

CABINET

25 January 2011

REPORT OF THE CABINET MEMBER FOR ENVIRONMENT

Title: Network Management Plan and the London Permit Scheme	FOR DECISION
<p>Summary:</p> <p>The Council has a duty under Section 59 of the New Roads and Street Works Act 1991 to manage and coordinate all works on the Public Highway; including those of the utility companies and those carried out by the Council, its agents and contractors.</p> <p>The Traffic Management Act 2004 imposed the Network Management Duty on all councils with the aim to improve the overall network performance and prepare and update a Network Management Plan (NMP). The key aims of the NMP is to tackle congestion and disruption on the highway network enabling the expeditious movement of traffic, delivering accessibility; offering improved transport choices and reliable journey times; better air quality and improved alternative transport</p> <p>The draft NMP (Appendix A) is intended to set out, in broad terms, the Council's current position with the view that it be implemented with immediate effect and then be updated and modified over the next 12 to 24 months to reflect the emerging direction and decisions regarding transport issues.</p> <p>Reference is made in the NMP to the introduction of a Permit Scheme for works on the highway. The London Permit Scheme for Road Works and Street Works (LoPS) is made pursuant to the Traffic Management Act 2004 and Traffic Management Permit Schemes Regulations 2007. Approval has to be gained from the Secretary of State for inclusion in the Permit Scheme.</p> <p>All works on the Public Highway will require a permit issued by the Highway Authority (the Council). The range of activities covered by the Scheme is generally consistent across all London councils although each borough is able to make localised modifications as long as they do not override the overarching principles of the scheme. Permits have to be purchased and they are prescriptive in terms of activities allowed, commencement date and duration of works.</p> <p>The main aim of the Permit Scheme is to ensure safety and minimise inconvenience to people using a street with particular reference to people with a disability or who are vulnerable.</p> <p>Implementation of the scheme will require additional funding and there will be revenue costs in maintaining the scheme, these will be met in full from the cost of the Permits issued. There will therefore be no additional cost to the Council</p> <p>At present 18 London councils are operating the Permit Scheme and it is anticipated that all London boroughs will have the Scheme in place over the next two years.</p> <p>Once this Council has agreed to support and participate in the Permit Scheme, arrangements can be made to seek approval for inclusion, to contact other borough</p>	

operating the scheme to share good practice and to arrange resources to fund implementation with the aim of going as a matter of urgency, but no later than October 2011

Wards Affected: ALL

Recommendation(s)

The Cabinet is recommended to agree:

- (i) The content of the draft Network Management Plan (Appendix A)
- (ii) That all works on the Borough's roads and footpaths take full account of the Council's current Network Management Plan and the requirements of the Traffic Management Act 2004.
- (iii) That the Council supports the scheme and seeks Secretary of State consent for inclusion in the London Permit Scheme (LoPS) for Road Works and Street Works.
- (iv) That funding of £100,000 is made available to fund implementation costs. That such funding is recovered in full from the income generated from the Permit scheme. All ongoing revenue costs will be recovered from income generated from the scheme.
- (v) That the precise details of the allowable activities within the Permit Scheme be delegated to the Corporate Director of Customer Services in consultation with the appropriate Cabinet Members.

Reason(s)

It is recommended that the Council agree the introduction of the Permit Scheme as part of its statutory responsibility under the Traffic Management Act to carry out whatever reasonable functions possible to control and manage potential disruption on the Borough's streets.

The Permit Scheme will serve to move towards this objective and is likely to be adopted by all London Borough's over the next few years.

Overall there will be no net financial cost to the Borough and there is the potential to make significant improvements in managing and controlling unacceptable obstruction on the highway

To assist the Council achieve its community priorities of Safe, Clean and Prosperous and its duties under the New Roads and Street Works Act and Traffic Management Act 2004, including the implementation of a Permit Scheme for highway works.

Comments of the Chief Financial Officer

Finance has reviewed the likely levels of income and expenditure using the 2009/10 noticing system activity as a basis for the projections. This exercise resulted in a small scheme surplus and gives some confidence that the scheme will be self-financing as outlined in the report below.

Under the permit regulations, the income from fees is not allowed to exceed the total allowable costs prescribed in the permit regulations.

It is recognised that authorities will make their best estimates of costs and income and in setting fee levels there will be occasions when a surplus or deficit exists at the end of the year. In reviewing fee levels those surpluses or deficits should be carried over and counted in later years so that a balance of costs and income is achieved over a number of years. The outcome of annual fee reviews should be published and open to public scrutiny.

It is proposed that a methodology will be developed so that in future fees can be indexed in between fuller reviews of permit fees.

There are no plans to recruit externally to the posts as it is anticipated that these will be filled by existing staff.

