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STATUTORY INSTRUMENTS

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**2013 No. 1781**

**HIGHWAYS, ENGLAND**

**The Traffic Management (Derby City Council) Permit Scheme Order 2013**

*Made* - - - - *16th July 2013*  
*Coming into force* - - *1st October 2013*

The Secretary of State for Transport having approved the Derby City Council Permit Scheme under section 34(2) of the Traffic Management Act 2004<sup>(1)</sup> makes this Order in exercise of the powers conferred by sections 34(4) and (5) and 39(2) of that Act.

**Citation and commencement**

1. This Order may be cited as the Traffic Management (Derby City Council) Permit Scheme Order 2013 and comes into force on 1st October 2013.

**Interpretation**

2. In this Order—

“the Derby City Council Permit Scheme ” means the permit scheme set out in the Schedule in terms commonly known as the “Derby Permit Scheme” which was prepared and submitted to the Secretary of State by Derby City Council and has been approved by the Secretary of State; and

“specified streets” has the meaning given by regulation 8 of the Traffic Management Permit Scheme (England) Regulations 2007<sup>(2)</sup>.

**Commencement of Permit Scheme**

3. The Derby City Council Permit Scheme comes into effect on 1st October 2013.

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

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

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(1) >2004. c.18.  
(2) S.I. 2007/3372.

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Signed by authority of the Secretary of State for Transport

16th July 2013

*Norman Baker*  
Parliamentary Under Secretary of State  
Department for Transport

SCHEDULE

Article 2

THE DERBY CITY COUNCIL PERMIT SCHEME



**Derby City Council Permit Scheme**  
**For**  
**Road Works and Street Works**  
**Under Part 3**  
**Of The Traffic Management Act 2004**

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**1.0 Introduction**

**1.1 Relationship to New Roads and Street Works Act**

Permit schemes require the statutory undertaker to apply and obtain a Permit, rather than serving a NRSWA notice. The activities of the street Authority and its partners are treated in the same way as statutory undertaker works.

**1.2 The Permit Scheme**

This Permit Scheme known as Derby City Council Permit Scheme for Road Works and Street Works; hereinafter referred to as The Permit Scheme has been prepared under the framework provided by the Traffic Management Act (Part 3) and the Traffic Management Permit Schemes (England) Regulations 2007, (referred to as the Regulations) and with regard to the relevant guidance issued by the Secretary of State. All current NRSWA and Traffic Management Act legislation, regulation and codes of practice (including future amendments) apply to the Permit Scheme.

The Permit Scheme will replace the NRSWA notification system for all Traffic Sensitive streets in Derby. The streets within the Permit Scheme (along with any special designation) will be clearly identified on the National Street Gazetteer Associated Street Data files. The National Street Gazetteer for Derby is established and maintained at level 3. The Authority is committed to maintaining the gazetteer data to level 3.

**1.3** It is expected that the Permit Scheme will embrace activities in addition to Road works and Street Works (as defined in Part 3 of NRSWA) for example by the use of Optional Permits for 'Events' that are facilitated by occupying or requiring space or special provisions on the highway. It is also expected that it may be extended to other activities as a result of regulatory changes in the future.

**1.4 The Permit Authority**

The Permit Scheme is operated by Derby City Council as the local Highway Authority for the City of Derby, hereinafter referred to as the Permit Authority.

**1.5 Activities**

The terms 'specified activities' and 'activities' are used in the document as the Permit Scheme may cover more than street works and road works.

**1.6 Equivalent Definitions**

The Permit Scheme will operate along with the NRSWA notice system. The same or equivalent definitions and requirements will be used as in the NRSWA notice system:

- Registerable activities / works
- Categories of activities / works
- Street gazetteers and the unique referencing
- Reinstatement categories
- Street designations (Protected Streets, Special Engineering Difficulties, Traffic Sensitive Streets)

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- The distinctions, where relevant, between street classification and designation.

## 2.0 Streets

2.1 The Permit Scheme will apply within the administrative boundaries of Derby City to:

- All streets designated as traffic sensitive, but not including roads managed and operated by the Highways Agency and streets not adopted by Derby City Council as maintainable by the local Highway Authority.

