

## Bath & North East Somerset Council

MEETING/ DECISION MAKER:	Cllr Manda Rigby, Cabinet Member for Transport	
MEETING/ DECISION DATE:	On or after 15 October 2022	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3384
TITLE:	Variation to Street Works Permit Scheme	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> Appendix 1 - Permit Fee Review Consultation Responses Appendix 2 - Equality Impact Assessment		

### 1 THE ISSUE

- 1.1 The council introduced a Street Works Permit Scheme in May 2020. This provided the council with more control over the management of road works and enabled a charge to be made for permits to cover the costs of operating that permits (with respect to utility works). Following a review of the scheme's operation it has been identified that the cost of those permits needs to increase in order to cover the scheme's operating costs. A legal order needs to be made to vary the permit scheme, which enables the permit fees to be changed.

### 2 RECOMMENDATION

The Cabinet Member is asked to:

- 2.1 Agree to a variation order being made to the permit scheme which will enable the fees as outlined in Table 1 of this report to be introduced.

### 3 THE REPORT

- 3.1 Under the Traffic Management Act 2004, the council has a statutory duty to secure the expeditious movement of traffic. Part of this duty includes the management and coordination of street works and road works.
- 3.2 In May 2020 the council introduced a street works permit scheme. This replaced the former 'noticing' system. The new system has provided greater control over the management of street works. Utility companies and other works promoters apply for a permit to work on the highway. Noticing was a more reactive system,

whereby utilities and works promoters would give notice that they intended to work on the highway.

- 3.3 During the first year of the permit scheme, the average duration of works reduced from 3.4 days under noticing to 2.8 days. However, analysis of the scheme has identified that the fee income from permits has not covered its operating costs. The council received approximately 12,000 permit applications within that year.
- 3.4 The permit scheme regulations entitle councils to charge a fee to cover the cost of running a scheme in relation to permits for street works (i.e. utility companies). The council is not permitted to charge fees at a level to cover the cost of operating the permit scheme for its own highway works nor can it set fees at a level to achieve a surplus.
- 3.5 There are a number of different fee charges for permits which vary according to the level of disruption the work is likely to cause and the type of road the works are being undertaken on.
- 3.6 In its first year of operation, the permit scheme's costs exceeded permit fee income by £122,174.
- 3.7 The fees need to be increased in order to cover these ongoing costs. The regulations specify what are allowable costs.

#### **4 STATUTORY CONSIDERATIONS**

- 4.1 The Traffic Management Permit Scheme (England) Regulations enable a permit scheme to be amended, including permit fees. The regulations specify who must be consulted on proposed amendments to a permit scheme. These stakeholders were consulted in January 2022. If a decision is taken to amend the permit scheme fees, the next step is to make a variation order that enables the permit scheme document to be amended with the new fees. The council then has to give the consultees a minimum one month's notice of the change to the fees. The consultees would be advised of the consultation outcome at the same time.
- 4.2 The council is under a legal duty to have regard to the relevant statutory guidance when deciding whether or not to vary a permit scheme in a particular manner. The relevant guidance is attached to this report. Officers have had regard to this guidance when formulating these proposals.

#### **5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 5.1 By looking at the number of permit applications received over the course of a year and the overhead costs of running the permit scheme, which are largely staff costs, fees have been recalculated. The regulations allow for previous year losses to be recovered and incorporated into revised permit fees. There is a maximum fee level set in the regulations.
- 5.2 The proposed fees are shown in Table 1 and the current fees in Table 2 below.

