

# **The Traffic Management (West Sussex County Council)**

## **Permit Scheme Order 2016**

Made	8th February 2016
Coming into force	1 <sup>st</sup> April 2016

West Sussex County Council makes this Order in exercise of the powers conferred by Section 33A of the Traffic Management Act 2004 (as amended) and all other enabling powers and after consultation with all persons considered appropriate

### **Citation and Commencement**

1. This Order may be cited as The Traffic Management (West Sussex County Council) Permit Scheme Order 2016 and comes into force on 1<sup>st</sup> April 2016

### **Interpretation**

2. In this Order –

“the West Sussex County Council Streetworks Permit Scheme” means the permit scheme set out in the Schedule to this Order in terms commonly known as the “West Sussex Streetworks Permit Scheme”

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (as amended)

### **Commencement of the West Sussex Streetworks Permit Scheme**

3. The West Sussex County Council Streetworks Permit Scheme comes into effect on 1<sup>st</sup> April 2016.

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

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

The COMMON SEAL of WEST SUSSEX  
COUNTY COUNCIL was hereunto affixed  
in the presence of

*Dive Nelson*

Authorised Signatory



SCHEDULE

The West Sussex County Council Permit Scheme





**West Sussex County Council**  
**Residents and Environmental Services**

# **The West Sussex Streetworks Permit Scheme**

**January 2016**



## Document Control Sheet

Document prepared by:

SWS / SA

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## 1. Background

- 1.1. Permit Schemes provide a way to manage activities on the public highway and were introduced by Part 3 of the Traffic Management Act 2004 (TMA) to improve authorities' ability to minimise disruption from street and road works.
- 1.2. This Permit Scheme is known as the 'West Sussex Permit Scheme for Road Works and Street Works' or within this document as 'the Permit Scheme'.
- 1.3. Promoters should make themselves aware of the content of Part 3 of the Traffic Management Act 2004 ("TMA") (Sections 32 to 39) and the Traffic Management Permit Scheme (England) Regulations 2007 ("the 2007 Regulations"), Statutory Instrument 2007 No. 3372 made on 28 November 2007, as amended by the Traffic Management Permit Scheme (England) (Amendment) Regulations 2015, Statutory Instrument 2015 No. 958 made on 26 March 2015 ("the Amendment Regulations"). The Permit Scheme conforms to all the details in the subsequent DfT publications referencing the TMA including the Permit Schemes Regulations detailed in 1.3 (above) and any Code of Practice that may emanate from them in the future.
- 1.4. **Chosen design for West Sussex's Permit Scheme.**
  - 1.4.1. The West Sussex Permit Scheme is based on the feasibility study undertaken by West Sussex County Council, which reviewed current Permit Schemes and options utilised across England since 2010. The chosen method was to base our scheme on the Norfolk & Essex County Permit Schemes structures with minor developments to best fit the County of West Sussex.
  - 1.4.2. Options were put before West Sussex County Council Members of the Environment, Sustainability and Highways Committee and a scrutiny panel. Both supported a recommendation of developing a full permit scheme and applying permits to 100% of the network. It was considered that this would be best to meet the Council's objectives in support of its network management duty.
  - 1.4.3. This principle is supported in the additional guidance issued in January 2013 by the Department for Transport:

— "It is considered that in order to best manage the network, schemes are likely to choose to apply permits either to 100% of the network, but waive or discount part or all of the fees on non-strategically significant streets, or to operate a permit scheme across the areas largely defined by its strategically significant streets"
  - 1.4.4. West Sussex's scheme design incorporates the former and the other aspects of the additional advice note. West Sussex County Council fully supports the aims and objectives of the 'Superfast Broadband' roll-out. There are currently no other known major projects such as Olympics, TIF projects, etc. affecting West Sussex at present. However, this scheme has been designed to give flexibility in the delivery of such major projects, should they affect the county.



1.4.5. The objectives and benefits of the scheme are contained in Section 2 of this document.

## 1.5. **General Principles**

- 1.5.1. The Permit Scheme (as a scheme defined within the TMA), is designed to control the carrying out of relevant activities on the public highway. It replaces the “notice system” under the New Roads and Street Works Act 1991 “NRSWA” whereby Statutory Undertaker companies inform highway authorities of their intentions to carry out works in their areas. It uses similar concepts to the notice system in a number of key areas, such as road categories and works categories. This is to ensure consistency and to facilitate better co-ordination.
- 1.5.2. Introducing a Permit Scheme under the Permit Regulations, a full consultation complying with that Regulation was carried out which includes those stakeholders specified.
- 1.5.3. West Sussex County Council whilst preparing the Permit Scheme has taken into consideration the requirements of the Equality Act 2010.
- 1.5.4. The Permit Scheme is operated by West Sussex County Council as the Street Authority for West Sussex, hereinafter referred to as ‘the Permit Authority’. The scheme will apply to the whole of the area encompassed by the authority’s boundaries with the exception of the Highway Agency’s Motorway & Trunk Roads.
- 1.5.5. The Permit Scheme applies to the road categories as set out in paragraph S1.3.1 of the Specification for the Reinstatement of Openings in Highways (Third Edition). The Permit Scheme shall not apply to roads not maintained at public expense. Within the Permit Authority’s area permits will be required on all road categories.
- 1.5.6. The Permit Scheme will apply to any person or organisation responsible for commissioning activities [works] in streets covered by the Permit Scheme. In the Permit Scheme, these persons or organisations will be referred to as a “Promoter”, who will be either a Statutory Undertaker or West Sussex County Council as a highway or traffic authority.
- 1.5.7. West Sussex County Council Works Promoters must apply for permits in the same manner as a Statutory Undertaker. All fees and charges for highway authorities will not apply in the application of the Permit Scheme, but shadow fees and charges should be collated and monitored in demonstration of “Parity”.
- 1.5.8. Section 59 NRSWA places a duty on highway authorities to co-ordinate works of all kinds on the highway. Equally important is the parallel duty on Statutory Undertakers to co-operate in this process under Section 60. The Traffic Management Act and the associated regulations widened the Section 59 co-ordination duty to include other prescribed activities that involve temporary occupation or use of road space and incorporates any activities included in a permit scheme.

1.5.9. All works comprising and categorised as “specified works” in the Permit Regulations will require a permit. NRSWA prescribes the “registerable activities” which qualify as “specified works” and which activities will require a permit. Registerable activities for the Permit Scheme are set out in section 6.2 of this document.

1.5.10. Permits will be required for all registerable activities and works for road purposes except activities licensed under section 50 of the New Roads and Street Works Act 1991. All applications must be made by licensed undertakers or highway authorities. Each application will be treated in a non-discriminatory way as required in Regulation 40 of the Permit Scheme Regulations.

Major Highway Works (including Developer activities under Section 278 of the Highways Act 1980) will require a permit however permit fees will not be applied.

## 2. Objectives and Benefits of the Permit Scheme

- 2.1. Any activity undertaken in a street has the potential to cause disruption. Activities can reduce the width of the street available to traffic, pedestrians and other users, and can also inconvenience businesses and local residents.
- 2.2. The scale of disruption caused is relative to the type of activities being undertaken, the capacity of the street, the duration and timing of the works and the methods employed to carry them out. Works on those streets where the traffic flow is close to, or exceeds, the physical capacity of the street will have greatest potential to cause congestion, disruption and delays.
- 2.3. The objective of the TMA is to enable the management of the traffic network to ensure expeditious movement of traffic (including pedestrians, cyclists and other vulnerable road users) as required under the TMA Network Management Duty.
- 2.4. The Permit Scheme is intended to enable more effective co-ordination and to empower the Local Highway Authority (Permit Authority) to minimise disruption from both street and highway works.