Comments of the Legal Partner

The London Permit Scheme for Road Works and Street Works is made pursuant to Part 3 of the Traffic Management Act 2004 and the Traffic Management Permit Schemes (England) Regulations 2007, Statutory Instrument 2007 No 3372 made on 28 November 2007.

Most of the legal issues have already been resolved by those boroughs that are already within the LoPS scheme. This Council needs to indicate support in principle to implementing the Permit Scheme and then to make the necessary preparation to operate such a system.

The borough will be scrutinised to ensure to ensure that our operation of the scheme shows parity between internal operations and those of external agencies such as the Utility Companies.

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1. Background

- 1.1 The Traffic Management Act provides a clear duty on each Highway Authority to have a Network Management Plan and a Traffic Manager supported by adequate resources. The Act requires Local Transport Authorities to enable the expeditious movement of all traffic on the road network, including motor vehicles, cyclists, pedestrians and freight traffic, having due regard to all other services offered by the Authority .To assist the Council achieve its community priorities of Safe, Clean and Prosperous and its duties under the New Roads and Street Works Act and Traffic Management Act 2004, including the implementation of a Permit Scheme for highway works and the boroughs Network Management Plan.
- 1.2 The purpose of this Network Management Plan (NMP) is to draw together and define the objectives, policies and procedures associated with managing the

borough highway network. It supports Barking and Dagenham's Local Implementation Plan which sets out the current strategy for transport in the borough, to support more sustainable and inclusive travel for all.

- 1.3 The NMP must be kept under review to ensure that it accurately reflects lessons learnt changes in national and local priorities as well as future legislative changes and therefore it is currently recommended that it be brought to Cabinet for updating annually.
- 1.4 It is clear that efficient use of roads and footpaths are severely impeded by construction work; mainly by the utility companies, but also by the Highway Authority and other boroughs.
- 1.5 The LoPS is a Common Permit Scheme. This means that a number of highway and traffic authorities, in London have developed a common scheme. It has a single set of rules which each London highway authority operating the scheme apply independently to their own roads, subject to normal cross boundary liaison and co-operation.
- 1.6 A considerable amount of work has been undertaken by London Councils, Transport for London and the Department for Transport over the past few years to devise a system that was fair and firm; a scheme where control was established at no cost to the respective councils but without undue penalisation of justified and reasonable work by the utility companies.
- 1.7 The LoPS replaces the "notice system" under the New Roads and Street Works Act 1991 (NRSWA) whereby utility companies inform highway authorities of their intentions to carry out works in their areas. However, it uses similar concepts to the notice system in a number of key areas, such as road categories and works categories to ensure consistency, and facilitate better co-ordination. LoPS improves on the old system by giving highway authorities greater powers to regulate, and monitor works on the highway. Utility companies and contractors must seek approval to undertake works through a formal permitting arrangement
- 1.8 Fees are payable for each permit issued (although no fee is payable if the permit application is refused, cancelled or varied by the authority) and if a Utility Company fails to comply with the conditions of the permit, it is a criminal offence and a Fixed Penalty Notice (FPN) can be issued. The rate of FPN is dependent on the breach of the permit condition.
- 1.9 As legislation was prepared and implemented a number of London boroughs implemented the Permit Scheme and other London boroughs are being encouraged to learn from their success. At present 18 London councils plus Transport for London are operating the Permit Scheme and a further seven councils are currently making application to join.

2. Proposal

The Network Management Plan

- 2.1 The NMP has to be recognised as a key Council document. The Council has a statutory duty to prepare a Plan and to make it available to the community. It is

suggested that the Foreword be presented by the Leader of the Council and the Portfolio holder for Environment and Enforcement Services in order to underpin its significance and importance to the Council.

- 2.2 One of the key approaches to helping people to keep moving will be to make best use of the Council's existing highway network by ensuring that congestion and disruption is minimised by better planning and co-ordination of road works and street works that occur in our Borough.
- 2.3 The Plan, is a both a long-term plan and vision to give the consumer our commitment to manage the expeditious movement of traffic. The aim of the Council is to build upon and improve our existing services along with taking new actions to achieve accurate and reliable journey times across the Borough and into our adjoining local authority networks.
- 2.4 The Network Management Plan, working alongside the Local Implementation Plan, fully supports the Council's existing planning and land use objectives, namely:
- To increase accessibility for all to town centres, community facilities, employment opportunities and development areas, recognising that improved accessibility is more important and sustainable than just increased mobility.
 - To prioritise improvements for people with poor access to public transport services; for people with a disability; and for those without access to a car – not least to promote social inclusion and equity.
 - To optimise the potential of schemes to maintain and enhance regional, national and international links.
 - To facilitate the regeneration of derelict, previously developed and under used land in the Borough and Thames Gateway.
 - To underpin the viability and vitality of town centres.
 - To ensure the need to travel by private car or lorry is minimised by promoting attractive and accessible alternatives.
 - To improve the safety and security of the transport system.
 - To ensure the movement of commercial goods and people are met in the most efficient way that will support regeneration and growth of the Borough's economy without compromising environmental quality.
 - To reduce the pollution and nuisance created by traffic, so reducing adverse environmental impacts, contributing to the health and safety of Borough residents, meeting air quality and noise reduction objectives.
 - To promote the integration of new development with transportation to reduce the need to travel and promote more sustainable patterns of land use and development.
 - To support and promote public transport schemes that minimise adverse impacts on the environment, make up for deficiencies and gaps in the transport network, improve opportunities for transfer / interchange between services and otherwise promote a positive image of the Borough.
 - To improve integration between transport modes and services, in particular to strengthen Barking station's role as a sub regional transport hub/interchange.

