross-referencing the earlier application for traffic management (including parking) by its unique application reference number.

### 3.9.9 Needs of people with disabilities

For all works it is a requirement that full consideration is given to the needs of people with disabilities. This is particularly important in respect of the availability of road space and parking arrangements. It is important therefore at the application stage that any arrangements that will be necessary to accommodate the needs of people with disabilities as a consequence of the proposed works can be established, such as ensuring safe passage, but also whether bus stops and disabled parking bays will be affected or suspended.

### 3.9.10 Depth

Activity promoters must provide their best estimate of the excavation depth. While this might be expressed as a range, it should nonetheless provide a meaningful indication of the nature and extent of activity involved.

### 3.9.11 Reinstatement type

The application must indicate whether the activity is intended to be completed with interim or permanent reinstatement or a mixture of both. If it is the latter, then promoters must provide details as to where interim or permanent reinstatements will be completed within that permit.

### 3.9.12 Inspection units

The application must state the provisional number of estimated inspection units appropriate to the activity, in accordance with the rules laid down in the Inspections Code of Practice and associated regulations. Where there is trench sharing, only the primary promoter is required to give the inspection units (see 2.7.3 on Collaborative Working).



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### 3.9.13 Contact person

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

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

### 3.10 *Early Starts*

3.10.1 An activity must not start before the expiry of the application period except where an early start has been agreed via EToN with the Permit Authority, and any other interested parties. The Permit Authority will give consideration to allowing early starts (i.e. proceeding before the end of the full application period set out in Table 1 in 4.3), provided it is established that;

- I. there is no reason not to do so, or it is actually beneficial to do so,
- II. the activity promoter requesting the early start is able to demonstrate a legitimate reason for the request.
- III. every effort has been made to adhere to the specified minimum advance notice periods specified in the Permit Scheme Regulations,
- IV. There is no history of continual requests for early starts from the activity promoter.

3.10.2 An activity promoter may request an early start at the same time as or after applying for a PAA or a permit application, as appropriate. Where an early start is agreed after the permit has been issued, the promoter must submit a variation to the permit, or in the case of a PAA include the revised dates on the application for the permit.

3.10.3 If an activity promoter requests an early start after the initial permit has previously been issued, and this is agreed by the Permit Authority, then there will be a charge for the associated permit variation. Where the early start request is submitted as part of the initial application, no variation is required (See 5.2.4.1).

### 3.11 *Error Correction*

3.11.1 The process detailed in the Permits Code of Practice and the EToN specification must be followed.

### 4 ISSUE OF A PERMIT AND INCLUSION OF CONDITIONS

#### 4.1 *General*

4.1.1 When considering applications for permits, including PAAs, and deciding the terms of a permit and of any specific conditions, The Permit Authority will act reasonably, for example:

- taking account of the proposed activity's potential to cause congestion and disruption;
- recognising the needs of other users of the highway, and the integrity of the highway itself;
- taking account of how feasible it is for the activity promoter to comply e.g. given the area of occupancy and the restrictions imposed by the available industry resources and technical capabilities;
- allowing works to be carried out in compliance with statutory guidance and codes of practice especially in relation to safety (such as *Safety at Street Works and Road Works*).

4.1.2 The permit for an activity will specify the activity it allows in detail and will include any specific conditions. This information will be drawn from the application. As a minimum, any constraints in the original application will be reflected in the terms of the permit. A typical example would be, if the activity is in a street which is traffic-sensitive in some places and/or at some times and the application stated that the activity was to be outside the traffic-sensitive places and times, this would then become a term of the permit; or if a minimum dig method is proposed then that would become a term. However, this does not restrict the Permit Authority from imposing such conditions as it considers appropriate, taking all factors into account.

#### 4.2 *Granting Approved Permits*

4.2.1 When the Permit Authority is satisfied that an application from an activity promoter meets scheme requirements, it will issue a permit in accordance with paragraph 4.4.1. Each application will lead to a separate permit. The permit will contain the location and description of the activity, the start and end dates of the period for which the permit is valid, the implied duration and any conditions imposed by the Permit Authority. The permit will also include reference to any associated documentation such as drawings. Where the drawings have been submitted as EToN attachments they will be accessible electronically through the permits register.

4.2.2 The Permit Authority will grant permits electronically using EToN. If the electronic system is down or unavailable for any reason then permits will be issued by e-mail. Each permit will be given a unique reference, which must be displayed on the site information board. Variations to permits will be denoted by the use of the same unique reference with a suffix to denote the variation.

4.2.3 Where other parties have expressed an interest in a street and the application for a permit has been copied to them, the permit will also be copied to those parties by the Permit Authority when it grants the permit to the activity promoter.

#### 4.3 *Response Times*

4.3.1 The Permit Authority intends to respond to all permit applications and PAA applications within the timescales set out in Table 1 below. That response will be to approve the permit, give a Permit Modification Request (PMR), or to refuse the permit. In the event that no response is sent by the Permit Authority either

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granting, or giving a PMR or refusing the permit within the set timescales, the permit will be deemed to have been approved (see 4.5).

- 4.3.2 For approved permits the Permit Authority will respond by granting the permit through the EToN system.
- 4.3.3 For a PMR or refused permits the Permit Authority will respond through the EToN system, giving the reasons for the PMR or the refusal
- 4.3.4 For discussions or further information the Permit Authority will respond by EToN comment, telephone, email, in writing or by other means, as appropriate, and may arrange a meeting. Any dialog /agreement will be recorded in an EToN comment.

**Table 1: Application and Response Times**

APPLICATION AND RESPONSE TIMES (in working days)							
Activity Type	Minimum application periods ahead of proposed start date **		Minimum period before permit expires for application for variation (including extension)	Response times for The Permit Authority for, issuing a permit or a giving a PMR or refusing a permit		Response time to Modified Permit Application (with no change to original start and finish dates)	Response times to applications for permit variations
	Application for provisional advance authorisation	Application for permit		Application for provisional advance authorisation	Application for permit		
Major	3 months	10 days	2 days or 20% of the original duration whichever is the longest	1 month	5 days	2 days or any remaining original application response period, whichever is the longest	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		

\*\* note that if an activity requires approvals for TTRO or portable light signals or parking suspension then the relevant timescales for these need to be taken into account. (see 3.9.8)

### 4.4 *Permit Applications not approved*

#### 4.4.1 **Refusing a permit**

The Permit Authority recognises that legitimate activities cannot be refused, however the Permit Authority will give a PMR (which is a refusal under regulation 16 if the promoter does not subsequently submit a modified application with the same start and end date as the original application) or refuse a permit

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application if elements of the proposed activity are not acceptable. Where appropriate, when refusing an application the Permit Authority will contact the promoter to explain the reason for refusal if it is felt that the response code used and any associated ETON text have not made the reason for refusal clear. When receiving a PMR the activity promoter will be able to submit a modified application containing the requested changes. Provided the start date for the activity has not changed there is no requirement for an early start agreement. However when receiving a refusal and subsequently submitting a new permit application with the same start date, it may be necessary to request an early start agreement to reflect any reduced notice period.