### 2.5. The Permit Scheme Objectives

- 2.5.1. The strategic objective for the Permit Scheme is to provide a capability to manage and maintain the local highway network for the safe and efficient use of road space, whilst allowing Promoters access to maintain their services and assets.
- 2.5.2. The principle of the Permit Scheme is to improve the planning, scheduling and management of activities so that they do not cause unnecessary traffic disruption to any road user. It will help West Sussex County Council meet their network management duty under the TMA. Co-ordination of activities through the Permit Scheme will enable differences between those competing for space or time in the street, including traffic, to be resolved in a positive and constructive way.
- 2.5.3. The sub-objectives of the West Sussex Permit Scheme are:-
  - Proactively to manage the local highway network to maximise the safe and efficient use of road space.
  - To improve the quality and timeliness of information and compliance with highway legislation from all Activity Promoters.
  - To improve the information available to the public to help provide and inform reliable journey times.
  - To manage road works and street works to support public transport (including buses) reliability and punctuality.



- To ensure the safety of those using the street and those working on activities that fall under the scheme, with particular emphasis on people with disabilities.
- To protect the structure of the street and the integrity of the apparatus in it.
- To ensure parity of treatment for all Activity Promoters particularly between Statutory Undertakers and Highway Authority Promoters works and activities.

## 2.6. Aligned Objectives

2.6.1. The Permit Scheme objectives align with the strategies and priorities of West Sussex Transport Plan LPT3 2011-2026 which include:

- promoting economic growth
- tackling climate change
- providing access to services, employment and housing

## 2.7. Benefits

2.7.1. The benefits to be derived from the operation of the Permit Scheme have been identified as:

- Improvements to overall network management
- Reduced congestion on the road network
- Improved journey time reliability
- A reduction in delays to the travelling public
- A reduction in costs to businesses caused by delays
- Promotion of sustainable communities and businesses
- Promotion of a safer environment
- Reduced carbon emissions

2.7.2. Other impacts include more general quality of life factors related to the effect that activities have on the lives of local people.

2.7.3. This could include the consideration of the environmental impact of activities, for example where works involve excavating activities under the canopy of a tree, emphasis will be applied to the Promoter to adhere to the appropriate Code of Practice requirements when excavating.



- 2.7.4. Another example could be the minimising of any impact where permission for the storage of materials or plant is required, outside of the main activity. The locations of these storage areas can create difficulties for traffic flows, businesses and deliveries.
- 2.7.5. The Permit Scheme has been prepared to accommodate the undertaking of street and road works while delivering the statutory duties of all stakeholders.
- 2.7.6. Works will always need to be carried out by Promoters, but people will be more understanding if they perceive that the activities are being authorised and monitored by the Permit Authority and Promoters in ways that minimise impact. These quality of life factors are of particular relevance on the minor, more residential roads.

### 3. Permit Scheme Principles for Co-ordination

- 3.1. Effective co-ordination and management by the Permit Authority is essential to ensure that traffic disruption is minimised whilst allowing Promoters the required time and space to complete their works.
- 3.2. The Permit Scheme is not intended to prevent or delay activities necessary for the installation of new services, maintenance or improvement of the road network, or the services running underneath it. The Permit Scheme aims to achieve parity and balance between the interests of the various parties.
- 3.3. Before any specified works are undertaken on a specified street the Promoter must obtain a permit from the Permit Authority, in accordance with the Permit Scheme (Please also refer to section 8 and 9 in this document).
- 3.4. All Promoter activities are treated in the same way with regard to co-ordination and the setting of conditions which will be aligned to the latest Condition Text requirements as defined by the Statutory Guidance for Highway Authority Permit Schemes, which may change from time to time.
- 3.5. The Permit Scheme objective will be facilitated by improving performance in line with the Authority's Network Management Duty in relation to the following key factors:
- 3.6.
  - Enhanced co-ordination and co- operation
  - Encouragement of partnership working between the Permit Authority, all Activity Promoters and key stakeholder groups identified within this document
  - Provision of more accurate and timely information to be communicated between all stakeholders including members of the public
  - Promotion and encouragement of collaborative working
  - Improvement in timing and duration of activities, particularly in relation to the busiest streets within the network
  - Promotion of dialogue with regard to the way activities are to be carried out
  - Enhanced programming of activities and better forward planning by all Activity Promoters

### 3.7. Principles for Promoters

3.7.1. It is essential that everyone involved in activities on the highway take both the Permit Scheme objectives and the broader TMA objective of expediting the movement of traffic into account. To meet these objectives the Permit Authority and Promoter must adhere to four key principles:

- i. The need to balance potentially conflicting interests of road users, Promoters and their customers.
- ii. The importance of close co-operation and liaison between the Permit Authority and the Promoter.
- iii. Acknowledgement that planned activity programmes and practices may have to be adjusted to ensure the statutory objectives of co-ordination provisions are achieved.
- iv. The provision of timely, clear, accurate and complete information.

3.7.2. The Permit Scheme will give the Permit Authority greater influence over how and when activities are carried out although the initial responsibility for planning, supervising and carrying out activities remains with the Promoter.

3.7.3. Promoters must consider the needs of all road users, including those with disabilities, whether they are pedestrians, cyclists or motorists, throughout the planning and execution of activities. All Promoters should also have regard to existing road activities and consider how their proposals will integrate with such activities and the broader operation of the local and strategic highway network. This has implications for:

- a) The timing of activities, for example, to avoid peak periods, the duration of the work, out of hours working;
- b) The method with which works are carried out, including;
  - i. Complying with Road safety, health and safety legislation and The Construction (Design and Management) Regulations 2007;
  - ii. The effective management of noise, lighting and traffic management;
  - iii. The programming of activities, and;
  - iv. The co-ordination of activities with other Promoters.

3.7.4. Promoters must be prepared to discuss their proposals with other interested parties such as other Works Promoters, neighbouring authorities, bus operators, rail operators, schools, businesses and residents. Where necessary, proposals may be required to be modified when appropriate and practical.



- 3.7.5. The greater the disruption an activity is likely to cause, the earlier the application for a permit must be made. Promoters should recognise statutory application periods are a minimum and whenever possible provide longer periods of notice. This benefits both the Permit Authority and the Promoter if modifications are required, the earlier the Permit Authority informs the Promoter, the easier it will be for them to comply.
- 3.7.6. Promoters should take into account the space needed for both the works and the storage of plant or materials when assessing the likely disruption an activity might cause. Where storage outside of the working space, including where appropriate in another street, is required, the Promoter should consider impact not only on traffic disruption, but also the impact on the local environment. Conditions may be applied when storage of plant or materials could cause disruption or network congestion.

### 3.8. Collaborative Working

- 3.8.1. Collaborative working within the Permit Scheme not only includes trench sharing between Promoters, but also provides opportunity for co-operation and co-ordination between Promoters with respect to concurrent activities on a single street. The primary objective of collaborative working is to coordinate activities so that they take place within the same set of traffic management or tailored traffic management to incorporate different works within the same street.
- 3.8.2. In addition to considering activities on a single street, when assessing an application for a permit the Permit Authority may also consider planned works nearby including planned works on a trunk road, if applicable, following consultation with the Highways Agency. The Permit Authority may seek opportunity for nearby works, on another street, but affecting the same traffic flow, to take place at alternative or similar timings in order to minimise the overall effect to traffic flow.
- 3.8.3. The Permit Scheme recommends and encourages Promoters to consider collaborative working when possible. It is accepted that there are often issues in such arrangements with regards to contractual, CDM and site management requirements, but where possible every opportunity should be sought to minimise the disruption to users of the highway.
- 3.8.4. No permit fee will be charged for any permit where the works are carried out with collaborative working involving more than one other Promoter and/or trench sharing. This is conditional on the correct collaboration type being notified in accordance with the latest version of Electronic Transfer of Notices "EToN".

### 3.9. Forward Planning

3.9.1. Forward planning information on large-scale and potentially disruptive activities is included in the permits register at the earliest opportunity. This will enable Promoters to:

- a) Take part in early co-ordination;
- b) Consider joint working;
- c) Consider trench sharing;
- d) Highlight other activities which need to be coordinated with these activities;
- e) Produce reports for the co-ordination process.