2.2 The scope of the scheme will be clearly identified within the National Street Gazetteer and Associated Street Data Files. In most cases a street will be identified by a single USRN; however where a street has more than one USRN then a Permit will be required for each USRN.

2.3 Roads managed and operated by the Highways Agency that pass through the administrative area of Derby City will be outside of the scope of the Permit Scheme.

## 2.4 Changes to NRSWA legislation

Where it is implemented on the specified streets, (See 4 below), and in accordance with the Regulations, the Permit Scheme will result in the disapplication and modification of the following sections of the NRSWA:

- Sections of NRSWA disappplied: s.53; s.54; s.55; s.56; s.57; s.66
- Sections of NRSWA modified: s.58; s.73A; s.74; s.88; s.89; s.93; Schedule 105; Schedule 3A
- Regulations modified: The Street Works (Registers, Notices, Directions and Designations)(England) Regulations 2007 SI 2007/1951

In the interests of parity, the modified legislation will also apply to works for road purposes.

## 3.0 Specified Activities

The Permit Scheme will control all activities undertaken on the public highway that are defined as 'Registerable Activities' in Chapter 9 of 'The Code of Practice for Permits. This will include:

- Street works (Part 3 NRSWA) but not including licences under s50 of NRSWA
- Works for road purposes (s86 NRSWA)
- Any other activities that may be introduced by future regulations

All other 'Registerable Works' defined in Chapter 7 of the 'Code of Practice for the Coordination of Street Works and Works for Road Purposes and Related Matters', third edition (2009).

## Activities

3.1 Any promoter proposing specified activities on a specified street within the scope of the scheme must obtain a Permit from the Permit Authority. The Permit will allow the applicant to:

- Carry out the specified activity
- At the specified location
- Between the dates shown and for the duration shown on the Permit

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- Subject to the conditions that may be attached to the Permit.

Also Permits will be required where registerable activity, as defined by NRSWA, on an adjoining or neighbouring non-specified street means that any specified activity as set out in Chapter 9 of the Code of Practice for Permits takes place on a specified street. All such related project activities must be cross referenced on each related application and notice.

- 3.2** Activities not requiring an advanced Permit include:
- The initial stages of immediate activities (refer to sections 5.0 and 10.7)
- Activities not requiring a Permit include:
- Works carried out under a s50 licence
  - Maintenance and inspection of fire hydrants carried out by fire service vehicles, where the activity is undertaken outside of traffic sensitive times.
- 3.3** Applications for Permits (including Optional Permits) will be limited to one Permit per street. Where specified activities involve a number of streets a separate Permit will be required for each street. These related multiple Permits will be cross referenced to assist with coordination and the monitoring of overall activity. The Permits will also be cross referenced with any notices served for related work on neighbouring streets that are outside of the scope of the Permit Scheme.
- 3.4** Where specified activities involve several Permits the Permit Authority will have discretion to discount fees where the Permit applications are submitted together as part of a coherent scheme within a group of neighbouring streets.
- 3.5** The Permit Authority will also have discretion to reduce the Permit fee if the activity promoter is able to coordinate and facilitate other activities that result in benefits for the travelling public (Section 12.0).
- 3.6** If the specified activity requires an interim reinstatement, the site is then vacated and the activity promoter returns to carry out a permanent reinstatement; then separate Permits will be required for the stage of work up to, and including, interim reinstatement and the subsequent stage of permanent reinstatement.
- 3.7** Permits will be approved for a specific period defined by the start date (the activity commencement date) and end date (the activity end date) of the Permit. The start and end dates may include weekends and bank holidays (calendar days) even though they are not traditionally working days.
- 3.8** The Permit will be granted on the basis that the specified activity will commence on the Permit start date and will be complete on or before the Permit end date. The Permit will not be valid before the start date or after the end date.
- 3.9** **Requests for early start** - The Permit Authority will consider requests for early start when a promoter applies for a Provisional Advance Authorisation or for a Permit. The Permit Authority has the discretion to agree early starts.