4.4.1.1 Grounds for refusal of a scheme compliant permit application will always relate to the Permit Authority's responsibility to discharge its Network Management Duty and are set out below. In an exceptional circumstance, where a specific situation affects, or will affect the Highway Network, the Permit Authority may invoke other grounds for refusal.

- Conflicting activities/events
- Environmental considerations
- Conflict with other Statute
- Accuracy of/Conflicting/missing information
- TTRO/PTS approvals
- Works Methodology
- Timing
- Location
- Duration
- Section 58/58A restrictions
- Traffic Management
- Road Occupation dimensions
- Traffic Space dimensions
- Consultation and publicity
- Missing Conditions

4.4.1.2

Following a PMR where a modified application is issued with the same proposed start and end dates as the original application then the response period for the modified permit application will be the later of:- the remaining original application response period:- or 2 days, starting from when the modified application is received. Where the original application was refused, the modified application must be submitted as if it were a new application in terms of time scale or include an early start request.

4.4.1.3 If agreement cannot be reached in the time available, the Permit Authority will refuse the permit and the promoter must make a new application, which would then be considered in the usual way.

4.4.1.4 The activity promoter has a right of appeal if it is unable to reach agreement with the Permit Authority over the terms of the permit or the conditions. In the case of immediate activities it may be that work has to stop, if it is safe to do so, until the issues are resolved. The Permit Authority will decide on a case by case basis if that is necessary, but will always seek to discuss the situation with the activity

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promoter and will take into account all the relevant factors in coming to a reasonable decision. For full details of dispute procedures, refer to section 7 (Dispute Resolution) of this document.

### 4.5 *Permit Application Deemed to be Approved*

4.5.1 If the Permit Authority fails to reply to a permit application (approving, giving a PMR or refusing the permit) within the response times given in Table 1 in 4.3, the permit will be deemed to be granted in the terms of the application. The proposed start and end dates, description, location, duration, etc. will be carried across into the permit and any condition in the application will become conditions for that activity. Those permit terms and the conditions will then be binding on the activity promoter as they would for a permit actively issued by the Permit Authority; breaching them will be an offence.

### 4.6 *Time when a Permit is Valid*

4.6.1 A permit is valid only for the period between the start date and end date (inclusive) on the permit.

4.6.2 On main roads (i.e. category 0, 1, and 2 streets and category 3 and 4 streets that are traffic-sensitive for all or part of the time), the start and end of the permit period will match the start and finish dates for the activity. The activity promoter must not carry out any activity, including delivery and storage of materials on site, outside of these times without applying for and obtaining a permit variation from the Permit Authority.

4.6.3 Activities on minor roads (i.e. category 3 and 4 streets that are non traffic-sensitive streets at any time) will be less disruptive. On these streets the promoter will be allowed some flexibility in the start date but once the activity is started it must be completed within the activity duration period specified in the permit. The start date will allow for a flexible window of 5 working days for major and standard activities and 2 working days for minor activities, from the initial estimated start date. The end date will be amended accordingly depending on the original duration. Noting that the last day of the starting window would then be day 1 of the activity duration.

4.6.4 The permit start and end dates will be in calendar days. This will prevent ambiguity as to whether the permit is valid, even at weekends or on Bank Holidays.

4.6.5 The permit terms will always include the duration of the activity which is automatically derived from the Start and End dates i.e. the number of consecutive calendar days that the activity can take place.

4.6.6 If the permit allows working at weekends or on Bank Holidays, then the permit start and end dates will accommodate that, even though those calendar days will not count towards the activity s74 duration or, on category 3 and 4 non traffic sensitive streets, the starting window.

### 4.7 *Location and Description*

4.7.1 The permit will contain the location of the activity, including national grid reference(s) and a description of the activity. This information is drawn directly from the application information.

### 4.8 *Contact Details*

4.8.1 Contact details for the activity promoter will be included on the permit.

4.8.2 The Permit Authority will provide its contact details, including the out of hours contact information, on its website.

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### 4.9 *Conditions Included in Permits*

4.9.1 A permit granted by the Permit Authority will specify in detail the activity that has been allowed. Except in the case of an Authority-imposed variation, the entire promoter's information contained within the permit will be taken from the application, including any associated conditions.

4.9.2 The categories of conditions listed below are included in the Permit Scheme and shall be utilised as required.

- Timing and duration of activity
- Road space
- Traffic management provisions
- Manor in which specified works are to be carried out
- Consultation and publicity
- Environmental conditions
- Conditions as to progress

4.9.3 However, under the Permit Scheme certain conditions contained in the DfT guidance will be applied to all permits. An example is the display of permit reference numbers.

#### 4.9.4 **Conditions wording**

When applying a condition to a permit the Permit Authority will use the wording and numbering for that type of condition set out in DfT statutory guidance. The conditions contained within the statutory guidance may be amended from time to time.

### 4.10 *Conditions Attached to Permits for Highway Works*

4.10.1 The Permit Authority may require the activity promoter to:

- consult with any person likely to have apparatus affected by the proposed works,
- comply with any reasonable requirement of the apparatus owner to protect the same.

### 4.11 *Conditions for Immediate Activities*

4.11.1 The Permit Authority will review the application as far as reasonably practicable to agree that the content falls under the immediate classification and to check that the duration is not considered excessive. Certain conditions contained in the DfT guidance will apply to immediate activities for the period before a permit is granted. If appropriate Conditions are not provided by the works promoter, the Permit Authority will Grant the Permit application to ensure that ongoing works on the highway are not being undertaken illegally, but will issue an Authority Imposed Variation (AIV) detailing any Condition/s required by the Authority.

# 5 VARIATIONS TO PERMITS

## 5.1 *General Principles*

5.1.1 Within the Permit Scheme the Permit Authority has the powers under Permit Regulation 15, to review, vary or revoke permits and permit conditions. However, the Permit Authority is under no obligation to allow activities to continue beyond the permitted period.

5.1.2 A PAA cannot be varied. If a full permit has not yet been issued, and the activity promoter needs to make changes, then the promoter must inform the Permit Authority of the proposed changes and make a revised application for a PAA or permit. If the Permit Authority requires changes to the PAA then, after discussion with the promoter, the promoter must make a new application but in this case no fee will be charged.

## 5.2 *Variations Initiated by the Activity Promoter*

### 5.2.1 **For a variation – by promoters**

5.2.1.1 From time to time an activity promoter may need to apply for a justifiable variation to a permit and/or its conditions, including an extension of the agreed duration.

5.2.1.2 Grounds for refusal of a scheme compliant variation application will always relate to the Permit Authority's responsibility to discharge its Network Management Duty as set out in 4.4.1.2.