3.9.2. For the purposes of forward planning, information supplied to the street works register should give as much detail as possible. The more information provided enables a more consistent and accurate co-ordination programme to be delivered. This information should be reviewed and updated regularly to include details as they are finalised. Forward planning information does not remove the need to apply for a Provisional Advance Authorisation or a permit at the appropriate time.

#### 4. **Key Performance Indicators (KPI) and Evaluation of Scheme Success**

- 4.1. Every authority wishing to implement a permit scheme must indicate how they intend to demonstrate parity of treatment for Promoters in its application.
- 4.2. The DfT's Statutory Guidance for Highway Authority Permit Schemes contains seven KPIs, which may be used for this purpose. These KPIs may be amended, removed or replaced by future amendments to Permit Regulations. The scheme will always follow the latest KPI requirements.
- 4.3. These KPI's apply to both Road Works and Street Works. KPI results will be produced on a monthly basis. Such KPIs may be redeveloped by the DfT and/or HAUC (England) and Statutory Guidance may be subject to change from time to time.
- 4.4. The Permit Authority will remain committed to submitting the performance scorecard data to the DfT quarterly.

#### 4.5. **Scheme Monitoring**

The Permit Scheme will be evaluated after each of the first 3 years, then 3-yearly after that. Evaluations must be made available within 3 months of the yearly date on which the Permit Scheme came in to effect. The evaluation shall include consideration of:

- i. whether the fee structure needs to be changed in light of any surplus or deficit;
  - ii. the costs and benefits (whether or not financial) of operating the scheme; and
  - iii. whether the Permit Scheme is meeting key performance indicators where these are set out in the Guidance.
  - iv. The outcome of each evaluation shall be made available to the persons referred to in regulation 3(1) within three months of the relevant anniversary.
- 4.6. Evaluation Reports shall include measurement of success against the key objectives of this Permit Scheme and will follow the latest published in line with the Statutory Guidance for Highway Authority Permit Schemes. Such guidance and templates may change from time to time. Such a report may include the use of the following:
- a) KPIs as described in Section 4 of this document.
  - b) HAUC TPI (The Permit Indicators) Measures as defined and agreed by the National Permit Forum which may be subject to change from time to time.

c) Authority Measures which will include further data collated by the Permit Authority to support the objectives of this scheme. Such measures will be defined and agreed by the National Permit Forum and as above, may be subject to change from time to time.



## 5. **Common Elements with NRSWA**

- 5.1. To facilitate working across highway authority boundaries, the Permit Scheme uses the same or similar definitions or requirements as used in the NRSWA notice system (EToN) for:
- a) Registerable activities/works;
  - b) Categories of activities/works (Major, Standard, Minor and Immediate);
  - c) Street gazetteers, including street referencing by means of Unique Street Reference Number (USRN) and Additional Street Data (ASD);
  - d) Street reinstatement categories as defined in the Specification for the Reinstatement of Openings in Highways;
  - e) The distinction between main roads and minor roads, where such distinctions are relevant; and
  - f) Streets designated as protected, having special engineering difficulty or traffic sensitivity.
- 5.2. The Permit Authority will be set up to receive applications, issue and receive notices and otherwise communicate electronically. All such communications relating to works on the highway will be made using the Electronic Transfer of Notifications (EToN) system where ever possible.
- 5.3. All streets maintained by or on behalf of West Sussex County Council are included within the Permit Scheme; these are the “specified streets” as set out in the Regulations. Trunk roads and motorways for which the Highways Agency is the highway authority are not included in the Permit Scheme.
- 5.4. Privately maintained streets are not included in the Permit Scheme, but will be added if they are subsequently adopted by the Permit Authority and shown as maintainable within the street gazetteer.
- 5.5. **Street Gazetteer**
- 5.5.1. The Permit Authority will also operate and maintain a Street Gazetteer including a list of Unique Street Reference Numbers (USRN) and Additional Street Data (ASD).
- 5.5.2. Every highway authority has a Street Gazetteer which forms part of the National Street Gazetteer (“NSG”). This is held centrally on behalf of all local highway authorities by a custodian.
- 5.5.3. In relation to permits, the term “street” refers to an individual USRN. Details about the Street Gazetteer, and the ASD associated with each street on the Street Gazetteer are maintained on the street works register.



5.6. **Streets with Special Designations and Controls**

- 5.6.1. Streets designated under NRSWA with special controls, protected streets, streets with special engineering difficulty and traffic-sensitive streets, will have the same designations under the Permit Scheme.

5.7. **Reinstatement Categories**

- 5.7.1. The reinstatement categories of streets used in the Permit Scheme are the same as the reinstatement categories under NRSWA.
- 5.7.2. The reinstatement category, as given in the ASD must be treated as definitive. If West Sussex County Council has not entered reinstatement categories for streets on the NSG, the streets will all be treated as category 4 for the purposes of the Permit Scheme and for overrun charges and other elements of NRSWA.

## 6. Permit Scope

- 6.1. The Permit Scheme applies to all registerable activities as defined in NRSWA undertaken on any publicly maintainable highways, which are the responsibility of West Sussex County Council. The Permit Scheme does not apply to activities licensed under Section 50 of the NRSWA.
- 6.2. The term “registerable activities” corresponds to what are “specified works” under the 2007 Regulations. The following activities defined in the 2007 Permit Regulations as specified works are registerable for all Promoters and information related to them has to be recorded on the register:
- a) All activities that involve the breaking up or resurfacing of any street;
  - b) All activities that involve the opening of the carriageway or cycleway of traffic sensitive streets at traffic-sensitive times;
  - c) All activities that require the use of any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works;
  - d) All activities that reduce the number of lanes available on a carriageway of three or more lanes;
  - e) All activities that require a Temporary Traffic Regulation Order or notice, or the suspension of pedestrian crossing facilities;
  - f) All activities that require a reduction in width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time;
  - g) Major Highway Works (including Developer activities under Section 278 of the Highways Act 1980)
- 6.3. Bar Holes which are used to detect and monitor gas leaks fall into the registerable category. When bar holes are carried out and it is known that no further activity in the street is required (such as when a gas leak is reported but none detected), a registration under Section 70(3) NRSWA should be sent within ten days, once final monitoring checks have been established. The bar holes will count as a single excavation and reinstatement for registration purposes.
- 6.4. An application for a permit is not required when no other registerable activity (i.e. excavation, or any other activity defined above) associated with the bar holes is required. However, where registerable activities take place, an Immediate Works Permit will be required and these bar holes will not count as further excavations and reinstatements for the purposes of registrations but will be incorporated within the registerable activity.
- 6.5. Non-registerable activities are activities which do not fall under criteria set out in section 6.2 above and can take place without requiring a permit. If the circumstances change so that the work then becomes a “registerable activity”, the work must cease and the highway fully restored for use by all traffic, until the correct permit is obtained.

- 6.6. The following activities are classed as non-registerable:
- a) Traffic census surveys, as disclosure of this information prior to a census taking place can encourage a change to the normal pattern of traffic flows;
  - b) Pole testing which does not involve excavation does not require a permit.
- 6.7. Permits are valid from the start date to the end date of the permit. The start and end dates are calendar days and will include weekends and bank holidays even if these are not working days, subject to the conditions on the permit. Validity Periods are available for planned activities taking place in category 3 and 4 streets that are not traffic sensitive. This is detailed in Section 7.2b. The permit will include information on the duration of the works.
- 6.8. Even when a permit has been issued there may be reason for an earlier start to the planned activity that has been applied for. Such agreement for this early start will be confirmed by the issue of another permit or granting of a variation application. In certain circumstances the request for an earlier start may be at the Permit Authority's request. If the Permit Authority has requested an earlier start then there will be no fee charged for the issue of this additional permit or variation.
- 6.9. All registerable activities for which a permit is required, but has not been granted cannot be carried out without committing an offence. Works for immediate purposes can commence with a subsequent permit application, as defined within the Permit Scheme.



