

RESTRICTED  
DEREGULATION BILL CLAUSE 23

<b>Title:</b> Local Highway Authority Permit Scheme – amendment to approval process under Part 3 of 2004 Traffic Management Act  <b>IA No:</b>  <b>Lead department or agency:</b> Department for Transport <b>Other departments or agencies:</b> nil	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 29/01/2012
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
	<b>Contact for enquiries:</b> Ann.morley@dft.gsi.gov.uk
<b>Summary: Intervention and Options</b>	
	<b>RPC:</b> RPC Opinion Status

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as
£0m	£0m	£0m	No	NA

**What is the problem under consideration? Why is government intervention necessary?**

The Traffic Management Act 2004 Part 3 (TMA) introduced 'permit schemes', by which local highways authorities could develop a scheme to provide 'permits' to statutory undertakers when they wished to undertake street works. Permit Schemes provide for better local authority management of the highway and can reduce congestion. Schemes currently require approval by the Secretary of State, but operating schemes are demonstrating their effectiveness and, as part of the Governments Red Tape Challenge, it has been decided central approval is no longer required. In future an authority should be able to develop a scheme that best meets local needs.

**What are the policy objectives and the intended effects?**

Devolving this power from Central government to local government – enabling authorities in England to take the final decision to develop and implement a scheme – would remove an unnecessary requirement for central government to intervene in local decisions, it would also provide for authorities being able to give effect to locally developed schemes.

The change planned to be introduced by 2015 will reduce the cost of assessment undertaken by the Secretary of State and overall reduce authority costs as there would no longer be a need to prepare documents for assessment and submission.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Do nothing.  
or  
Option - Amend primary and secondary legislation to remove the power of the Secretary of State to give effect to approving or varying local authority developed schemes (there is a power retained for the Secretary of State to revoke in exceptional circumstances). This would result in giving local transport authorities the power to develop or vary (and should they choose halt) their own schemes by order.

A review date of 7 years after implementation is suggested to enable some 14 schemes to be developed, implement and provide transparent annual evaluation, in order for the Department to ensure that the intended benefits are being delivered.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 04/2022					
Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro</b> No	<b>&lt; 20</b> No	<b>Small</b> No	<b>Medium</b> No	<b>Large</b> No
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> n/a	<b>Non-traded:</b> n/a	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister: \_\_\_\_\_ Date: \_\_\_\_\_

## Summary: Analysis & Evidence

## Policy Option 1

Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2015	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: 0	High: 0	Best Estimate: 0

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0	£0.016	£0.13
High	0	£0.019	£0.16
Best Estimate	0	£0.017	£0.15

#### Description and scale of key monetised costs by 'main affected groups'

The costs for this policy are from the additional administrative and expert time to Local Authorities for approving schemes. These come to approximately (just under) £9,000 per application (with ±10% for low and high scenarios to give some context) – we estimate 2 new schemes per year from 2015 onwards based on information received.

#### Other key non-monetised costs by 'main affected groups'

n/a

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	0	£0.016	£0.13
High	0	£0.019	£0.16
Best Estimate	0	£0.017	£0.15

#### Description and scale of key monetised benefits by 'main affected groups'

The benefits for this policy are from the administrative and expert time saved by DfT for approving schemes. These come to approximately (just under) £9,000 per application (with ±10% for low and high scenarios to give some context) – we estimate 2 new schemes per year from 2015 onwards based on information received.

#### Other key non-monetised benefits by 'main affected groups'

There are likely to be benefits to the wider public where permit schemes are introduced and the road network is more effectively managed. Time savings and environmental benefits associated with permit schemes have not been monetised.

#### Key assumptions/sensitivities/risks

Discount rate (%)

3.5

It is assumed it costs the Department some £9,000 in wage costs to approve an application for a scheme; iteration is sometimes more protracted than for others. Office costs are assumed to be zero. We have assumed that guidance is followed by authorities and that schemes are compliant with this - Secretary of State does retain the power to revoke schemes where necessary.

### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: -	Benefits: -	Net: 0	No	NA



## Evidence Base (for summary sheets)

No.	Legislation or publication
1	<a href="#">Traffic Management Act (2004)</a>
2	The Traffic Management Permit Scheme (England) Regulations 2007
3	Statutory Guidance for Permits
4	Code of Practice for Permits

The Traffic Management Act (TMA) 2004 require that where a local transport authorities chooses to introduce a permit scheme that it is submitted for assessment and approval by the Secretary of State before it can have effect by order made by the Department (in Wales, the approval of Welsh Assembly Government Ministers is required and this exercise does not impact on Wales where the process will remain the same). The Traffic Management Permit Scheme (England) Regulations 2007 also provide for submission and approval of a permit scheme to the Secretary of State to ensure in this then new policy area that the initial schemes coming forward were compliant with the Regulations, Guidance and reflected a sound cost benefit analysis.

The preferred policy option is to remove the need for local authorities to formally apply to the Secretary of State before operating permit schemes within their area. This will remove the burden on those authorities to prepare a prescribed set of documents and information to the Secretary of State. It will also remove the burden on the Secretary of State's to assess and provide formal approval before a scheme can come into force. The ability of authorities to introduce schemes remains, and therefore both the permit regulations and statutory guidance are retained. This will ensure schemes continue to be developed and implemented as before.

Additionally it is proposed that details of schemes and an annual evaluation of them will be published on local authority websites to ensure greater transparency (currently the only requirement is for an assessment after the first 12 months of operation). Currently only the London scheme (LoPS), Kent and Northamptonshire have been operating long enough to provide formal evaluation at 12 months. The links to the evaluation of these schemes can be found on the websites below.

### **The London Scheme LoPS (including TfL)**

<http://www.londoncouncils.gov.uk/search.htm?cx=012816060298198299354%3Aulbaum7l6aw&cof=FORID%3A11&ie=UTF-8&q=Search...LoPS+report#1085>

### **Kent**

[http://www.kent.gov.uk/roads\\_and\\_transport/highway\\_maintenance/kent\\_permit\\_scheme.aspx](http://www.kent.gov.uk/roads_and_transport/highway_maintenance/kent_permit_scheme.aspx)

### **Northamptonshire**

<http://www.northamptonshire.gov.uk/en/councilservices/Transport/roads/Pages/PermitScheme.aspx>

The Secretary of State proposes to retain the power to revoke failing schemes.

### **Problem under consideration**

The Government is committed to localism and reducing bureaucracy and there is no reason for this additional layer of process which takes up valuable Ministerial time and lengthens the process unnecessarily. Currently a considerable amount of time is spent by the Department assessing permit applications received from local authorities, and it is considered that authorities themselves are best placed to bring in schemes that meet local needs supported by the Regulations and Guidance, which have been updated as a result of this change.

## **Policy Rationale**

Part 3 of the Traffic Management Act empowers local highway authorities (and the Secretary of State and Welsh Ministers in their capacity as highway authority for certain roads) to prepare and implement permit schemes. Section 33 provides that a scheme prepared and submitted by a local highway authority can be implemented only after the Secretary of State (in England) or the Welsh Ministers (in Wales) has given effect to the proposed scheme by means of a statutory instrument. This constraint was considered necessary as part of TMA because permit schemes were an untested concept and it was felt necessary to hold some central control to prevent a large number of schemes coming into operation until the approach was proven.

Permit schemes are now operational across most of London; Kent; Northamptonshire and St Helens. Those operating appear to be delivering promising improvements (see above for scheme evaluation), and a number of other authorities have been approved such the East of England Scheme made up of Bedford Borough Council, Hertfordshire County Council, Luton Borough Council and Southend-on-Sea Borough Council, others are developing proposals for schemes.

The Government is pursuing an active policy of devolving powers and decision-making from Whitehall to local government. As a result, Ministers wish to remove the existing requirement for local highway authorities' permit scheme proposals to be submitted to the Secretary of State. This objective forms part of the Governments Red Tape Challenge. Once the Secretary of State's role is removed it would be for local highway authorities to take the final decisions on the scope and requirement for a scheme in their area. Once the authority had taken the decision to implement the scheme, it would give effect to the scheme by order meaning there would be a saving of the need to apply and provide detailed submission to the Secretary of State.