### 5.2.2 **Extensions**

5.2.2.1 The Permit Authority is under no obligation to let works run beyond the permitted period.

5.2.2.2 Whilst the Permit Authority will grant the extension to minimise disruption in many cases, there may be occasions where the activity promoter will have to vacate the street to allow other activities to take place and submit an application for a new permit to complete their activity at a later date. Plating of excavations may be appropriate where agreed with the Permit Authority.

5.2.2.3 Activities which exceed the duration in the permit without good reason will potentially be subject to overrun charges under s74 of NRSWA. In these instances, the Permit Authority may decide to extend the end date of the permit to allow the activity to be completed, depending on the co-ordination of other works in the area. However the reasonable period for s74 purposes will not be extended and the issue of a Duration Challenge will enable s74 charges to apply even though a valid permit is in force.

### 5.2.3 **Illegitimate phasing of activities**

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

- The closure of works following a refusal by the permit authority to grant an extension to the duration of a previous permit, or
- The premature closure of the activity by the promoter, before all those works specified in the activity description given by the promoter are completed, to avoid an overrun under s74 occurring.

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

### 5.2.4 Fees for activity promoter initiated variations

5.2.4.1 In order to incentivise works promoters to plan and submit permits accurately in the first instance, a fee is levied by the Authority for all granted promoter initiated permit variations regardless of road type, with the exception of early start requests which are submitted as part of the permit application.

5.2.4.2 The current fee charges are published on the Permit Authorities website.

### 5.2.5 Applying for a variation

5.2.5.1 The Permit Authority may need to investigate before granting a variation, so it is strongly recommended that all requests for permit variations are made as soon as it becomes clear that the activity will overrun or otherwise change. Prior discussion by activity promoters with the Permit Authority is also recommended so that variation applications can be dealt with quickly.

5.2.5.2 An activity promoter may apply to vary an existing permit at any time before it expires as follows:

- where the existing permit has more than 20% of its duration or more than two days to run, whichever is the longer, the promoter must apply for a variation electronically;
- in any other case the activity promoter should first contact the Permit Authority by means specified by the Permit Authority at its co-ordination meetings to ascertain whether the authority is prepared to grant a variation, and apply again electronically only if the authority agrees;

5.2.5.3 The Permit Authority will respond to the request within two days of receipt.

5.2.5.4 If the electronic systems fail, then applications may have to be sent another way, such as e-mail.

5.2.5.5 Where an activity promoter applies for a variation, the application must contain sufficient information to show precisely the nature and implications of the changes. Providing insufficient or inadequate information will lead to delays as the Permit Authority will need to go back to the promoter to obtain further information or clarification. In all circumstances the application must include the proposed dates and duration of the activity, whether or not they have changed.

5.2.5.6 Applications for permit variations must follow the procedures for permit applications outlined earlier in this document, including copying the application to parties which have expressed an interest in that street.

### 5.2.6 Multiple excavations

5.2.6.1 The Permit Scheme includes the following arrangements for Immediate activities requiring a series of fault-finding excavations or registerable openings. The activity promoter must submit the first permit application containing the location of the initial excavation or opening within two hours of the activity commencing;

- for any further excavations on the same street within 50 metres of the original hole, the promoter must contact the Permit Authority by the agreed method with the new location. No permit variation will be needed and no permit charge will apply,



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

### 5.3 *Variations Initiated by the Permit Authority*

5.3.1 The Permit Authorities may review the permit and associated conditions in the event of circumstances beyond its control having a significant impact. An example would be if extra traffic was diverted onto the road for which the permit has been issued due to another road being unexpectedly closed for any reason such as; floods, burst mains or a dangerous building. If the consequent disruption cannot be mitigated in another way, it may be necessary to vary aspects of the permit, such as the time or manner of working.

5.3.2 If the Permit Authority considers that a variation is necessary, it will first contact the promoter to discuss the best way of dealing with the situation whilst meeting the co-ordination duties and other statutory requirements of those involved.

5.3.3 No fee will be payable for permit variations initiated by the Permit Authority, unless, at the same time, the activity promoter seeks variations which are not the result of the circumstances causing the Permit Authority action. In that case a variation fee would be payable (subject to standard exemptions).

5.3.4 If the Permit Authority has been unable to contact the activity promoter to discuss the variation they should record that and send a message electronically.

### 5.4 *Suspension, Postponing, Revoking or Cancellation of Permits by the Permit Authority*

#### 5.4.1 **Suspending or postponing an activity**

5.4.1.1 There is no mechanism in the TMA or Permit Regulations for formally suspending or postponing a permit, only for varying or revoking them.

5.4.1.2 If the Permit Authority intends to suspend or postpone an activity for which it has already granted a permit but which it intends should happen at a later date, it will use the permit variation provisions, as described in 5.3, to enforce a change of dates. The promoter would then need to submit a further variation application relating to the new dates and any other requirements; in this case, the fees for the variation would be waived.

5.4.1.3 If the need for suspension is due to the activity promoter failing to comply with the permit terms or conditions, then the Permit Authority may use the provisions in Permit Regulation 18 which is similar to s66 of NRSWA.

5.4.1.4 If the Permit Authority considers that an activity promoter is failing to comply with the terms or conditions of a permit imposed under Permit Regulation 10 or 13, and the Permit Authority considers a condition has been breached, it may invoke the powers in Permit Regulation 10(4) which are incorporated into the Permit Scheme.

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### 5.5 *Cancelling a Permit or Withdrawing a Permit Application*

If a promoter wishes to cancel a permit or withdraw a permit application for which they have no further use, they should use the cancellation notice containing the relevant number (see Technical Specification for EToN for more details). The cancellation notice must be submitted within 2 working days beginning with the date on which the permit start date ceases to have effect. There is no cancellation fee.

5.5.1 Where a permit has been issued, the fee for the cancelled permit will normally remain payable. However, if a permit is cancelled through no fault of the promoter, the fee will be credited back to the promoter.

5.5.2 An activity promoter will be committing an offence if it works or continues to work after cancelling a permit.

## **6 CONFLICT WITH OTHER LEGISLATION AND LEGAL LIABILITY**

- 6.1 The Permit Authority will try to ensure that any conditions applied to a permit do not conflict with the activity promoter's obligations under separate legislation. The Permit Authority's intention is that an activity promoter should not be put in a position where they cannot escape being in breach of either permit conditions or other relevant legislation.
- 6.2 The activity promoter should bring such conflicts or potential conflicts to the attention of the Permit Authority as soon as is practicable. The Permit Authority will be responsible for resolving the issue with the other body or bodies concerned, e.g. Environmental Health officials, and amending the permit conditions accordingly.
- 6.3 The applicant will be liable for all actions, costs, claims, demands, charges and expense arising out of any activity covered by Permit Scheme, including those which may arise out of, or be incidental to, the execution of the works.
- 6.4 Part 8 of the Regulations provides for the disapplication of certain sections of NRSWA, details of which are contained in section 2.12 of this document.