## 7. Types of Permit

7.1. The Permit Scheme contains different classes of permit.

7.2. The Permit Scheme has been designed so that:

a) In relation to category 0, 1, 2, and traffic sensitive streets, the planned commencement date and finishing date for the activity are the start date and end date respectively on the permit. The permit is not valid before the start date on the permit and ceases to be valid once the end date has passed.

b) On category 3 and 4 streets that are not traffic sensitive, permit start and end dates allow for flexibility in the start of the activity, but once the activity is started it must be completed within the activity duration period specified in the permit. The starting window is five working days for major and standard activities and two working days for minor activities. This is in line with the validity period within the NRSWA notice system.

### 7.3. Provisional Advance Authorisation (PAA)

7.3.1. Within the Permit Scheme under Regulation 11 of the 2007 Regulations, a Provisional Advance Authorisation must be obtained as part of the application process for certain classes of permits. PAA's are a means of enabling significant activities to be identified, coordinated and programmed in advance, by allowing activities to be provisionally "booked in" by the Permit Authority pending the subsequent decision on whether, and with what conditions, to issue a permit for the activities. They are in many ways equivalent to advance notices issued under section 54 of NRSWA.

7.3.2. The Permit Scheme incorporates a requirement for PAA's in relation to major works, but not in relation to other work. The PAA application must be submitted not less than three months in advance of those activities or as agreed with the Permit Authority. The information required in support of an application for a PAA is equivalent to that required in support of an application for a permit although very detailed information may not be known at this early stage.

7.3.3. It is recognised that in accordance with the Technical Specification for EToN where a major activity does not involve asset activity, a PAA cannot be generated and therefore in such circumstances a permit application will be made in the first instance.

7.3.4. In circumstances where a PAA has been granted, but a full permit has not yet been issued and proposals change, the Promoter must inform the Permit Authority of the proposed changes and the Permit Authority will indicate whether or not a new application for PAA or permit must be made by the Promoter. This reflects the importance of ensuring that PAA's can be properly considered and issued in the expectation that a permit will ultimately be issued for the activities. The purpose of the PAA is to allow the Promoter to advise that they have work to undertake and would like to provisionally reserve workspace on the highway, although it must be made clear [Regulation 11(5)] that the issue of a PAA does not guarantee that a permit will subsequently be issued. In keeping with this purpose, the Permit Scheme requires an application for a PAA to specify proposed start and

end dates for the relevant activities, although there is sufficient flexibility to enable the dates to be reasonably adjusted when a permit is ultimately issued.

- 7.3.5. For major works the Promoter will be required to provide the final detailed information supporting the permit application at least 10 working days before the activity is due to commence.

## 8. **Permit Applications**

- 8.1. The information which shall accompany a permit application is set out Section 10 of this document. Such information requirements may alter with future changes to Permit Regulations. The Scheme will abide by such changes. This information should, wherever possible be supplied electronically using the EToN system and must be within the timescales as set out in Appendix D of this document.
- 8.2. Applicants should also note that in line with Regulation 9(9) of the 2007 Regulations, the Permit Scheme requires Promoters applying for permits or PAA's to copy their applications to any authority, Statutory Undertaker or other relevant body that has requested to see notices or permit applications on certain streets.
- 8.3. Where an activity crosses the boundary between West Sussex County Council & its neighbouring authorities, the Promoter must apply for a permit from each authority in accordance with its relevant scheme. Where an activity crosses the boundary between a Permit Scheme and an area where noticing under NRSWA is used, both regimes will need to be followed.
- 8.4. The minimum times within which applications must be made are set out in Section 11 and Appendix D of this document. Promoters are however encouraged to contact the Permit Authority early so conditions can be discussed and, if possible, an agreement can be reached so that the application is approved quickly. Early applications will improve the co-ordination process and enable the Permit Authority to better control activities that take place on the highway.

### 8.5. **Activity Categories**

- 8.5.1. Applications from Promoters when booking road space through the Permit Scheme must use the following activity categories: Major, Standard, Minor and Immediate (defined below).
- 8.5.2. Major Activities are defined as those activities which:
- a) Have been identified in a Promoter's annual operating programme or are normally planned or known about at least six months in advance of the proposed start date for the activity; or
  - b) Require a Temporary Traffic Regulation Order (i.e. not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any other activities other than immediate activities; or
  - c) Have a duration of 11 working days or more, other than immediate activities.
- 8.5.3. Standard Activities are defined as those activities, other than immediate or major activities, that have a planned duration of between four and ten working days inclusive.
- 8.5.4. Minor Activities are those activities, other than immediate or major activities, where the planned duration is three working days or less.



8.6. Immediate Activities are either:

a) Emergency works, which are defined in section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes which fall within the definition of activities. The term also includes activities not falling within that definition but which cannot be severed from those that do - such as activities away from the emergency site that are necessary to shut off or divert a supply; or,

b) Remedial works for dangerous defects which are classed as emergency works (but there will be a need to cross reference these to the parent activity); or,

c) Urgent activities which are defined in the 2007 Regulations as activities:

i. (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):

ii. to prevent or put an end to an unplanned interruption of any supply or service provided by the Promoter;

iii. to avoid substantial loss to the Promoter in relation to an existing service; or

iv. 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; and,

v. includes works that cannot reasonably be severed from such works.

## 9. **How to Make a Permit Application**

- 9.1. Any Promoter as prescribed in the 2007 Regulations who wishes to perform or carry out an activity on a street within an area covered by the Permit Scheme must first obtain a permit from the Permit Authority. This permits the Promoter to carry out the specified activity, at the specified location, between the dates shown and agrees the conditions which are attached.
- 9.2. The timings of applications will vary according to the proposed activity. Early applications will allow the Permit Authority to give better advice to the Promoter in relation to the use of conditions and requirements, to deliver more effective co-ordination especially in the cases of major works.
- 9.3. Permit, PAA applications and variation applications must be made electronically, as set down in the Technical Specification for the Electronic Transfer of Notices, (EToN).
- 9.4. The definitive format and content of both paper and electronic permit applications is given in the Technical Specification for EToN, (which may be subject to amendment from time to time), and all applications must comply.
- 9.5. The description of activities must be in plain English without any industry specific jargon. A standard description used consistently, with added text for exceptions, will allow quicker analysis resulting in clearer information to assist the Permit Authority to coordinate activities. Both the Statutory undertaker and Council Works Promoters are encouraged to agree standard descriptions and durations locally that can be used.
- 9.6. **The Application Process**
  - 9.6.1. A permit application process starts when the Permit Authority receives the application not when it is sent. In most cases when using EToN, (Electronic Transfer of Notices), systems this process should be almost instantaneous and the precise time that the application is received is defined by the time of the electronic acknowledgement returned by the web services at the receiving site.
  - 9.6.2. Where a permit application has failed three times by EToN and the notice or application cannot be sent for reasons such as server failure, notification can be given by fax or telephone for immediate activities with a formal EToN application sent as soon as reasonably practical. Where the activity falls into Major, Standard or Minor an application can be made by other electronic means such as email or fax as agreed between the Authority and Promoter when an issue has been identified.
  - 9.6.3. It is assumed that notices or applications sent by fax have been received, when transmitting equipment records satisfactory completion of transmission. Applications may also be made by post or by hand, but it should be borne in mind the postal service may not guarantee that the application will be received by the Permit Authority on the next working day. For certainty, once operation of the EToN system is restored, a retrospective application should be sent through to the Permit Authority so that works are recorded correctly on the street works register.