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When agreed variations are made the promoter will be required to submit a variation to the Permit to revise the dates. The relevant charges will be applied to Permit variations unless the Permit Authority has required the early start and variation. In these circumstances no fee will be charged for the variation. (Section 10.0)

- 3.10** It is an offence for a statutory undertaker or a person contracted to act on his behalf to undertake specified works in a specified street without a Permit, except to the extent that the Permit Scheme provides that this requirement does not apply. Where it is believed that such an offence has been or is being committed the Permit Authority may impose a fixed penalty notice and require the party concerned to cease works and return the street to full use.
- 3.11** Each application for a Permit must include the information set out in section 6.
- 3.12** Optional Permits will be available to promoters or organizers carrying out the following activities
- S50 Licences
  - When materials, not related to street works or works for road purposes, are being placed on the highway
  - Special events requiring the use of the highway
  - Maintenance and inspection of fire hydrants carried out by fire service vehicles, where the activity is undertaken outside of traffic sensitive times.
  - Where neighbouring Highway Authorities (including the Highways Agency) require the use of roads within the Permit Scheme for the purpose of erecting temporary signage or for temporary diversions off their own road network.

The purpose of Optional Permits is to include a wider range of activities into the coordination process and improve the management of the specified road network.

These activities may result in disruption to traffic flow or may require road space that utility companies need to use. The use of Optional Permits, which will be publicised and promoted by the Permit Authority, will extend the principle of parity to a wider range of activities.

A fee will not be charged for Optional Permits, but conditions may be attached to approvals. In such circumstances the relevant parts of the scheme will apply to conditions and variations, with details issued on approval of the Optional Permit. The use of Optional Permits will encourage promoters and organizers to provide improved information and allow early engagement in the planning stages.

Works carried out under S50 will be subject to FPNs under the NRSWA regulations.

The use of Optional Permits will be monitored and breaches will be logged and reported.

- 3.13** Optional Permits will be issued on the understanding that if circumstances change so that the activity becomes 'Registerable' then the activity must



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cease, the highway fully restored to use and the process started to obtain the appropriate Permit.

**4.0 Permit Types**

**4.1** The Permit Scheme includes the following:

- Provisional Advance Authorisation (PAA)
- Permits
- Optional Permits (as described in 3.12)

**4.2** **Provisional Advance Authorisations** will improve the coordination and works planning processes and provide improved opportunities to optimise the use of road space for specified (and non-specified) activities. It provides the Permit Authority with a better opportunity to examine specified activities and determine the most appropriate conditions to include when an application for a Permit is made at a later date. Provisional Advanced Applications are only required in relation to Major activities.

**4.3** Applications for Major activities will not be accepted by the Permit Authority unless a Provisional Advance Authorisation has been previously submitted.

**4.4** Provisional Advance Authorisations must be applied for at least 3 months in advance of proposed Major activities starting, unless the Permit Authority agrees to a shorter period.

**4.5** A Provisional Advance Authorisation must be served for each street on which specified activities, classed as major, are being proposed.

**4.6** A fee will be charged for each Provisional Advance Authorisation in addition to any subsequent Permit fee. The Permit Authority has the discretion to reduce the charge where Provisional Advance Authorisations are submitted for schemes that involve multiple neighbouring streets as part of a planned and coordinated programmes of works (Section 12).

**4.7** A Provisional Advance Authorisation must include the following information.

- Location of activity
- Proposed start and end dates
- An outline description
- Times of working, including hours of the day and any weekend provisions
- The road space occupancy
- Method of working
- Traffic management

It is understood that the information may be provisional at this early stage, for example start and end dates are particularly likely to change and there may need to be discussion and agreement of alternative traffic management methods.

**4.8** The granting of a Provision Advance Authorisation will not prevent the Permit Authority from subsequently refusing to grant a Permit for the specified activity proposed in the Provisional Advance Authorisation.

**4.9** A copy of the Provisional Advance Authorisation will be provided by the work promoter upon request to any person identified as having apparatus in the

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street to which the Provisional Advance Authorisation relates.

The Permit Authority, as the organization responsible for the register, will provide information relating to S50 Licences and assets maintained by the Highway Authority.