## 7 DISPUTE RESOLUTION

### 7.1 *Introduction*

7.1.1 In the event of any dispute between the Permit Authority and an activity promoter in connection with any matter related to the Permit Scheme, the parties shall use every endeavour to resolve the matter between them. However, it is recognised that this may not always be possible. Where a Permit Authority is part of a group which holds a regular forum seeking consistency of scheme approach with Statutory Undertaker representation, any unresolved dispute should be tabled at such meetings for resolution in the first instance.

### 7.2 *Appeals Procedure*

7.2.1 If agreement cannot be reached locally on any matter arising in relation to the Permit Scheme, the dispute will be referred for review on the following basis:

7.2.2 Where the Permit Authority and the activity promoter(s) consider that the issues involved in the dispute are relatively straightforward, the matter will be referred to impartial members of SEHAUC (that is those not representing parties directly involved in the dispute) for review. That review should take place within five working days from the date of referral. The Permit Authority will accept the result as binding.

7.2.3 If the Permit Authority and the activity promoter(s) involved in the dispute consider the issues are particularly complex, HAUC (UK) will be asked to set up a review panel of four members - two utilities and two street authorities. One of the four persons will be appointed as Chair of the panel by the HAUC (UK) joint chairs. Each party must make all relevant financial, technical and other information available to the review panel. The review would normally take place within ten working days from the date on which the issue is referred to HAUC (UK). The Permit Authority will accept the conclusions of the review panel as binding.

### 7.3 *Adjudication*

7.3.1 If agreement cannot be reached by the procedure above, the dispute can be referred to independent adjudication. Adjudication within the Permit Scheme will only be used if both parties agree in relation to the matter under dispute, that

- the decision of the adjudicator is deemed to be final; and
- the costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them.

7.3.2 Where the adjudication route is followed, the Permit Authority and the activity promoter(s) will apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from a suitable recognised professional body.

### 7.4 *Arbitration*

7.4.1 Disputes relating to matters covered by NRSWA may be settled by arbitration, as provided for in s99 of NRSWA:

### 8 PERMIT FEES

#### 8.1 *Introduction*

8.1.1 The Permit Authority has set its permit fees in accordance with the Permit Regulations and statutory guidance published by DfT.

#### 8.2 *Fee Levels*

8.2.1 The figures for permit and PAA fees for different categories of streets and activities can be found on the Permit Authority website.

8.2.2 The figures for Permit variation fees for activities on both major and minor roads can be found on the Permit Authority website.

8.2.3 In addition to the permit variation fee itself, if a permit variation moves an activity into a higher fee category, the activity promoter must pay the difference in permit fee as well as the permit variation fee.

8.2.4 No fee is payable if a permit variation is initiated by the Permit Authority.

#### 8.3 *Waived and Reduced Fees*

8.3.1 There is the opportunity for an activity promoter to take advantage of various discounts that are offered as part of the Permit Scheme and these discounts relate both to the PAA and the permit.

8.3.2 An activity promoter will not be charged a fee;

- if the promoter is a highway authority or is carrying out WFRP \* on behalf of a highway authority (see example in 8.3.4);
- if a permit is deemed to be granted because the authority had failed to respond to an application in the time required;
- if a permit variation is initiated by the Permit Authority;
- where the Permit Authority has to revoke a permit through no fault of the activity promoter there will be no charge for a replacement application. If there is no subsequent replacement application, the original fee will be credited to the promoter;
- there will be no fee applicable for the maintenance of fire hydrants carried out by the fire service or a contractor designated by the fire service to carry out this work on their behalf, and,
- Where the works are Diversionary Works as a result of a Major Highway or Bridge works, Initiated by the Highway Authority, as described in s86 of NRSWA

8.3.3 When the Permit Authority is satisfied that applications for two or more permits (including PAAs)

- are submitted within 3 working days of each other, beginning with the day on which the first permit application is received; and
- are the result of the applicant or applicants working together so as to produce the least impact for users of the streets.

8.3.4 There will be a reduction in line with current DfT Statutory Guidance for the permit, and when submitted, the PAA fee for all applicants working together. All applications, including the first to be received, must indicate that they are being submitted together (within 3 days).

Examples of such situations could be;

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\*(WFRP) Works for Road Purposes as defined in NRSWA s86(2)

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- Where a promoter submits several permit applications at the same time for activities which are part of the same project but which are carried out in more than one street. The term “project” does not cover area-wide activities but activities of a scale which could be carried out in one street, but which happens to cover two or more streets;
- Where several activity promoters working within the same site submit applications at the same time. The primary promoter will require a permit with full information about the activities, and the other promoters will also require a permit each so that the authority knows who is working there. If in these circumstances one of the promoters is the highway authority, the utility company promoters will be eligible for the reduced fee.

8.3.5 When a promoter makes a permit application on a traffic sensitive street and indicates as per the current EToN specification that the activity is to take place wholly outside traffic sensitive times, as defined by the NSG, then the activity will be treated as qualifying for a discount in line with the DfT Statutory Guidance. Although this may be impractical for works where signing, lighting and guarding may need to remain on site for several days, it is recognised that short duration activities may well be able to be completed wholly outside of traffic sensitive periods over-night or weekend working.

Where activities are undertaken in this way then a “discount” on the applicable permit fee for traffic sensitive streets will be offered by the permit authority, to incentivise working outside of the traffic sensitive period/s. The activity promoter will be bound to adhere to the working times agreed in the subsequent granted application, with the appropriate Condition attached to qualify for any discount. The full Permit fee will apply to all works that take more than a day to complete, unless the site is cleared before the onset of the traffic sensitive times or the street is returned to full operational use. Full operational use is considered to be both;

- The appropriate usable road width required for normal traffic flow/manoeuvres to be maintained and
- Any footways maintained to a width of an absolute minimum of 1.0m (or wider where specified elsewhere as a condition of the permit)

### 8.4 *Fee Reviews*

8.4.1 The Permit Authority will review fees in line with current regulations and DfT Statutory Guidance Any significant variation between the expected income and expenditure in operating the Permit Scheme will be dealt with in accordance with review arrangements in effect at the time.

8.4.2 The Permit Authority is committed to adjust fees if either a surplus or deficit exists between costs and income. In the event that there is a surplus in a given year, the money should be applied towards the costs of the scheme in the next year and the fee levels adjusted accordingly. If a sustained surplus/ deficit occur the fee levels will be adjusted accordingly.