## 10. Content of Permit Applications

10.1. All permit applications received by the Permit Authority must contain the required level of information in order for the Permit Authority to properly assess the application. Details such as duration, location, timings, method and traffic management provisions must be indicated on applications as follows:-

a) The Street - An application shall relate to proposed activities in one street only. A street for these purposes must correspond to a USRN.

b) Detailed Description of Activity and Collaborative Promoters - For all works a detailed description of the activity, clearly setting out what the works are and their purpose must be provided to allow the Permit Authority to assess its likely impact. Where collaborative working is proposed the Promoter must provide a detailed description of the collaborative scheme of works.

c) Contact Details - each application must provide contact details of the Promoter's appointed representative who can deal with any problems occurring during the activity. This must include out-of-hours contact details for the Promoter. Where collaborative works are to be performed, the identity of the lead Promoter must also be provided.

d) Location - Promoters must give an accurate location using a spatial feature (point, line or polygon) covering the extent of the works area based on National Grid References (NGR's). Provision of more detailed information will enable better understanding of the implications of the works and lead to fewer rejected applications.

e) Duration - Each permit application must include proposed start and end dates of the works (the date from which the Promoter requires the road space until the road space is no longer required). The dates included on the permit are calendar days, not working days. Details of the times of day when the activity is to be carried out must also be provided, including any proposal to work at night. If the Promoter proposes to undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, this must be included with the application. This information will be taken into account when considering whether to require conditions to be added to the application. It must be explicitly stated within the application if a Promoter wishes to work outside working hours as defined by NRSWA.

f) Illustration - Promoters should provide an illustration of the activity with their permit application, where they consider there is potential for disruption due to the position and size of the activity. Illustrations provided should be based on an extract of the plan held by the Promoter showing the location of its apparatus at the site in question. Promoters are encouraged to provide illustrations in appropriate cases. Where the Permit Authority requires an illustration, which is not submitted as part of the application, the application may be refused with a request for the illustration to be provided.

The illustration must include details of the activity and whether it is likely to affect more than one lane of the street. The Technical Specification for EToN provides appropriate details as to the form

of such illustrations, but plans, digital photographs and similar would normally be required. How the illustration is to be transmitted can also be found in the Technical Specification for EToN. Activities on those streets or parts of a street subject to a Special Engineering Difficulty designation, will in all cases require a plan and section as indicated in NRSWA Schedule 4 (Part 2).

For certain activities and/or locations, the Permit Authority may request additional information in relation to contingency plans for expedient removal of site occupation, as part of the application.

Where it is not possible for a Promoter to submit an illustration to the Permit Authority using EToN, the Promoter should contact the Permit Authority in the first instance to discuss and agree an alternative method.

g) Method - Details of the proposed techniques, such as open cut, trench share, minimum dig technique or no dig must be provided.

h) Traffic Management, Parking and Traffic Regulation Orders/Notices - Where traffic management proposals will be required as a consequence of the proposed works, then a description of the proposals and when they will be instituted as part of the works must be provided in the application.

Any requirement for action on the part of the Permit Authority, including those listed below, must be included within the application:

(i) The need to make Temporary Traffic Regulation Orders (TTRO's);

(ii) The approval for all temporary traffic signals. Applications must be made using the latest notice in accordance with the latest version of EToN. Applications to use portable traffic signals on "immediate" activities must also be supported by the Promoter in accordance with the "Safety at Street Works and Road Works, a code of practice, which may vary from time to time.

(iii) The approval for the storage of materials or plant on the highway;

(iv) The approval for the deactivation of permanent traffic signals; and

(v) The approval for the suspension of controlled pedestrian crossings.

In these instances an associated traffic management plan must be provided within the application where the work affects a traffic sensitive street. Justification for use of 24 hour portable traffic signals must also be provided. The processing costs associated with the above orders or approvals are not within the scope of the permit fees and will be separately applied.

i) Inspection Units - To ensure consistency the Permit Authority require permit applications to include the provisional number of estimated inspection units appropriate to the activity, in accordance with the rules laid down in the latest NRSWA Inspections Code of Practice and The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.(or any overriding future legislation or guidance).



j) Site Depth - A Permit application requires a Promoter to provide their best estimate of the excavation depth as part of the application. This estimate may be expressed as a range, but should nonetheless provide a meaningful indication of the nature and extent of activity involved.

k) Reinstatement Type - The application should, wherever possible, indicate whether the activity is intended to be completed with interim or permanent reinstatement or a mixture of both.

l) Proposed Conditions - Promoters are encouraged to support their applications with suitable conditions should they find that the location, type of work to be undertaken, road category or any other site based circumstance require consideration.

The approach adopted by the Technical Specification for EToN, is based on the Promoters including conditions in their permit application.

If the Permit Authority does not agree with the condition(s) applied or requires additional conditions then it can either:

1. Refuse the request with an inclusion of a comment to reflect the change required. This will require a new or modified permit application to be submitted by the Promoter. Or
2. Respond to the request using a Permit Modification Request. This will also require a new or modified permit application to be submitted by the Promoter, or for Immediate works a works data variation.

The Permit Authority will consider all permit applications on an equal basis.

## 10.2. Form of the Issued Permit

- 10.2.1. A permit will be issued in accordance with the Technical Specification for EToN. A permit application will be generated by the Promoter and granted by the Permit Authority, unless the application is deemed to have been granted where no grant or refusal has been issued within the period outlined in Appendix D. The permit will contain all relevant conditions so that there is no ambiguity about the validity and terms of the permit.
- 10.2.2. In accordance with Regulation 12 of the 2007 Regulations and the Technical Specification for EToN, each permit will have a unique reference number. A permit is issued to the Promoter for every permit that is granted.
- 10.2.3. For all permits it is a requirement that where there are any other linked permits, references to those other linked permits must also be included with the permit.
- 10.2.4. Where remedial works or works to make an Interim trench permanent are to be carried out, following completion of permitted works, a separate permit is required. This new permit must

cross-reference the original activity, by raising the remedial works permit application using the same works reference as the original works.

- 10.2.5. Where a Promoter makes a permit application or variation to a permit application as a result of the Permit Authority's action, e.g. where the Permit Authority has imposed a variation, it is recommended a comment is included to this effect within the application. If applicable, reference to another relevant permit application can also be included.
- 10.2.6. The Permit Scheme requires all granted permits to be placed on the Permit Register and copied to any undertaker, authority or other relevant body that has asked to be informed about activities on a particular street.

## 11. Timings of Permit Applications

- 11.1. For effective planning and co-ordination, information needs to be provided to the Permit Authority in good time. In accordance with the advice contained in the Statutory Guidance, the Permit Scheme provides for the minimum time periods before the proposed start date of an activity by which time the relevant permit application must be made by the Promoter and a subsequent response made by the Permit Authority.
- 11.2. It is essential that applications for permits and variations are made in a timely manner.
- 11.3. The Permit Authority is aware of the need to be proactive in running a scheme. Time limits have been set out in Appendix D of the Permit Scheme committing the Permit Authority to respond to applications within set periods.
- 11.4. A “response” for these purposes means a decision to grant, refuse or issue a permit modification request. Where there are reasons why the permit could not or should not be granted in the terms applied for, (e.g. because of insufficient or obviously incorrect information or because of a clash with other activities), the response indicating that a permit will not be granted in those terms will explain the reasons. This will enable the Promoter to make a revised and compliant application.

### 11.5. Timing of Applications and Responses

- 11.5.1. The time period for a response to an application starts at the time of receipt of the application by the Permit Authority. The EToN system will provide an auditable record of the actual date and time of the receipt of the application, however, the calculation of the application and response time for a permit application received after 16:30 will use the next working day as the effective receipt date.

### 11.6. Minimum Application Times – Major Activities

- 11.6.1. Under the Permit Scheme, for a major activity, Promoters are required to apply for a PAA at least three months in advance of a proposed activity and a permit ten working days before the activity is due to start.
- 11.6.2. In accordance with the Technical Specification for EToN where a major activity does not involve asset activity, a PAA cannot be generated and therefore in such circumstances a permit application will be made in the first instance.

### 11.7. Minimum Application Times - Standard Activities

- 11.7.1. A permit application for standard activities is required ten working days before the proposed start date.



## **11.8. Minimum Application Times - Minor Activities**

11.8.1. A permit application for minor activities is required three working days before the proposed start date.

## **11.9. Minimum Application Times - Immediate Activities**

11.9.1. In order not to prevent activities that are necessary for emergency or urgent reasons, the Permit Scheme provides that these works may proceed without a permit given their nature. Promoters must apply for a permit within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours as defined by NRSWA, within two hours of the start of the next working day.