The Permit Authority will carry out tasks compliant with the duty to coordinate works. If an owner of apparatus contacts the Permit Authority to request information, additional to that circulated from the register, then the request will be forwarded to the promoter.

**4.10** Permits will be the final Permit for 'Registerable' activities. The application period for Permits will depend on the type of activity proposed.

**4.11** A copy of the Permit application will be provided by the work promoter upon request to any person having apparatus in the street to which the Permit application relates.

The Permit Authority, as the organization responsible for the register, will provide information relating to S50 Licences and assets maintained by the Highway Authority.

If an owner of apparatus contacts the Permit Authority to request information, additional to that circulated from the register, then the request will be forwarded to the promoter.

**4.12** Optional Permits relate to non-specified activities. See Section 3.12. The application process is intended to be the same as for Provisional Advance Authorisations and Permits relating to streets within the scope of the scheme. A fee will not be charged for Optional Permits.

**4.13** Details of the information required for a Permit application (including PAA and Optional Permits) can be found in Section 6.0.

## **5.0 Permit Categories**

**5.1** The Permit categories included in the scheme are:

- Permit for Major Activities
- Permit for Standard Activities
- Permit for Minor Activities
- Permit for Immediate Activities

## **5.2 Major Activities**

Those activities that:

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

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- 5.3** Major activities are likely to have the most significant impact on highway users and will require the activity promoter to obtain a Provisional Advance Authorisation (see Section 4.2)
- 5.4** An application for a Major Activity Permit must be submitted to the Permit Authority in accordance with the timescales specified in 8.10. The application must include a description of the proposed activity together with the proposed start date and end date of the activity. If the proposed activity or the start and end dates differ from the dates given in the Provisional Advance Authorisation then the applicant must explain and justify the reason for the variation.
- 5.5** Standard Activities  
Those activities that:
- Are not immediate or major activities
  - Are planned activities but with a duration of between 4 and 10 working days inclusive. By virtue of the duration these activities are not minor activities
- 5.6** An application for a Standard Activity Permit must be submitted to the Permit Authority in accordance with the timescales specified in 8.10. The application must include a description of the proposed activity together with the proposed start date and end date of the activity.
- 5.7** Minor Activities  
Those activities that:  
Are specifically not immediate or major activities and where the activity is planned to take place in three days or less.
- 5.8** An application for a Minor Activity Permit must be submitted to the Permit Authority in accordance with the timescales specified in 8.10. The application must include a description of the proposed activity together with the proposed start date and end date of the activity.
- 5.9** Immediate Activities  
Those activities that
- Are specified as emergency works as defined in s52 of the New Roads and Street Works Act 1991
  - Are not emergency works, but the execution is required at the time or the person responsible for the works believes there is reasonable grounds for requiring the works:
    - I. to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter
    - II. to avoid substantial loss to the promoter in relation to an existing service
    - III. to reconnect supplies and services where the promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; including works that cannot reasonably be severed from such works.
- 5.10** Immediate activities may commence without a Permit being obtained prior to the activity starting on the street. Promoters of immediate activities must contact the Permit Authority immediately, by telephone, when they determine the need to carry out unplanned works on a specified street. The

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activity promoter must apply to the Permit Authority within **2 hours of the activity starting**. Information regarding Immediate Activities will be registered and cross referenced / updated within the register when or if a Permit application is subsequently made.