8.4.3 The outcome of annual fee reviews will be displayed on the Permit Authority’s public website.

## **9 OVERRUN CHARGING SCHEME**

- 9.1. The Permit Authority intends to run a scheme for overrun charging under s74 of NRSWA to operate alongside the Permit Scheme. The requirements for overrun charging are set out in regulations made under s74 of NRSWA (the s74 regulations as amended by the permit regulations). The procedure is contained in Chapter 16 of the Permits Code of Practice.
- 9.2. Where the permit Authority has reason to believe that overrun charges are being avoided by mis-use of permit phases, it will treat a subsequent permit application as an illegitimate use of phases (see 5.2.3).
- 9.3. Activities carried out by an activity promoter on behalf of a highway authority or by the highway authority themselves are not subject to s74 overrun charges. However, under the Permit Scheme, promoters of such activities will be required to follow the same procedures as promoters who are statutory undertakers. Key Performance Indicators (KPIs), as described in section 13, provide an indication of performance in relation to overrunning works.

## 10 USE OF SANCTIONS FOR PERMIT OFFENCES

### 10.1 *Introduction*

10.1.1 The Permit Authority will work with activity promoters to try to minimise congestion and disruption on the road network. As far as possible this will be done on a collaborative basis, involving consultation, dialogue and improvement, but the Permit Authority recognises that at times it may need to invoke sanctions to ensure the effective management of activities on the network. There are three types of sanction available to the Permit Authority:

- an intervention power;
- criminal proceedings; and
- power to revoke a permit

### 10.2 *Intervention and Remedial Action Powers*

10.2.1 Part 5 of the Regulations empower the Permit Authority to issue a notice requiring remedial action within a set timeframe if an activity promoter is working without a permit or in breach of any conditions. The Permit Authority will use this power if it considers it necessary.

10.2.2 The remedial action could include removing the activity, remedying the breach of conditions or discontinuing any obstruction. The Permit Authority will set out in the notice the reasonable steps the promoter must take and the timeframe.

10.2.3 Where a promoter does not take the remedial action within the specified timeframe, the Permit Authority will take such steps as it considers appropriate to achieve the outcome in the notice, and, where the promoter is a statutory undertaker, may recover any reasonable costs.

### 10.3 *Permit Offences*

10.3.1 The Permit Regulations create two offences which apply to statutory undertakers, these are:

- where a statutory undertaker carries out registerable activities on the street without a permit, except where immediate activities to take place before a permit is issued, provided a permit is applied for within 2 hours of the activity starting; and;
- where a statutory undertaker carries out registerable activities on the street in a way that contravenes any of the conditions attached to a permit, or the conditions that are applied to an immediate activity before a permit is issued for those activities.

10.3.2 These offences can be dealt with by the giving of a Fixed Penalty Notice (FPN) (see section 11) or by prosecuting the offences through the courts, following the usual processes. The Permit Authority in each case elects whether an offence will be dealt with by FPN or through the courts.

### 10.4 *Working without a Permit*

10.4.1 Once a permit has been issued it will be placed on the permit register. This will include permits deemed to have been granted. The Permit Authority will check against the register for the existence of a valid permit.

10.4.2 A permit will cover a specified activity at a specified location at specified times. These are referred to in the scheme as the permit terms and any activity that contravenes them is an offence. All elements of the activity must be completed within the dates on the permit – this includes not only the opening of the street,



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but all the ancillary work as well, such as stockpiling materials, setting up and disbanding traffic management and clearing the site.

10.4.3 A permit cannot be varied once it has expired. If a variation is necessary the activity promoter must apply in good time (see 5.2.5).

10.4.4 A promoter can begin immediate activities without a permit but must apply for a permit within two hours of starting work or, in the case of the activity commencing out of normal working hours, within two hours of the commencement of the next working day to avoid committing an offence. Once issued, the promoter is bound by the terms of the permit and its conditions.

### 10.5 *Breaching the Conditions of a Permit*

10.5.1 The conditions included in a permit will be recorded in the Permit Scheme permit register. If a permit is varied a new permit will be issued and any new conditions will be included and recorded. All parties will seek to ensure that conditions are precise so that both the Permit Authority and the activity promoter can easily check performance on site against the approved conditions.

10.5.2 Certain conditions contained in the DfT guidance will apply to immediate activities for the period before a permit is issued. The Permit Authority may decide to impose specific conditions for individual immediate activities.

### 10.6 *Revoking a permit*

10.6.1 Regulation 10(4) of the Permit Regulations provides a power to revoke a permit where it appears to the Permit Authority that the conditions included in a permit have been breached. The Permit Authority will use this power where it considers it appropriate but before doing so will discuss the situation with the activity promoter. The Permit Authority's policy in relation to the use of this power is set out in 5.4.

### 10.7 *Permit Authority's Policy on the Use of Sanctions*

10.7.1 Decisions on the prosecution of alleged offences are for the Permit Authority and each offence will be dealt with individually. Prosecution will not necessarily be the preferred option, the Permit Authority may take a decision to give a Fixed Penalty Notice in respect of a criminal offence or consider other courses of action depending on the seriousness and persistence of offences.

10.7.2 The Permit Authority will pursue the following policies on how sanctions will be employed. The steps will be followed as set out below, at the Permit Authority's discretion, with reference to the Traffic Management Permit Scheme (England) Regulations 2007 as amended.

10.7.2.1 For persistent offender or individual serious offences The Permit Authority will normally give a FPN but may choose to prosecute the offence through the courts, in accordance with regulations 19 and 20 of the Permit Regulations

10.7.2.2 For offences: where it is possible for some corrective action to be taken.

If a noncompliance occurs, a notice may be issued under regulation 18(1) proposing the reasonable steps to be taken within a defined timeframe.

If action is not taken within the timeframe given in the notice, or subsequently agreed timeframe, the Permit Authority under regulation 18(3) of the Permit Regulations will take actions as appropriate to the original noncompliance at the cost of the undertaker

10.7.2.3 For offences where it is NOT possible for some corrective action to be taken, an FPN will be given at the Permit Authority's discretion

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### 10.8 *Other NRSWA Offences*

- 10.8.1 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 and failure to send appropriate notices.

## 11 **MONITORING**

The Permit Authority will evaluate the permit scheme as per the current Permit Regulations

## **12 FIXED PENALTY NOTICES**

### **12.1 *Introduction***

12.1.1 The Permit Regulations provide for FPNs for permit schemes. The Permit Authority intends to use FPNs in conjunction with this Permit Scheme

12.1.2 These permit regulations provide for two offences to become fixed penalty offences. This means that they can be dealt with by FPNs, although prosecution through the Magistrates' Courts remains an option for the Permit Authority.

12.1.3 FPNs apply only to statutory undertakers and not to highway authorities, but the Permit Authority will monitor highway activities to ensure equal treatment across promoters. Situations will be recorded where highway activities would have been subject to a FPN, had they been carried out by an undertaker. The Permit Authority will use electronic FPNs where possible because they can be processed more easily, but other methods will be used if necessary. An example of a FPN form is in the permit regulations

### **12.2 *Payment of the fixed penalty notice***

12.2.1 Part B of the FPN sets out the methods by which the penalty may be paid. The permit regulations schedule 1 gives more information about the arrangements for payment.