11.9.2. In all instances of an Immediate Activity, the Promoter must telephone the Permit Authority prior to, or immediately after works commence on such Strategic streets where such a requirement is designated by the Permit Authority, (as indicated in the ASD for that Permit Authority with contact telephone number also supplied within the ASD).

## **11.10. Non Compliance with the Minimum Application Times**

### **11.10.1 Early Starts**

11.10.2 Where it is not possible for a Promoter to adhere to the minimum permit application periods, the Permit Authority may consider applications where mitigating circumstances justify this failure. Permission to allow a Promoter to submit such an application is solely at the discretion of the Permit Authority and will only be given exceptionally. Permission to allow an Application to be made with an 'early start' does not necessarily mean the permit will be granted. The Authority will still be required to carry out all required checks in terms of data quality, conditions and co-ordination related matters.

11.10.3 Where a permit application is granted, thereby providing such permission, it will be recorded by the Permit Authority. Where permission is not granted the permit application will be refused. It is recognised that some early starts will be required to achieve a positive outcome to potential collaborative working arrangements, however, a Works Promoter proceeding with the planned work following a refusal would be working without a permit.

## **11.11. Variations and Extensions**

11.11.1 To vary or extend a permit, a permit application must be made by the Promoter a minimum of two working days before the permit expires, or at a point when the existing permit has more than 20% of its duration to run, whichever is the longer.

11.11.2 Where the Promoter fails to apply for a permit variation or extension within the relevant time limits, the Permit Authority may consider applications to vary or extend permits where the Promoter is able to provide mitigating circumstances justifying the failure to adhere to the relevant timings.

11.11.3 The Permit Authority is aware of the need to be proactive in running a scheme. Time limits have been set out in Appendix D of the Permit Scheme committing the Permit Authority to respond to applications within set periods.

#### 11.12. Agreement Process

11.12.1 In situations where a Promoter cannot comply with the minimum permit application times, it must initially contact the Permit Authority to discuss the application and the associated justification. At such time the Permit Authority may agree for the permit application to be submitted.

11.12.2 In circumstances where the Permit Authority will accept such a permit application, the Promoter should then submit a relevant application to the Permit Authority - providing the detail and justification within the application - in order to obtain a formal grant for the early start, variation or extension to the permit.

#### 11.13. Maximum Response Times

11.13.1 Appendix D of the Permit Scheme sets out the time limits within which the Permit Authority will respond to permit applications. It is essential that the Permit Authority replies to permit applications within the given response times. If it fails to do so, the permit is deemed to be granted in the terms of the application.

11.13.2 A "response" for the purposes of the Permit Scheme means a decision to grant, refuse or issue a permit modification request, in accordance with the "Statutory Guidance". Where there are reasons why the permit cannot or should not be granted in the terms applied for, (e.g. because of insufficient or obviously incorrect information or because of a clash with other activities), the response indicating that a permit will not be granted in those terms will explain the reasoning. This will enable Promoters to make a revised and compliant application. The Authority will utilise any HAUC (England) agreed codes and reasons for refusal text where possible when a Permit is refused.

11.13.3 Temporary Traffic Signal Applications must be made using notice type 2700 – Temporary Traffic Signal Application in accordance with the latest version of EToN. Providing that a complete application has been received a response granting the approval will be given by the Permit Authority using notice type 2800 – Temporary Traffic Signal Application Response in accordance with the latest version of EToN, within the response period for the permit application.

#### **11.14. Response Times - Major and PAA's**

11.14.1 In respect of major activities the maximum response time for issuing a PAA is one calendar month from the date of receipt of the application. In respect of a permit application, the maximum response period is five working days from the date of receipt of the application.

#### **11.15. Response Times - Standard Activities**

11.15.1 In respect of applications for a permit for standard activities, the maximum response time is five working days from the date of receipt.

#### **11.16. Response Times - Minor Activities**

11.16.1 In respect of applications for a permit for minor activities, the maximum response time is two working days from the date of receipt.

#### **11.17. Response Times - Immediate Activities**

11.17.1 In respect of applications for immediate activities the maximum response time is two working days from the date of receipt. Works of this nature may proceed without a permit, however, the Permit Authority may consider making the activity subject to conditions or refusing the permit application.

#### **11.18. Response Times - Variations to Permits**

11.18.1 In respect of applications to vary a permit the maximum response time is two working days from the date of receipt.

11.18.2 There is no provision for the variation of a PAA.

#### **11.19. Phasing of Activity**

11.19.1 One permit can only relate to 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 works. For example a separate permit would be required for interim, permanent and remedial reinstatements.

11.19.2 The dates given in a permit application and in the issued permit will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding, have been removed from the site and the highway is returned to full use.



11.19.3 A Promoter must clarify when an activity is to be carried out in phases on the application. Each phase will require a separate permit and, if a major activity involving asset activity, also a PAA, which will be cross referenced to the other permits.

11.19.4 Phased activities must relate to the same works, with applications submitted using the same works reference.

**11.20. New customer connections**

11.20.1 A new main or cable run, which includes new customer connections, can be classed as one phase if all the work is completed in a single occupation of the street. Otherwise a new permit must be obtained for the customer connections stage.

## 12. Decisions with Regards to Permit Applications

- 12.1. The Permit Authority on reaching a decision for a permit application must act reasonably and, in particular must consider whether issuing the permit will accord with the statutory duties to co-ordinate and to manage the network and the objectives of the Permit Scheme. Where an application for a permit meets the relevant requirements of the Permit Scheme, the Permit Authority shall grant the permit
- 12.2. When reaching decisions on permit applications, the Permit Authority will consider all aspects of the proposed activity and other influences that may affect traffic. These include, but may not be limited to:
- a) The road network capacity;
  - b) Safety (major impacts e.g. on traffic signal operation);
  - c) The scope for collaborative working arrangements, including trench and duct sharing between Promoters;
  - d) The overall effect upon the local and regional highway network;
  - e) The optimum timing of activities from all aspects, including the legislative requirement for the works taking place, e.g. new customer connections, duty to maintain under the Highways Act;
  - f) The effect on traffic, in particular, the need for temporary traffic restrictions or prohibitions;
  - g) Appropriate techniques and arrangements particularly at difficult road junctions and pinch points;
  - h) The working arrangements required in protected streets, traffic-sensitive streets, and streets with special engineering difficulties;
  - i) The effect of skip, scaffold, storage and hoarding licences, pavement licences, any known special events and other licences or consents issued in respect of affected streets under the Highways Act 1980;
  - j) The environmental impact of the proposed works;
  - k) Developments for which planning permission has been granted on streets affected by the works;
  - l) The benefits to be achieved from extended working hours;
  - m) Effect of a planned activity to public transport routes;
  - n) Contingency plans for expedient removal of site occupation.

### **12.3. Permit Issue and Deemed Permit**

- 12.3.1. Where the Permit Authority is satisfied with the permit application, having considered all relevant matters set out in the application and all other material considerations, including ensuring the statutory duties to coordinate and to manage the network and that the Permit Scheme objectives are met, it will issue a permit to the Promoter within the response time.
- 12.3.2. The permit will cross reference the details provided in the application, including any associated documentation such as drawings, and any conditions imposed by the Permit Authority. Section 10 of this document specifies details and requirements of permit contents
- 12.3.3. Where the Permit Authority fails to meet the response times defined in Appendix D, the permit is deemed to be granted and in such terms only as reflected in the application. In such circumstances there will be no fee charged.