- 5.11** All applications for Permits (Minor or Standard) where the duration is less than 3 day (Minor) or 10 days (Standard) but where a Traffic Regulation Order is required will be classed as Major Activities defined in 6.2 above and subject to the requirements and procedure for Major Activities, though the Permit Authority will take a practical approach regarding the necessity of a Provision Advance Authorisation.
- 6.0** **Permit Application – Information Required**
- 6.1** The following information will be required for applications for Permits.
- 6.2** Contact Person – all Permit applications must include the contact details of person(s) responsible for the activity and who will be able to resolve any problems that may arise during the execution of the activity. They must also include details for out-of-hours contacts.
- 6.3** USRN – Each application must relate to a single street. If a single street has multiple USRN numbers then separate Permit applications will be required for each USRN relating to the activity.
- 6.4** Activity Description – Each application must include a detailed description of the activity. The detail must be sufficient to allow the Permit Authority to assess the impact of the works.
- 6.5** Location – Each application must include an accurate location based on National Grid References (NGR). For small excavations the NGR for the centre of the excavation must be provided. For trench excavations the NGR for each end of the trench(s) must be provided. For works for road purposes the same system will apply; small reinstatements or installation of posts, columns, etc... then the centre of the excavation must be referenced. For surfacing activities the NGR must reference the extents of the works.
- 6.6** Start Date and Duration – Each Permit application must include the proposed start and end dates of the specified activity. Each Permit must also include the times of day when the activity will be carried out. Each Permit must also include details of weekend, bank holiday and night working, where this is required.
- 6.7** Illustration – Major and Standard Permit applications must include an illustration of the proposed works showing:
- The extent of the highway space to be occupied
  - The extent and position of the actual excavation
  - Proposed site layout of traffic (including pedestrian) management
  - Where necessary diversion routes and any anticipated temporary accommodation works should be detailed

The illustration should comprise of plans (to scale), sections and digital photographs and other similarly appropriate materials.

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Minor activities and Immediate Activities - Illustrations may be provided by the undertaker and they may be requested by the Permit Authority where the activity is likely to result in disruption due to the position, size or the type of activity.

Illustrations and technical specifications will be requested for all specified activities where the street has a Special Engineering Difficulty designation or if the Street Authority advises that the activity is proximate to a highway structure.

The Permit Authority may request a disruption effect score (Appendix G of the Code of Practice for the Coordination of Street Works and Works for Road Purposes and Related Matters). Where this is requested, the Permit Authority will provide the traffic count data to the promoter.

- 6.8 **Traffic Management** – All Permit applications must include full details of the proposed traffic management method. This should include the site layout, pedestrian facilities and portable light signals, where required. All Permits must indicate the need for Temporary Traffic Regulation Orders (TTRO). The requirement for a TTRO will involve an additional cost and there will be a specific timescale for the making of orders
- 6.9 **Technique** – All Permit applications must include details of the technique to be used; for example open cut, no-dig, low-dig (eg insertion or pipe bursting) and trench sharing. This detail is required to allow the Permit Authority to understand what activities are being carried out. The planned method can have implications for the impact on traffic.
- 6.10 **Depth** – All Permit applications must include a best estimate of the excavation depth
- 6.11 **Reinstatement** – All Permit applications must indicate whether the proposed activity will be completed with a first time permanent reinstatement, or if an interim reinstatement will be followed by a permanent reinstatement. A combination of techniques may be appropriate to a particular activity; this must also be indicated on the Permit application.
- 6.12 **Inspection Units** – All Permit applications must include a provisional number of inspection units appropriate to the activity and in accordance with the Inspections Code of Practice and The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.
- 7.0 **Permit Conditions**
- 7.1 The Permit Scheme allows the Permit Authority to attach conditions to Permits. The Permit Scheme will provide for three categories of conditions: generic, specific, and works for road purposes.
- 7.2 Where it appears to the Permit Authority that a condition has been breached and that an activity promoter (or person acting on his behalf) has committed an offence then the Permit Authority may revoke the Permit and impose a fixed penalty notice.

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**7.3** Generic Conditions

- I. The valid and current permit reference number (PRN) must be prominently displayed on the site information board at the site of every permitted works. The suffix number(s) for variations will not be required to be displayed.
- II. An application for a Permit variation must be made if the specified activity cannot be completed within the Permit duration period.
- III. Variations may be initiated by the Permit Authority or requested by the promoter, but an application for a Permit variation must be made if multiple excavations are required after the promoter has started work and any of the below apply:
  - a) Any subsequent excavations, in the same street (USRN) (within 50m bands) result in additional traffic lanes being occupied,
  - b) Any subsequent excavations, in the same street (USRN) (within 50m bands) are within 50m of a junction or 100m of a signalised junction, pedestrian crossing or roundabout,
  - c) Any subsequent excavations, in the same street (USRN) (within 50m bands) require the introduction of temporary traffic signals, where not in use at the original excavation
  - d) Any subsequent excavations, in the same street (USRN) and within the 50m bands, require an arm of temporary signals (deployed at the initial opening) to be extended by more than 20m, or if this places any of the signal heads within 50m of a junction or 100m of a signalised junction, pedestrian crossing or roundabout