### **12.3 *Giving an FPN***

12.3.1 The process for giving an FPN is in Chapter 18 of the Permits Code of Practice

## 13 RELATED MATTERS

### 13.1 *Road Closures and Traffic Restrictions*

13.1.1 Provisions governing temporary road closures and traffic restrictions for works or other activities in the street are found in sections 14 to 16 of the Road Traffic Regulation Act 1984, as amended by the Road Traffic (Temporary Restrictions) Act 1991, and Regulations made under the 1984 Act.

#### 13.1.2 **There are two procedures;**

- Where urgent action is needed the Permit Authority as traffic authority may issue a 'temporary notice' imposing a short-term closure or restriction. Prior notice is not necessary.

The notice is limited to 21 calendar days if there is a danger to the public or risk of serious damage to the road, independent of street works -a leaking gas main, for example. It can be extended by one further notice.

The notice is limited to five calendar days if there is no risk of danger or damage.

- In less urgent cases the traffic authority may make a 'temporary order', which may remain in force for up to 18 months. This is limited to six months for footpaths, bridleways, cycle tracks and byways open to all traffic.

13.1.3 A temporary notice and a temporary order may provide that restrictions have effect only when traffic signs are lawfully in place. This will help limit traffic disruption where activities progress along a length of road.

13.1.4 In extraordinary circumstances, the Road Traffic Act 1991 s49(4A), allows the police to suspend designated street parking places temporarily to prevent or mitigate traffic disruption, or danger to traffic. This could prove useful to activity promoters carrying out emergency works.

13.1.5 When a notice or order has been made, the activity promoter must comply with the requirements of the Permit Authority as the traffic authority and the police for the closure of the road.

13.1.6 S76 of NRSWA allows for traffic authorities to recover the costs of issuing temporary notices or making TTROs. Upon receipt of an application for a TTRO, the Permit Authority can provide utilities with the estimated cost. Invoices will be itemised, for example:

- cost of the order;
- advertising in local papers;
- administration fees.

13.1.7 There may also be charges made for erecting and maintaining the on-site notices that are required.

### 13.2 *Maintenance of Undertakers' Apparatus*

13.2.1 Undertakers have a duty, under s81 of NRSWA and the Streetworks (Maintenance) Regulations 1992, to maintain apparatus in the street to the reasonable satisfaction of the Permit Authority as the street authority, having regard for the safety and convenience of traffic, the structure of the street, and integrity of apparatus in it. Bridge, sewer and transport authorities also have an interest, so far as any land, structure or apparatus they own is concerned.

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- 13.2.2 Most undertakers have statutory obligations to maintain their networks -quite apart from which, they must maintain systems in efficient working order to properly discharge their safety and service obligations to their customers.
- 13.2.3 Thus the Permit Authority and all promoters have a shared interest in the proper maintenance of apparatus in the street.
- 13.2.4 The Permit Authority will report any apparatus in an unsatisfactory condition quickly and accurately to the apparatus owner, including the level of severity of the problem. The owner must respond and carry out any necessary remedial works within the reasonable timescales agreed with the Permit Authority as the street authority.
- 13.2.5 The Permit Authority as street authority will follow s81 of NRSWA, the Streetworks (Maintenance) Regulations 1992, chapter 19.2 of the Code of Practice for Permits and any subsequent revisions, when dealing with undertakers' apparatus requiring maintenance.
- 13.3 *Working Near Rail Tracks*
- 13.3.1 Particular attention must be given to the possible effects of activities taking place at or in the vicinity of level crossings. Promoters planning activities in such locations must refer to Appendix C of the Code of Practice for Permits published in March 2008 or as subsequently amended, which sets out Network Rail's requirements.
- 13.4 *Vehicle Parking at Street and Road Works*
- 13.4.1 This is not safety advice. The Code of Practice on Safety at Street Works and Road Works should always be consulted.
- 13.4.2 When activity promoters require the presence of a vehicle at the activity site they should refer to the guidance in chapter 19.4 of the Permits Code of Practice. Particular consideration should be given to the effect any vehicle will have when assessing the impact of the activity using the disruptive effect score in Appendix G of the Permits Code of Practice.
- 13.5 *Storage of Materials*
- 13.5.1 Activity promoters and the Permit Authority must take care to place materials so that they do not cause an obstruction to road users. This is one of the factors that the Permit Authority will take into account when making decisions on permits. This is especially important if materials are stored away from the activity site but still within the highway boundaries. The storage must have its own permission from the Highway Authority if it is separate from the activity site, and this should be referenced in the permit application for the activity.
- 13.6 *Apparatus Belonging to Others*
- 13.6.1 There may be other apparatus where activities are planned and under s69 of NRSWA, those carrying out activities must ensure that the owners of that apparatus are able to monitor the activity and that requirements to take reasonable steps to protect the apparatus are followed. Failure to do so is a criminal offence.
- 13.7 *Assessing the Impact of Activities*
- 13.7.1 All activities in the highway have a disruptive effect on traffic. An assessment of that effect is part of the process of applying for a permit.
- 13.7.2 When applying for a permit for major works over 10 days duration, where the relevant traffic flow information is available to promoters via the Permit Authority

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website, a disruption effect score as defined in Appendix G of the Permits Code of Practice is required.

### 13.8 *Environmental Issues*

- 13.8.1 Activity promoters are strongly advised to liaise with the authority's arboriculture consultants and other environmental officials along with any necessary borough or district council officers when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, their requirements can be met.
- 13.8.2 A promoter considering burying plant and apparatus that is currently above ground should contact any other utility with similar apparatus to see whether it wishes to share the underground facility.

## **14 KEY PERFORMANCE INDICATORS FOR THE PERMIT SCHEME**

### **14.1 *Background***

- 14.1.1 One requirement for permit schemes is to ensure that authorities apply a consistent approach to all activities and activity promoters.
- 14.1.2 The Permit Authority for the Permit Scheme is also a promoter of its own maintenance and other highway and traffic activities in its role as highway authority.

### **14.2 *Parity of Treatment***

- 14.2.1 The Permit Authority will demonstrate parity of treatment for all activity promoters, particularly between undertakers and its own activities as highway authority. The issue of equal treatment is emphasised in the Guidance on the Network Management Duty introduced under the TMA.
- 14.2.2 Parity will be measured through KPIs. The Permit Authority will produce an annual set of KPIs that identify the treatment of individual activity promoters. These results will be published.

### **14.3 *KPIs for the Permit Scheme***

- 14.3.1 The Permit Authority will use any mandatory KPIs, in the DfT statutory guidance and others as required. These will be published on the Permit Authority web site to demonstrate parity of treatment of promoters across the scheme.
- 14.3.2 The results of these KPIs will be published on an annual basis but will be transparent and available to any activity promoter at other times. The KPIs will be provided and discussed at the quarterly co-ordination meetings and other regular meetings held with promoters.
- 14.3.3 The Permit Authority will make the KPI data available to Government and other regulatory bodies

## 15 PERMIT SCHEME TRANSITIONAL ARRANGEMENTS

### 15.1 *Introduction*

The permit regime has been designed to follow closely the processes and timescales of the NRSWA noticing regime.