### **12.4. Refusal of Permit Applications**

- 12.4.1. Whilst the Permit Authority cannot refuse legitimate activities, it can refuse a permit application, (and a Provisional Advanced Authorisation), if elements of the proposed activity, such as timing, location or conditions are not acceptable when measured in accordance with the relevant factors as referred to in Sections 9 and 10 of this document. In such cases the Permit Authority will respond to the Promoter as soon as possible and within the response period specified in Appendix D of this document, to explain precisely why the application is not satisfactory and which aspects need modification.
- 12.4.2. A Promoter may cancel an application by an electronic works notice at any point prior to the Permit Authority granting, or refusing, the permit application.

### **12.5. Grounds for Refusal**

- 12.5.1. If, after careful consideration, the Permit Authority decides to refuse the PAA or Permit application, the refusal will be issued electronically via EToN and where possible using sector agreed refusal codes as approved by HAUC (England) and will comply with relevant national guidance. An explanation of the refusal will be given and discussions with the Promoter may be held regarding amendment to the application.
- 12.5.2 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 or where further/amended Permit Conditions may be required
- Where the anticipated impact of the proposed activities require further communication and agreement , which may also require site meetings to discuss conditions to be attached to a new or modified permit application or PAA

12.5.3 The following are some examples of the grounds stated in 12.5.2 that are likely to lead to applications being refused or subject to requests for further information or modification to address them.

Conflicting Activities/events; Where other activities are scheduled to take place in the same street, or other streets affected by the proposed activity, at the same time, the Authority may refuse a Permit for the period requested but propose to grant it for different times. Information about some other activities is available to the Promoter through the Permit register, so in such situations the Promoter must contact the Authority to discuss acceptable options before applying for a Permit.

Timing and Duration; An Activity Promoter must ensure when making an application for a Permit that the proposed duration of the activity takes into account both his legitimate need to complete the activity in an efficient and economic manner and the legitimate interests of other users of the highway.

The Permit Authority may query the proposed duration, for example on the grounds that:

- a) it can be completed more speedily or, that realistically, not enough time has been allowed; or,
- b) that the specific dates and times proposed may clash with other proposed activities or events which occupy road space, in such a way as to be likely to cause an unacceptable level of disruption.

Location of Activity; A Permit must specify the location where the activity is to take place. The Permit Authority may refuse to issue a Permit due to the proposed location of the activity. This is a similar power to that under Section 56A of NRSWA i.e. where the location of a proposed activity is unacceptable to the Authority because the street in which the works are proposed is already heavily congested with underground services, or has an important traffic function, yet does not warrant protected street status.

Refusals on this basis would only apply;



a) in relation to the installation of new apparatus - it cannot be used to require existing apparatus to be moved, or

b) where disruption would be reduced by installing the apparatus in an alternative street where it is reasonable to use the alternative street or a different location within the same street.

### 13. Permit Variations

- 13.1. The Permit Scheme allows for the variation of permits and for conditions to be attached to permits. This allows the Permit Authority actively to manage other activities on the network in the light of changing circumstances. Variations can take place at any time after the permit has been issued and before the activity has commenced or during the activity itself. However, if a variation to a permit is required by the Promoter, the application to vary the permit must be made before the permit end date is passed and in accordance with EToN requirements.
- 13.2. PAA's cannot be varied. In circumstances where a PAA has been given but a full permit has not been issued and proposals change, the Promoter must advise the proposed changes to the Permit Authority who will indicate whether or not a new application for a PAA is required.
- 13.3. Data changes are notified as new applications (prior to approval) or variations (post approval). Error corrections for registration notices and works status corrections are still relevant however, and should be made in accordance with the relevant Code of Practice or successor document.
- 13.4. Application by the Promoter to vary a permit or to vary permit conditions must be made in the following way:
- a) Where the existing permit has more than 20% of its duration or more than two working days to run, whichever is the longer, the Promoter shall apply for a variation; or
  - b) In any other case the Promoter shall first contact the Permit Authority to ascertain whether the authority is prepared to grant a variation and only apply if the authority is so prepared.
- 13.5. Activities can be particularly subject to change where a Promoter has to make several excavations or registerable openings of the street in order to locate a fault. While the Permit Scheme seeks to avoid too many permit variations, the Permit Authority must be advised of the site situation to enable co-ordination and management of these and other works in the area.
- 13.6. For planned activities the first application will contain the location of the initial proposed excavation or opening. If any further excavations are required, variation of the permit will also be required.

Promoters applying for permits for immediate activities should do so within two hours of starting work. Where they find that the location in which they have started digging is not where the leak (or other emergency) actually is, a permit is still required because they have broken open the street. The Promoter will have to 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. Separate variations would be required for bands going in opposite directions.

If the search carries into a different street, or a new USRN (including if the street changes to a different authority), then a separate permit application is needed.

### 13.7. Variation at Permit Authority's Initiative

13.7.1. The Permit Authority may impose variations upon permits already granted or deemed. This may be required where it is considered that upon commencement of a granted or deemed permit, further conditions or requirements are needed to reduce the impact of the activities on the Public Highway.

Such imposition should only take place when circumstances could not have been reasonably predicted.

13.7.2. One of the main features of the Permit Scheme is that it effectively allows road space to be "booked" by Promoters for their activities.

13.7.3. Once a permit is issued it will provide the Promoter with reasonable confidence that the road space will be available for them. Nevertheless, even where a permit has been issued by the Permit Authority, circumstances beyond the Permit authority's control may require a review of the permit and may lead them to conclude that the permit or its conditions require changing.

13.7.4. Such changes will be the exception and will only happen when the new circumstances could not have been reasonably foreseen or where the impact is significant. Examples of such circumstances include:

- Problems which would lead to traffic being diverted onto the road where an activity was underway or about to start, but the permit had been issued.
- Roads closed by floods or burst mains;
- A dangerous building or structure;
- An unexploded bomb;
- A significant traffic disruption has ensued;
- Additional activities have come to light in the same street (or nearby) that will now conflict with the planned activity.

13.7.5. If the consequent disruption cannot be suitably mitigated, it may then be necessary to vary the permit for the activity e.g. by changing the time or manner of working.

13.7.6. In such circumstances the Permit Authority will 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. The aim of these discussions is to try to reach an agreement and see if a variation is a feasible option.

13.7.7. If agreement is reached, the Permit Authority will issue an Authority Imposed Variation to the Promoter. The Promoter may then either cancel the existing permit and apply for a new permit in

those terms, or they may apply for a permit variation. The latter will be more appropriate if the Promoter needs to reconsider elements of its plans within the parameters agreed with the authority.

13.7.8. If agreement cannot be reached, the Permit Authority will revoke the permit. The Promoter would have the option of invoking the dispute resolution procedure where it disagrees, set out in Section 19 of this document.

13.7.9. No fee is payable for either the permit variation, or a new permit for the original planned activity if appropriate, as a result of a variation initiated by the Permit Authority. If at the same time the Promoter seeks a variation which is not the result of the circumstances causing the Permit Authority's action, a variation fee would be payable, subject to the exemptions in Section 15 of this document.



## 14. Revocation

- 14.1. There is no mechanism in the Permit Scheme to formally suspend or postpone a permit, only to vary or revoke one. If the Permit Authority has to suspend or postpone an activity for which it has already given a permit but which it intends must happen at a later date, the Permit Authority will contact the Promoter and agree that a variation is submitted by the Promoter. There will be no fee for this permit variation.
- 14.2. A Promoter who wishes to cancel a permit, for which they have no further use, must use the cancellation notice as specified in the Technical Specification for EToN. There is no fee for a cancellation notice, but no refund of the fee paid for issuing the permit will be made.
- 14.3. The Permit Authority can revoke a permit at its own initiative where there has been a breach of a condition, (which is also a criminal offence). In such circumstances the Permit Authority may use the provisions replacing Section 66 NRSWA to clear the street, if required.
- 14.4. The circumstances in which the Permit Authority will revoke permits on its own initiative are as follows:
  - a) As with variations, where circumstances arise which require the Permit Authority to review the permit, the Permit Authority may conclude that the permit needs to be revoked rather than simply being varied.
  - b) Revocation will be the exception and will be where the circumstances could not have been reasonably predicted or where the impact is significant.
  - c) All revocations will be made in accordance with the EToN requirements.
- 14.5. Where a permit is granted but subsequently revoked by the Permit Authority before commencement of the specified works, the Permit Authority shall refund in full any fee charged in accordance with the regulations, provided the revocation is not the fault of the permit holder.
- 14.6. Where the Promoter disagrees with the Permit Authority's decision in any of the above respects, then the Promoter may invoke the dispute resolution procedure detailed in Section 19 of this document.