**7.4** Specific Conditions

- I. Timing and duration of activity
  - a. Specific dates between the start and end dates of the activity, when work must not take place, including dates when the site may need to be cleared of all plant, materials and equipment (including traffic management and removal of any road closures and diversions)
  - b. Times of day(s) when works cannot be carried out
  - c. Whether Bank Holidays and weekends are included or allowed for within the duration
- II. Road Space
  - a. Whether materials and plant can be stored on site, including areas not forming part of the street)
  - b. The width and length of road space that can be occupied, including allowing for signing. This may be specific to different times of day or night, days of the week, or particular stages of the work.
  - c. The road space available to all traffic, including pedestrians at certain times of day or night, days of the week, or particular stages of the work.
- III. Traffic Management
  - a. The method of traffic management
  - b. The method of traffic control, such as the requirements for the use of portable light signals.
  - c. The need for and the management of Traffic Regulation Orders (by order, Notice or under emergency powers) for road

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All of the above conditions may be varied depending on the times of day or night, days of the week, or particular stages of the work.

Traffic management refers to signs, signals, road markings, barriers and other measures which are intended to secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)

IV. Technique & Methodology

- a. The method of executing works, for example, open cut, no-dig, low-dig (eg insertion or pipe bursting) and trench sharing

V. Consultation & Publicity

- a. The display of information and the details of the activity provided at the actual work site
- b. Consultation and publicity with nearby residents and any critical services, public transport operators and business interests or identified 'traffic generators' (which will typically include, hospitals, major employers, retail destinations).
- c. Notification of progress in relation to specified works

VI. Environmental Issues

- a. Consultation with Environmental officers regarding, for example, noise, the temporary storage and transfer of waste, spoil and apparatus; and the movement of large plant and equipment.
- b. Consultation with Arboriculture Officers regarding trees and planting
- c. Consultation with Urban Design and Heritage Conservation Officers regarding above ground apparatus, surface materials and inspection covers

The Permit Authority will provide contact details relevant to this section.

**7.5** Work for Road Purposes Conditions

In addition to any of the above generic and specific conditions, the following may also be applied:

- a. The Highway Authority or contractor acting on behalf of the Highway Authority (carrying out works for road purposes) must consult with any person who has apparatus likely to be affected by the permitted works.
- b. The Highway Authority or contractor acting on behalf of the Highway Authority (carrying out works for road purposes) must take all reasonably practicable steps to comply with the requirements made by apparatus owner which is reasonably necessary for the protection of the apparatus or for securing access to it.

**8** Permit Applications

**8.1** The minimum Permit application periods and the Permit Authority's response times are shown in 8.10.

**8.2** Permit applications will be preferably made electronically, but paper

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applications will be accepted.

- 8.3 All applications (even when made by paper) must comply with the definitive format and content given in the Technical Specification for EToN.
- 8.4 The description of activities must be in plain English, avoiding abbreviations and industry jargon and preferably use standard descriptions.
- 8.5 Each application shall only refer to activities in one street. If a project covers more than one street, separate Permits will be required for project activities in each specified street that are part of the Permit Scheme and notices will be required for project activities in streets where Permits do not apply. Also Permits will be required where activity on an adjoining or neighbouring non-specified street mean that any registerable activity, as set out in Chapter 9 of the Code of Practice for Permits, takes place on a specified street.

All such related project activities must be cross referenced on each related application and notice.

- 8.6 Single applications for activities in more than one street will not be accepted by the Permit Authority.
- 8.7 Where the NSG/ASD indicates other interested parties then Permit applications should be copied to those parties. Where the Permit Authority issues a Permit on such streets, then the Permit and conditions will be copied to such interested parties.
- 8.8 Activity promoters must carry out necessary consultation as set out in S88, S89 and S93 (as amended) and S90 and S91 of the NRSWA.
- 8.9 **Application and Response Times**  
The Permit Scheme application and response times for dealing with Provisional Advance Authorisation Permit applications and variation applications are set out in 8.10.