The Permit Authority will give a minimum of 4 weeks' notice of the commencement date to promoters and other interested parties after the order is made. The Permit Authority will facilitate discussions with all promoters during the introductory period to ensure that, as far as possible, issues are picked up early and problems dealt with quickly.

### 15.2 *Transition from NRSWA Notices*

15.2.1 The basic rules of transition will apply to all activities which would be covered by the scope of the Permit Scheme.

15.2.1.1 The permit regime will apply to all activities which come within the scope of the Scheme at the changeover date where the administrative processes for those activities, such as application for a permit or PAA, start after the changeover date.

15.2.1.2 Activities which are planned to start on site more than one month after the changeover date (for standard, minor and immediate activities) or three months after (for major activities) must operate under the permit scheme. This means that even if the relevant s54 or s55 NRSWA notice has been sent before the relevant changeover date, the promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a permit. If the promoter has not substantially begun the activity (or phase of activity) by the time limit for the notice, 1 month or 3 months as appropriate, then again the promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a permit.

15.2.1.3 Any other activities which started under the notices regime and which will start on site less than one month or three months after the changeover date (according to activity category) will continue under that regime until completion.

15.2.2 Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. Activities co-ordinated in the run-up to the imposition of a restriction under s58 or s58A of NRSWA might be such a situation. In those few cases, the Permit Authority will discuss the situation with the promoters concerned to work out a practical way of dealing with the activities.



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### Appendix A - Glossary

Activity, activity promoter	Covers both utilities' street works and highway authorities' own works. See Promoter.
Additional street data ("ASD")	Additional Street Data ("ASD") refers to other information about streets held on the NSG concessionaire's website alongside the NSG.
Bank Holiday	As defined in section 98(3) of NRSWA
Bar hole	A bar hole is used to detect and monitor gas leaks as described in the code of practice for permits.
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street).
Bridge, Bridge authority	As defined in section 88(1)(a) of NRSWA
BS7666	British Standard number 7666 relating to gazetteers.
Conditions Permit Conditions	Conditions applied by the Permit Authority to all permits or specific conditions to an individual permit. Contained in the EToN activity conditions field
Day	In the context of the duration of activities, a day refers to a working day, unless explicitly stated otherwise.
DfT	Department for Transport.
Disability	As defined in section 105(5) of NRSWA, "section 28 of the Chronically Sick and Disabled Persons Act 1970 (power to define "disability" and other expressions) applies in relation to the provisions of this Part as to the provisions of that Act".
Emergency works	As defined in section 52 of NRSWA
EToN	Electronic Transfer of Notifications, the system defined in the Technical Specification for EToN for passing notices, permit applications, permits and other information between promoters and the Permit Authority.
Excavation	"Breaking up" (as defined above).
Fixed Penalty Notice (FPN)	As defined in schedule 4B to NRSWA,
Footpath	As defined in section 329 of the HA 1980,
Frontagers	A person or body occupying premises abutting the street.
HA 1980	The Highways Act 1980.

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Highway	As defined in section 328 of the HA 1980, "highway means the whole or part of a highway other than a ferry or waterway".
Highway Authority	As defined in sections 1 and 329 of the HA 1980.
Highway works	"works for road purposes" or "major highway works".
Immediate activities	immediate activities are defined in 2.2.8
In	As defined in section 105(1) of NRSWA
Land	As defined in section 329 of HA 1980, "land includes land covered by water and any interest or right in, over or under land".
Local authority	As defined in section 270(1) of the Local Government Act 1972 and includes the Common Council of the City of London.
Main roads	All streets in reinstatement categories 0, 1 and 2 and those streets in categories 3 and 4 which are traffic sensitive for all or part of the time.
Maintainable highway	As defined in section 329 of HA 1980
Maintenance	As defined in section 329 of HA 1980, "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly".
Major activities	Are defined in 2.2.8
Major highway works	As defined in section 86(3) of NRSWA
Minor activities	Are defined in 2.2.8
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.
National Grid Reference	Location reference using nationally defined eastings and northings The format in which it is presented must in all cases match that required by the Technical Specification for ETON.
National Street Gazetteer (NSG) –also referred to as <i>Nationally Consistent Street Gazetteer</i>	A database defined as "an index of streets and their geographical locations created and maintained by the local highway authorities" based on the BS7666 standard.
Network management duty	As stated in Part 2 of TMA.
NRSWA	New Roads and Street Works Act 1991.

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Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any "breaking up" of the street.
Permit	The approval of a permit authority for an activity promoter to carry out activity in the highway subject to conditions.
Permit application	See section 3. The application that is made by a promoter to the authority to carry out an activity in the highway. It is equivalent to the notice of proposed start of works (section 55 of NRSWA) given under the Co-ordination regime.
Permit Authority	A local highway authority or other "highway authority" which has prepared a permit scheme under section 33 on all or some of its road network.
Permit Scheme	A scheme which has given effect by authority order under which permits for activities are sought and given.
Promoter	A person or organisation responsible for commissioning activities in the streets covered by the permit scheme. In the Permit Scheme promoters will be either statutory undertakers or the highway or traffic authority.
Protected street	are defined in NRSWA s61 (1)
Provisional Advance Authorisation (PAA)	The early provisional approval of activities in the highway. See 3.6.
Railway	As defined in section 105(1) of NRSWA, "railway includes a light railway other than one in the nature of a tramway".
Reasonable period	As defined in section 74(2) of NRSWA,
Registerable	Registerable activities correspond to street works or other descriptions of works that are required to be shown on the register in. <i>The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 and any subsequent amendments.</i>
Reinstatement	As defined in section 105(1) of NRSWA, "reinstatement includes making good".
Relevant authority	As defined in section 49(6) of NRSWA,
Remedial work	Remedial works are those required to put right defects identified in accordance with the provisions of the Code of Practice for Inspections and the associated regulations.
Road	"Highway".