The Secretary of State will retain the existing power to make regulations about Permit schemes, and this will preserve a degree of consistency about how schemes operate, and provide some protections for the interests of utility companies. The Secretary of State proposes to retain the power to direct a local authority to revoke their scheme, if the need arises, again providing protections for the utility companies.

## **Assessment of costs and benefits**

### **Option 1 benefits**

The monetised benefits for this policy are around the administrative time saved by the Secretary of State for approving schemes.

Local Authorities will also save time by not submitting schemes to the Department. The Regulations do not allow for authorities to make a profit, above running costs, from the implementation of permit schemes – nothing in the proposals will alter this, as the Regulations remain unchanged. It is unlikely that there will be any direct cost savings to authorities so no amount has been included in the net present value.

There are also likely to be non-monetised benefits to the wider public where permit schemes assist in a more effectively managed road network, which has the potential to reduce congestion for all business and other road users.

Currently the Department for Transport reviews each application, essentially carrying out 4 tests, these are:

Test 1: A test of the compliance of the proposed scheme with the requirements of relevant legislation and the Secretary of State's statutory guidance. We currently check that the scheme contains statements that enable us to conclude that all the requirements written in the legislation and statutory guidance have been met.

Test 2: A test to determine if the proposed permit fees are reasonable and adequately justified. The Secretary of State is required, under section 37 (9) of the Traffic Management Act 2004 (TMA), to ensure that Permit fees raised by proposed schemes do not exceed the prescribed costs of implementing the scheme.

Test 3: A test of whether the proposed scheme is likely to deliver value for money. This requires a basic appraisal of the costs and benefits of the scheme, demonstrating that the scheme, on the balance of probabilities, is likely to deliver net benefits to road users and wider society that exceed the additional costs of the scheme.

Test 4: Finally, DfT currently consider whether the scheme is deliverable in practice, and if it is therefore in the public interest to give effect to the scheme through legislation.

All of the above will no longer be carried by the Department and will result in time and money saved.

A break down of each task and approximate staff costs is listed below:

- Checking of permit application – 5 Days – HEO, Cost £445
- Checking of cost benefit analysis – 15 Days – G7, Cost £2113
- Checking of fees analysis – 15 Days – HEO, Cost £1335
- Checking compliance, i.e. objectives met, consulted etc – 15 Days – HEO, Cost £1335
- Legal analysis – 15 Days, G7, Cost £2113
- Specialist input and clearance – 5 Days, HEO, Cost £445
- Consideration of evidence and feedback from legal/economists – 5 Days – HEO, Cost £445
- Drafting submission – 5 Days, HEO, Cost £445
- Ministerial decision – 5 Days (unquantified)

This provides an estimate total cost per assessment of approximately (just under) £9,000. Removing the requirement for this assessment process would therefore save approximately this amount, per case. This cost is a conservative estimate as cost savings associated with ministerial time have not been quantified. It should be noted that there are variables within salary bands and different personnel may be used over time (and straight salary not capitation rates have been used).

The number of applications made between 2013 to 2015 is expected to be around 16 to 20 applications (based on information currently available from the Joint Authorities Group, and authorities may also seek to join existing schemes) but as these will be delivered within the current process and Regulations so they have not been included. A Guide provided by the Joint Authorities Group indicated that there may be only around another 20 schemes that will come into operation after 2015 once the approving powers rests with the authorities themselves – we have taken this to mean 2 per year over a 10 year period. The certainty of all these authorities or groups of authorities seeking to implement a scheme is high, many already undertaking scoping discussions with the Department or with those already running permit schemes.

That said the estimates provided by the Joint Authorities Group that only some 20 schemes would come forward after the change was made seems reasonable at this time in this current policy environment as many authorities in less busy areas would have no particular need to introduce permit schemes to manage their roads (around a third of the ~150 local authorities would be left without a permit scheme.)