- The times in the table 8.10 are measured from the time that the application is received by the Permit Authority.
- A 'response' is a decision to grant or refuse a Permit. Where there are reasons for not granting a Permit on the terms applied for, then the response to the applicant will explain the reason why the Permit will not be granted on those terms.
- 'Days' refer to working days as defined in the regulations

**8.10 Permit Application and Response Times**

Activity Type	Minimum application periods ahead of start date		Minimum period before Permit expires for application for variation (including extensions)	Response times for issuing a Permit or seeking further information or discussion		Response times for responding to applications for Permit variations
	Provisional Advance Authorisation	Application		Provisional Advance Authorisation	Application	
Major	3 Months	10 days	2 days or 20% of the original duration whichever is the longer	1 Calendar month	5 days	2 days
Standard	N/A	10 days		N/A	5 days	
Minor	N/A	3 days		N/A	2 days	
Immediate	N/A	2 hours after		N/A	2 days	



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- 8.11** The Permit Authority has the right to refuse an application for a Permit where it considers that elements of an application are not acceptable (eg. timing, location, description, proposed method, dates or conditions, etc...). The Permit Authority will inform the promoter within the timescale set out in 8.10 and explain the reasons for refusal and the amendments required.
- 8.12** If an activity promoter applies for a Permit for a specified street where a notice has been issued under S58, S58A or S61 NRSVVA (and the activities are not included in the exemptions) the application must include specific details seeking consent to carry out the activities given the additional restrictions. This condition applies to all statutory undertakers and other works promoters, in the interests of parity.
- 8.13** Where promoters are seeking an Optional Permit then the same procedure and timescales for application and response will be applied.
- 8.14** If a non-specified activity changes, such that a Permit becomes required then the activity must stop and a Permit application made. The same timescales for application and response will be applied.
- 9.0 Issuing of Permits**
- 9.1** If all of the details of the application are acceptable then the Permit Authority will issue a Permit within the response times – table 8.10.
- 9.2** The Permit will be issued electronically in the format determined in the Technical Specification for EToN. The details will be placed on the Permit register and copies supplied to the undertaker, Authority and other interested parties that have asked to be informed of activities in a particular street or of activities in relation to a particular Permit application.
- 9.3** A Permit will be issued every time an application is approved by the Permit Authority. Each permit will specify in detail the specific activity permitted. The Permit will include all of the conditions attached to the Permit. Where any constraints were provided in the original application, such as work being undertaken during school holidays, such constraints will be included in the conditions attached to the granting of the Permit.
- 9.4** Each Permit will be given a unique reference number, as determined by the EToN reference conventions and with cross referencing to Permits (and notices) issued for other work as part of the same project.
- 9.5** If remedial works are required after the end date of the Permit, then an application must be made for a new Permit. The application and the Permit must cross reference to the original activity.
- 10.0 Review, Variation and Revocation of Permits and Permit Conditions**
- 10.1** The Permit Authority has powers under Regulation 15 to review, vary and revoke Permits and Permit conditions. There is no obligation upon the Permit Authority to allow activities to continue beyond the permitted period.
- 10.2 Changes to Provisional Advanced Authorization**  
A Provisional Advance Authorisation cannot be varied. Where a Provisional

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Advance Authorisation has been given, but a full Permit has not been issued and the promoter wants or needs to change the proposal, then the promoter must inform the Permit Authority immediately of the proposed change and a revised application for a Provisional Advance Authorisation or a Permit should be made.

**10.3 Variations**

If variations are required, then the activity promoter should contact the Permit Authority as soon as possible to avoid a criminal offence being committed by working without a Permit or working without complying with the Permit conditions. If the variation changes the category of Permit required to a higher category, then the promoter will be required to pay the difference between the relevant Permit fees, in addition to the Permit variation fee. The number of such variations will be reported each year, including where variations to higher Permit categories have been required for work for road purposes.

**10.4** Applications for variation may be made at any time after the Permit has been issued or before and during the activity taking place. Applications for variations must not be made after the end date of the Permit has passed. Applications for variations must include the information set out in section 6, with the variant information clearly identified.