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Road category	This means one of the road categories specified in Chapter S.1 of the code of practice entitled "Specification for the Reinstatement of Openings in Highways" dated June 2002, as revised or re-issued from time to time.
Road works	Works for road purposes.
SEHAUC	South East regional group of the Highway Authorities and Utilities Committee.
Sewer	Sewer as defined in the Water Industry Act 1991 " includes all sewers and drains (not being drains within the meaning given by this subsection) which are used for the drainage of buildings and yards appurtenant to buildings".
Sewer authority	As defined in section 89(1)(b) of NRSWA,
Special Engineering Difficulties (SED)	by virtue of section 63 of NRSWA,
Standard activities	Are defined in 2.2.8
Street	As defined in section 48(1) of NRSWA
Street authority	As defined in section 49(1) of NRSWA,
Street works	As defined in section 48(3) of NRSWA,
Street works licence	As stated in section 50(1) of NRSWA,
Terms Permit terms	The works promoter specified activity at the specified location at specified times executed in a specified way etc. as defined in a granted, deemed or varied permit
TMA	The Traffic Management Act 2004.
Traffic	As defined in section 105(1) of NRSWA, "traffic includes pedestrians and animals".
Traffic authority	As defined in section 121A of the Road Traffic Regulation Act 1984:
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works".
Traffic flow	The number of vehicles using the particular street at specified times of the day and year, measured in accordance with DfT guidelines.
Temporary Traffic Regulation Order	This means an Order made under section 1, 6, 9 or 14 of the Road Traffic Regulation Act 1984.

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Traffic-sensitive street	This means a street designated by a street authority as traffic-sensitive pursuant to section 64 of NRSWA and in a case where a limited designation is made pursuant to section 64(3) any reference to works in a traffic-sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation.
Traffic sign	As defined in section 105(1) of NRSWA, "traffic sign has the same meaning as in the Road Traffic Regulation Act 1984"
Trunk road	As defined in section 329 of the HA 1980,
Type 1 (or 2, or 3) gazetteer	As defined in the British Standard BS7666.
Undertaker	As defined in section 48(4) of NRSWA,
Unique street reference number (USRN)	As defined in the British Standard BS7666.
Urgent activities	Are defined in 2.2.8
Working day	As defined in section 98(2) of NRSWA,
Works	Street works or works for road purposes.
Works clear	A notice under NRSWA s74(5C) following interim reinstatement.
Works closed	A under NRSWA s74(5C) following permanent reinstatement.
Works for road purposes	As defined in section 86(2) of NRSWA,

## APPENDIX B -PERMIT REGISTER

### B.1 Introduction

The Permit Authority will maintain a register of each street covered by the Permit Scheme. The register will contain information about all registerable activities on those streets. The permit register will also include forward planning information about activities and other events which could potentially affect users of the streets and promoters of activities in those streets.

The Permit Authority will still retain a register under s53 of NRSWA for street information. This will cover those streets that are not part of the permit scheme, i.e. non-maintainable streets.

The Permit Authority will maintain the two registers in such a way that they can effectively be treated as one and information can be accessed seamlessly, where necessary, to aid the co-ordination of activities and to provide information to road users.

### B.2 Form of Registers

The Permit Authorities permit register and street works registers will be kept on an electronic system and maintained against the same digital map base to ensure consistency between all holdings of street-related data. This common geographical dataset will be vector-based, nationally consistent, maintained and seamless, with changes published on a regular update cycle.

The Permit Authority will provide the Unique Street Reference Number (USRN) definitions and attribution as defined in BS7666, while the geometries will be recorded by referencing the road centreline objects in the digital map base. All data will follow the principles of the Digital National Framework.

### B.3 Content of Registers

The permit register held by the Permit Authority will record:

- (i) copies of all Provisional Advance Authorisation (PAA), permit and permit variation applications submitted to the Permit Authority relating to activities in any street;
- (ii) copies of all permits and PAAs given by the authority, including conditions as well as all variations to permits and conditions including any permits "deemed" granted;
- (iii) copies of all revoked permits, refused PAAs and refused permits, together with the reasons for such refusals;
- (iv) copies of all notices, consents and directions served by a street authority under s58 or s58A of NRSWA;
- (v) copies of all notices served by a promoter under s58 and s58A of NRSWA;
- (vi) copies of all notices given under s74 of NRSWA;
- (vii) description and location of activities for which plans and sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties);
- (viii) particulars of notices given by any relevant authority under Schedule 4 of NRSWA;
- (ix) particulars of street works licences under s50 of NRSWA, including details of conditions and changes of ownership and of any NRSWA notices or directions associated with those licences;
- (x) information under s70(3) and (4A) of NRSWA as to completion of reinstatements;
- (xi) particulars of apparatus notified to the street authority under s80(2) of NRSWA;

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- (xii) every notice of works pursuant to s85(2) of NRSWA;
- (xiii) details of every street for which the Permit Authority is the street authority;
- (xiv) details of every street which is prospectively maintainable by the Permit Authority;
- (xv) details of every street of which the Permit Authority is aware over which the Permit Scheme would operate, which is a highway but for which it is not the highway authority;
- (xvi) details of every street which is a) a protected street; b) a street with special engineering difficulties; c) a traffic-sensitive street;
- (xvii) the road category of each street; and;
- (xviii) details of every street where early notification of immediate activities is required.

### **B.4 Access to registers**

The Permit Authority will publish elements of their register's information on a public website in order that the information is available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade and maintenance. Upgrading and maintenance will, wherever possible, be done outside normal office hours.

### **B5 Restricted information**

Restricted information is anything certified by the Government as a matter of national security, or information which could jeopardise the promoter's commercial interests such as details of a contract under negotiation. The promoter must indicate restricted information on the relevant permit or PAA application. Restricted information will not be shown on the public websites.

### **B.6 Retention of information**

Information about activities provided by means of or in relation to any permit application under the TMA (including for a PAA or permit variation) or notice under NRSWA will be retained on the register for at least six years after completion of the guarantee period of the activity referred to in the application or notice. Information about other activities will be retained on the register for at least six years after completion.

## **APPENDIX C - PAYMENT METHODS FOR PERMIT FEES AND FPNs**

Utility companies will be required to pay fees for permits to the Permit Authority and may have to pay a penalty to the Authority if they receive a Fixed Penalty Notice (FPN) for a permit related offence. Although the Permit Authority will keep the permit fees and FPN penalties separate for accounting purposes it is expected that utility companies will use the same means of paying for both. In most cases utility companies will already have arrangements in place for payments to the Permit Authority in relation to NRSWA e.g. for inspection or for s74 overrun charges and these arrangements can be used for permit fees and FPNs provided there is transparency over precisely which permit or which FPN a payment is for.

Payment for permit fees and any FPN should be made by means specified by the Permit Authority at its co-ordination meetings;

When the use of electronic payment methods is the required method, if a utility company normally uses that method and there is a system failure, paying by an alternate options is possible by contacting the Finance Department of the Permit Authority.

The utility company must set up payment facilities, provide contact details and agree methods of payment with the Finance Department of the Permit Authority and clarify what arrangements for payment will apply.

It is important that the authority is informed which FPNs or permit fees are being paid. This will not only provide an audit trail but will also ensure that payments can be made quickly and with the minimum of queries.

Therefore:

- For BACS, the utility company must support payment with details of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).
- For any alternate option the payment must be accompanied by a list of the Permit or FPN numbers covered by the payment and the amount being paid in relation to each (including, for FPNs, the discounted or full amount).

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