- To improve integration between north - south bus routes.

- 2.5 Reference is made to the Council's Parking Strategy and Enforcement Plan. Controlling and managing parking is integral to traffic and highway management.
- 2.6 The safety of all road users is a paramount concern of the Council in the design and management of the Borough's highways network. Collisions and accidents across the network can cause significant delays and disruption as a result of road closures, restriction of carriageway width and the resultant delays created to emergency services trying to reach the scene.
- 2.7 The Council's Winter Maintenance Plan gives a comprehensive procedure for gritting during cold and adverse weather conditions. The Council can also call on approximately 100 personnel to assist in the clearance of key footways in important locations, such as Barking Town Centre, Dagenham Heathway and at transport interchanges and around school entrances.

Monitoring the Plan

- 2.8 In order to monitor how the Council is performing its Duty, a number of performance indicators are to be established to measure year on year achievements and pressures.
- 2.9 It is intended that in the annual report regarding the NMP, the Traffic Manager will review the overall effectiveness of the arrangements in place for the delivery of our Network Management Duty. The report will include a summary of issues that have arisen during the course of the year, reviewing the actions that have been taken and how the delivery of the Network Management Duty has been improved as a result.

Implementation of the London Permit Scheme

- 2.10 The introduction of a Permit Scheme for openings, work and other functions that take place on the highway will enable greater control over when work takes place, how long it will take and the method in which operations can occur.
- 2.11 The statutory requirements are fully in place and the Scheme is already operational in a number of London boroughs. Officers will be able to learn from their experience to ensure that the transition to a Permit Scheme is seamless. The majority of London boroughs have already joined or are in the process of joining the scheme. Utilities will come to expect a common process across London and those not in the scheme will be disadvantaged by this. Eventually the Council would have to explain why it has opted out when all others have joined. In this instance it is possible that the Secretary of State would exercise his powers under the Traffic Management Act 2004 and direct the Council to operate the Permit Scheme.
- 2.12 The aim is for the Permit Scheme to be fully functional in this Borough as soon as possible, but no later than October 2011.
- 2.13 In order to ensure that the integrity of the Scheme is managed both from a functional perspective and from enforcement and support, it is anticipated that four posts will be dedicated to this work. Two will be technical support and two will be Highway Managers.

- 2.14 The Permit Scheme is to be self financing. Permits have to be purchased and indicative values are given at **Appendix B**. The exact value of Permits that can be charged by the Council will be directed by the Secretary of State. However, the values shown can be used for reference. Early experience shows that other boroughs are meeting their costs, even though there has been a reduction in the number of Permits issued.

3. Financial Issues

- 3.1 To establish the Permit Scheme it will be necessary to make a number of changes to IT systems and to purchase additional equipment (e.g. hand held units for Highway Managers). The estimated cost of these items is anticipated to be approximately £100,000.
- 3.2. The annual revenue staffing costs are anticipated to be approximately £155,000 per annum. These costs will be fully recovered from income generated by Permits and fines.
- 3.3 It is likely that additional work will need to be undertaken to determine and monitor traffic flow. These costs will be absorbed into the revenue costs of managing the Permit Scheme.
- 3.4 The level of activity on our roads and footpaths indicates that the scheme will generate sufficient revenue to meet the costs of operating the scheme.

4. Legal Issues

- 4.1 Most of the legal issues have already been resolved by those boroughs that are already within the LoPS scheme. This Council needs to indicate support, in principle, to implementing the Permit Scheme and then to make the necessary preparation to operate such a system.
- 4.2 The London Permit Scheme for Road Works and Street Works is made pursuant to Part 3 of the Traffic Management Act 2004 and the Traffic Management Permit Schemes (England) Regulations 2007, Statutory Instrument 2007 No 3372 made on 28 November 2007.
- 4.3 A Permit Authority operating LoPS may not cease to operate the scheme without first consulting all interested parties and then applying to the Secretary of State to revoke the scheme.
- 4.4 The Borough will be scrutinised to ensure to ensure that our operation of the scheme shows parity between internal operations and those of external agencies such as the Utility Companies.