Road type / Permit type	PAA	Major	Standard	Minor	Immediate	Variation
Category 0-2, Traffic Sensitive	£95	£193	£117	£59	£54	£45
Category 3-4, Non-traffic sensitive	£62	£101	£58	£30	£26	£35

Table 1: proposed permit fees

Road type / Permit type	PAA	Major	Standard	Minor	Immediate	Variation
Category 0-2, Traffic Sensitive	£42	£96	£52	£26	£24	£18
Category 3-4, Non-traffic sensitive	£30	£60	£30	£18	£16	£14

Table 2: current permit fees

- 5.3 The recoverable costs have been established using the Department for Transport's permit fees matrix, which is the standard method for local authorities to use when setting permit fees. It has calculated that the cost to process all granted permits in year 1 of the scheme was £270,251. Income received from permit fees was £148,077. It is proposed that the year 1 shortfall of £122,174 is recovered over the next 4 years by including a surcharge on the permit fees, which has been incorporated within the fees shown in Table 1 above. This will cover the ongoing cost of the street works permit scheme and address the prior year's deficit.
- 5.4 At the end of year 4 a further review will be undertaken to ensure the fees remain at an appropriate level. Recovering the loss over a shorter period of time is likely to require an adjustment of the fees downwards within a shorter timeframe in order that over-recovery of costs does not occur. The statutory procedure to amend fees is time consuming and lengthy, diverting the team's resources away from the key function of managing road works, therefore it is not recommended to make short term or frequent changes to the fee structure.
- 5.5 The Street Works Team budget will not need to be amended as a result of these fee changes but will be monitored and adjusted as necessary following monitoring of future permit fee income.

## 6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

## **7 EQUALITIES**

- 7.1 Officers have considered the proposals against the Council's public sector equalities duties and prepared an Equality Impact Assessment (EIA), which is attached. No adverse impacts have been identified in the Equality Impact Assessment attached to this report.

## **8 CLIMATE CHANGE**

- 8.1 The permit scheme positively contributes to helping to reduce carbon emissions by aiming to minimise the impact on road users (including people walking and cycling) from road works. Changes to the fees does not have a direct impact, however, not changing the fees could mean the service has to be reduced in order to lower costs. This would reduce the effectiveness of the permit scheme and there would be the risk of increased congestion as a result of less management of road works.

## **9 OTHER OPTIONS CONSIDERED**

- 9.1 Not increasing the fees is the only other option. The losses incurred in year 1 of the scheme would continue indefinitely unless costs are reduced, which would mean a reduced street works service. This in turn would result in fewer permit applications being checked. Permit applications not reviewed and approved or rejected within a certain timescale are 'deemed', meaning the applicant can proceed to undertake their works without any consent from the council. This would lead to a loss of management and coordination of works, with inevitable clashes and increased congestion on roads. The council could be assessed to be failing in its statutory network management duty.
- 9.2 A further impact of a reduced street works service is that there would be less resource to pursue recurring poor performance of utility companies and their contractors in terms of their traffic management, duration of works and reinstatement of the highway.
- 9.3 Increasing the permit fees enables the current service levels to continue, which directly contributes to two core council principles of Focus on Prevention and Deliver for Local Residents.

## **10 CONSULTATION**

- 10.1 Consultation took place between 14<sup>th</sup> January and 4<sup>th</sup> February 2022 with the consultees specified in regulations, which is largely utility companies. The utility companies operating in the B&NES area were also invited to a virtual meeting with officers which took place on 11<sup>th</sup> January to explain the rationale behind the proposed permit fees.
- 10.2 Responses were received from five utility companies, one industry representative group and one other stakeholder organisation that undertakes works on the B&NES road network. Whilst the respondents were opposed to the fee increase, which is not unexpected, no issues were raised which would, in the view of officers, prevent the council from being justified in increasing its fees. The proposed fees are only marginally higher than a neighbouring authority's fees.

10.3 Responses received from this consultation together with officer comments are shown in the attachment.

<b>Contact person</b>	<b>Paul Garrod, Traffic Management &amp; Network Manager</b> <a href="mailto:Street_Works@bathnes.gov.uk">Street_Works@bathnes.gov.uk</a>
<b>Background papers</b>	<b>None</b>
<b>Please contact the report author if you need to access this report in an alternative format</b>	