Sensitivity analysis is undertaken to reflect the potential for different types of application to be submitted each year. Depending on their scale, they may incur higher/lower costs than the expected average (stated above). As such a range of cost figures is presented which allow for a +/-10% difference from average cost figures.

In future years there is of course the potential for every highways authority in England (around 151 in total) to decide to bring forward a scheme and introduction might increase as authorities learn best practice from those already in operation and development is simplified by using a 'template' from an existing scheme. This may mean that our estimate is conservative. The consultation process did not provide greater certainty on this but further conversation with JAG following the close of the consultation indicated that around another 20 would consider developing schemes after 2015.

However the main benefit for authorities will be greater control over timing and delivery of ambition for introducing a scheme and the improved traffic management the schemes itself is likely to provide. Improved certainty of timing will also allow them to manage their budgets with greater predictability, for example in the recruitment in staff needed to operate permit schemes.

### **Option 1 costs**

Although the burden on government to check and approve schemes is removed, the schemes still need to conform to best practice and the statutory guidance. This means that the burden will be transferred back to Local Highways Authorities (LHA) to ensure that schemes are compliant.

In theory, LHA should be designing and submitting schemes to government that are already compliant so the removal of the additional checking process should reduce burdens. However, following consultation local authorities have stated that, should the policy be implemented, they would like to increase their legal and economic assessments of schemes that they wish to bring in to ensure compliance with guidance. LHA have advised that costs faced would be similar to those burdens we are removing from central government, so the benefits described above are transferred to local authorities as costs. Therefore we estimate a cost per scheme to local authorities of approximately £9,000.

Regulations provide for authorities to recoup these costs from those applying for permit schemes as part of development costs. Over time therefore it is anticipated that authority permit fees will be reduced once development costs have been recouped – this is already being seen in Kent where cost savings to the Local Authorities are to be passed on to applicants in the form of reduced fees.

### **Risks and assumptions**

The initial impact assessment was provided to support the consultation process but no additional evidence was provided by stakeholders during the consultation. We therefore applied directly to JAG for specific information to refine this final impact assessment.

- If the evidence used proves largely correct there is minimal risk to the costs and benefits shown, and the costs / assumptions are based on evidence of the review and assessment process since its introduction, and are therefore the assumptions made are considered to be robust as possible.
- Potential costs to utilities should the introduction of schemes be brought forward are assumed not to change in the absence of DfT checking and approval of permit schemes – this does not mean that the introduction of a permit scheme will not involve additional cost to the utility, but that this cost will be the same whether the scheme is approved by the Secretary of State or the Chief Executive of a Highway Authority.

### **Scheme implementation and evaluation**

It would be for highway authorities to develop scheme proposals and implementation plans (in consultation with street works undertakers and other interested parties). The Government's expectation is that local authorities shall have a robust evaluation plan built into any proposed scheme – and for there to be annual transparent assessment. Local authorities are required to vary or revoke failing schemes where they fail to meet the benefits expected. The evaluation undertaken

by authorities would need to set out the evidence that will be collected to undertake evaluation, setting out pre-permit scheme benchmarks against which the comparison would be made.

### **One-in One-out**

We consider that this is **out of scope of OIOO regulations** because it does not affect businesses. Although permit schemes mean that businesses must apply for permits to highways authorities to conduct works, this IA is purely about the approvals process for permit schemes rather than the development, implementation or operation of the schemes themselves. Additionally as fees are set within the Regulations the cost to business will not alter where the approval authority changes.

This is also part of the Red Taper Challenge (RTC) initiative – Department for Transport RTC number 141 Highways Traffic Management Permit Scheme Regulations (England) Regulations 2007 <http://www.legislation.gov.uk/id/2007/3372/uksi>

Departmental RTC decision is to improve – achieved as part of the resultant effects of changes to primary legislation.

### **Specific Impact Tests**

As this affects only the approval process for permit schemes, not the existence of permit schemes themselves, we consider that removing Secretary of State approval will create no impacts on competition; equalities; small firms; or any other test.