5. Other Implications

5.1 Risk Management

- 5.1.1 The primary risk relates to the failure to have in place a Network Management Plan and once in place for it not to be recognised and respected. It is a duty on the

Council to have a Traffic Manager who has responsibility for managing and updating the NMP.

- 5.1.2 Failure of a Council to have a NMP or Traffic Manager can lead to the risk of intervention by the Secretary of State for Transport.
- 5.1.3 The primary risks of operating the Permit Scheme have already been carried by the initiating authorities who have paved the way for other boroughs in terms of legal issues and Permit values.
- 5.1.4 There is a risk that there is a reduction in the volume of Permits issued as a result of introducing the charging mechanism. However, it is anticipated that any reduction in permit income would be offset by an increase in the level of fines generated from non-compliance.
- 5.1.5 Officers will continue to liaise with those boroughs operating the scheme to ensure that a seamless transition can be introduced from their experience and good practice.

5.2 **Staffing Issues**

- 5.2.1 Current assessment is that up to four posts will be required to operate the Permit Scheme
- 5.2.2 Current estimations are that this is the minimum staffing level required to implement and operate the scheme. However, if the volume of Permits is significantly higher than anticipated it may be necessary to recruit additional staff but only if it is found that the costs can be fully met from income – thereby continuing to ensure that the service is self-financing

5.3 **Customer Impact**

- 5.3.1 In isolation the community will not perceive any significance from the NMP but when considered as part of a suite of new arrangements (the evolving Parking Strategy and Permit Scheme) the community should be able to appreciate that the Council has better control over use and development of then highway network.
- 5.3.2 This Permit Scheme seeks to enable more effective co-ordination by applying principles to ensure safety, minimise inconvenience to people using a street, including a specific reference to people with a disability, and to protect the structure of the street and the integrity of apparatus in it.
- 5.3.3 The highway and traffic authorities in London, to which the LoPS applies, in preparing this Permit Scheme have had regard to the requirements of Section 49A of the Disability Discrimination Act 1995, compliance with which requires performance of the Disability Equality Duty.
- 5.3.4 Specific and careful consideration has been given in developing the LoPS to reflect the needs of pedestrians and motorists with disabilities. There has been wide ranging consultation with a number of groups well placed to assist on issues arising which concern, in particular, those with disabilities including The Disabled Persons Transport Advisory Committee and The Guide Dogs for the Blind Association.

- 5.3.5 In addition, the Scheme supports those seeking to minimise disruption and inconvenience across London by encouraging good practices, mutual and collaborative working arrangements and a focus on co-ordination and getting it right. It encourages a high emphasis on safety for everyone including site operatives and all other road users with special emphasis on people with disabilities.
- 5.3.6 It encourages a sharing of knowledge and methodology across the industries working within the London Permit Scheme and emphasis the need to minimise damage to the structure of the highway and all apparatus contained therein and provides a common framework for all activity promoters who need to carry out their works in London, treating all activities covered by the scheme and activity promoters on an equal basis.
- 5.3.7 In applying a Permit Scheme, the Council will be better positioned to balance the potentially conflicting interests of road users and statutory undertaker's customers, improve cooperation and regular communication between the street authority and statutory undertakers and acknowledge that in house works programmes and practises may have to be adjusted to meet the statutory objectives of the coordination provisions.

6. Options appraisal

- 6.1 There appear to be very few options with regard to the NMP available.

Do Nothing – The Council has a statutory duty to have a NMP with governance by a designated Traffic Manager. Failure to do so can lead to intervention by the Secretary of State.

6.2 With regard to LoPS

Do Nothing – over the coming few years all London Boroughs will be within the Permit Scheme and utility companies will come to expect the process that are common to all London boroughs. Eventually the Council would have to explain why it was opting out when all others had joined.

Join at the Outset – It was clear that there would be teething problems with processes and coordination between boroughs and the utility companies. A number of boroughs were prepared to invest the time of their respective officers to ensure that the Permit Scheme was implemented. This Borough is now able to benefit from this work and utilise, what is now, good practice

7. Background Papers Used in the Preparation of the Report:

- Traffic Management Act 2004
- Traffic Management Permit Schemes (England) Regulations
- New Roads and Street Works Act
- London Permit Scheme for Road Works and Street Works – Approved Version – 15 October 2009

8. List of appendices:

Appendix A - Draft Network Management Plan

Appendix B - Schedule of charges for London boroughs