## 15. Fees

15.1. In accordance with the provisions set out in Section 37 of the TMA and Regulation 30 of the 2007 Regulations, the Permit Authority may charge a fee for each of the following:

a) the issue of a permit;

b) an application for a permit, where the Permit Scheme requires a Provisional Advance Authorisation to be obtained as part of that application;

c) the granting of a Provisional Advanced Authorisation

d) each occasion on which there is a variation of a permit or the conditions attached to a permit after it has been granted.

15.2. The Permit Authority will charge Fees in accordance with the Permit Regulations. Fees are detailed on the West Sussex County Council website.

15.3. Permit fees do not include costs charged or recoverable by highway authorities in relation to consents or other requirements such as for Temporary Traffic Orders, Notices or parking suspensions related to other works being carried out.

15.4. It is not the purpose of fee charging under the Permit Scheme to generate revenue for West Sussex County Council although subject to the constraints set out West Sussex County Council may cover its costs.

15.4.1. Fees are payable by Statutory Undertakers, but highway authorities are not charged. This is due simply to the fact that the money charged would only circulate around a highway authority.

## 15.5. Level of Fees

15.5.1. The Permit Regulations and Statutory Guidance set maximum fees the Permit Authority may not exceed.

15.5.2. The Permit Regulations and Statutory Guidance set a maximum flat fee for permit variations initiated by the Promoter with a lower fee for category 3 and 4 non traffic-sensitive streets and a higher fee for category 0, 1 and 2 and traffic-sensitive streets.

15.5.3. If a permit variation moves an activity into a higher fee category, the Promoter will be required to pay the difference in permit fee as well as the permit variation fee.

15.5.4. All the Permit Scheme fee levels are at or within the current Regulations and Statutory Guidance maxima.

15.5.5. These fee levels will be published on West Sussex County Council's website.

15.5.6. It is possible for both charging categories to be relevant to a single USRN. To ensure the correct permit fee is always applied, spatial data is required in accordance with 10.1 d) of the Permit Scheme.

#### 15.6. **Circumstances where no Fee will be charged**

15.6.1. No fee will be charged in the circumstances described below:

a) Cancellation of a permit - prior to the Permit Authority's determination, a Promoter cancels a permit application;

b) Refusal of Permit or Variation - when an application for a permit or variation is refused;

c) Revocation of Permit - where a permit is revoked on the Permit Authority's initiative and the Promoter had to apply for a new permit, there would be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Promoter.

d) Variation of Permit at the Permit Authority's initiative - for permit variations initiated by the Permit Authority, unless at the same time the Promoter seeks variations which are not the result of the circumstances causing the Permit Authority's action - in that case a variation fee would be payable.

In addition, if the Promoter decides to cancel the existing permit as a result of the Permit Authority imposed variation, any new permit for the originally planned activity would not be subject to a fee.

e) Deemed Permits - where the Permit Authority fails to serve a response to an application for a permit or variation within the relevant response time and the permit is subsequently deemed to be granted.

f) Coring Activity - any coring activity where the scope of the specified works is limited to the breaking up of any street. Where a coring activity scope of work covers additional criteria - as defined within Section 6.2(b) to (f) (inclusive) of the Permit Scheme - the permit for this activity would be subject to a fee.

g) Permits for Collaborative Works - where at least two or more Promoters intend to collaborate their works within the same site over the same period they should submit applications in accordance with the Technical Specification for EToN & ensure that the appropriate 'collaboration type' is defined .

If work cannot be arranged for the same period that results in one of the works only being partially completed during the collaborative period then a reduction in permit fee will be calculated on a pro-



rata basis using the number of working days where collaborative working took place to the number of days it did not.

h) Highway Authority Works - permits required by the Highway Authority.

i) Phasing of Works to Lessen Risk and Inconvenience to Highway Users - where temporary reinstatement is required by the Permit Authority e.g. to minimise risk to the public and allow safe passage and the Permit Authority request the Promoter submits a new permit application for the remaining works, no fee will apply for the permit application.

j) Any work on a fire hydrant will attract no fee.

15.6.2. Where a Promoter expects a permit or variation would not be subject to a fee, it is recommended that they include a comment to this effect within their application.

## 15.7 Circumstances where Fees may be reduced

15.7.1 Where an Application has been made, (and is subsequently granted), stating clearly that activities will not take place, (at any time or any day), within the Traffic Sensitive periods as indicated on the ASD supplied within the Authority National Street Gazetteer submission, so long as such time constraints are met during activities throughout the full duration of the permit.

Such Permit Applications, (and Provisional Advanced Authorisations), may be required to contain specific time related conditions.

15.7.2 The variation process may be used to alter such timings and conditions, however, such application may be reasonably refused. Any reductions to permit fees may be removed by the Authority in this instance.

Where, upon evidence gained it is clear that the indications of Traffic Sensitivity impact are not being followed throughout the activities, the fee reduction may be removed by the Authority. If related Timing Conditions are also being breached, Offence or Offences may have occurred.

## 15.8 Fee Review

15.8.1 The Permit Authority may need to review fee levels particularly closely in the first years of the Permit Scheme.

15.8.2 West Sussex County Council will review fees at the end of year three to ensure that overall fee income does not exceed allowable costs .In the event of any surplus in a given year, the fee income will be applied towards the cost of the Permit Scheme in the next year and the fee levels adjusted accordingly.



15.8.3 A sustained surplus would indicate that the income was regularly exceeding the prescribed costs and that the fee levels should be adjusted. In such circumstances West Sussex County Council will adhere to relevant regulations to effect any amendments to the Permit Scheme.

15.8.4 The outcome of annual fee reviews will be published and open to scrutiny.

## **16. Permit Conditions**

### **16.1. Principles for Conditions**

- 16.1.1. The Permit Scheme includes for the attaching of conditions to permits and also specifies the types of conditions that may be applied. Any permit issued will specify in detail the activity it allows and the conditions attached.
- 16.1.2. Any permit issued must set out in detail the activity it allows as set out in Section 10 of this document and the conditions attached.
- 16.1.3. In applying conditions the Permit Authority will consider the proposed activity's potential to cause disruption. Where possible, conditions attached to a permit will provide flexibility for the Promoter by requiring an outcome rather than stipulating the method by which the work must be carried out. When setting any condition, the Permit Authority must act reasonably and take account of how feasible it is for the Promoter to comply not only with the condition being imposed but also on their ability to meet their statutory obligations.
- 16.1.4. Where West Sussex County Council considers a condition attached to a permit has been breached, it may impose sanctions as specified in Section 18 of this document.
- 16.1.5. West Sussex County Council may also revoke the permit. The policy that will be applied is set out in Section 14 of this document.
- 16.1.6. West Sussex County Council may vary the conditions of a permit issued, as an Authority Imposed Variation - set out in Section 13 of this document. This will also be done in accordance with the EToN requirements.

## 16.2. **Condition Types**

16.2.1. The conditions West Sussex County Council can apply to permits are;

- (a) days on which permit works may not be carried out;
- (b) times of day during which permit works may not be carried out;
- (c) the area (including areas not forming part of the street) which may be occupied in connection with the permit works;
- (d) the prohibition or restriction of traffic pursuant to orders or notices under Section 14 of the Road Traffic Regulation Act 1984 (temporary prohibition or restriction on roads)
- (e) traffic management arrangements to be made in connection with the permit works (including arrangements for the particular benefit of persons with a disability);
- (f) the manner in which the specified works are to be carried out;
- (g) consultation and publicity in relation to the specified works, including the display of information at the location of those works; and