**10.5** Where the existing Permit has more than 20% of the duration or more than two working days to run, whichever is the longer, the activity promoter will make the application for variation electronically.

**10.6** If paragraph 11.5 does not apply, then the promoter must telephone the Permit Authority to seek the Permit Authority's initial opinion on granting a variation. If the initial opinion is to accept a variation the activity promoter may then submit an electronic application for a variation.

**10.7 Variation for Immediate Activities**

Immediate excavations may require additional openings or investigatory works to identify faults. In these circumstances the activity promoter must telephone to inform the Permit Authority. However a Permit variation will not be required where subsequent openings are within the same street and USRN and within 50m of the original excavation. In these circumstances the promoter will telephone the Authority to inform them of the new location but no Permit variation will be required.

A Permit Variation will be required where subsequent excavations are more than 50m from the first excavation. Any additional excavations will be determined in new 50m bands away from the original hole in the same street (ie 50-100m, 100-150m, etc). Standard variation charges will be applied, although the Authority may waive charges. Separate variations will be required for bands heading in different directions or on opposite sides of the street.

If at any time the search for a fault extends into a different street or into a new USRN then a separate Permit application will be required.

For any further excavations within each band the promoter will have to telephone the Authority and provide information of the new location, but a Permit variation will not be required.

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If the promoter cannot contact the Authority by telephone it should record that and send the message electronically

- 10.8 If the activity promoter cannot contact the Permit Authority by telephone then this should be recorded (time, date and who attempted to call and which number they attempted to call) and a message sent electronically to inform the Permit Authority of the details of the work being carried out and the attempted telephone call.
- 10.9 The Permit conditions for Immediate activities may have to be altered to take account of how the activity develops and of the change of location, traffic management and working method. This may be initiated by the promoter or the Permit Authority, dependant on the site specific conditions.
- 10.10 Applications to revoke a Permit or Permit condition must contain the information in Section 6, with the reasons clearly stated. The Authority may revoke a Permit where it appears that the conditions have been breached.
- 10.11 **Permit Authority Initiated Review, Variation Revocation**  
The Authority may take the initiative to review, vary or revoke Permits where it appears likely that Permit or Permit conditions are not likely to be met. This could be due to unforeseen circumstances (for example, unusual weather or ground conditions) or because of Immediate unplanned works, leading to a delay in either the start date or the progress of permitted works. In these circumstances the undertaker is primarily responsible for reporting the delay; however the Authority may take the initiative in the best interests of road users. The Authority may also take action to review, vary or revoke Permits where on-site inspections demonstrate that the Permit or conditions are not being met, but where sanctions are deemed not to be appropriate. If there is no fault or failing on the part of the promoter then no fee will be payable for a new permit to carry out the activity at a future date.
- 10.12 Additional detail is provided in Appendix A.
- 11.0 **Cancellation of a Permit**
- 11.1 An application may be withdrawn before a Permit is granted or a Permit can be cancelled by using the cancellation notice template set out in the EToN Technical Specification.
- 11.2 No fee will be charged for the withdrawal or cancellation process.
- 11.3 An activity promoter will be committing an offence if work continues after a Permit has been cancelled.
- 12.0 **Fees**
- 12.1 The charging of fees by the Permit Authority is set out in Regulation 30 in respect of –
- a. The issue of a Permit
  - b. A Provisional Advance Application for Major activities
  - c. Each occasion on which there is a variation of a Permit or the conditions attached to a Permit
  - d. Where a Permit variation changes the activity to a higher

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- 12.2 The Permit Authority will charge statutory undertakers for the above actions.  
The Permit Scheme does not apply to non-traffic sensitive roads.
- 12.3 Fees will not be charged for -
- I. Works for road purposes, however records will be maintained of all Permits issued and the fees and charges that could have been applied
  - II. Instances where a Permit is deemed to be granted because the Permit Authority has failed to respond to an application within the defined response time
  - III. If a Permit variation or revocation is initiated by the Permit Authority and where the activity promoter is not at fault
  - IV. Where the promoter has applied for an Optional Permit
- 12.4 Fee discounts may be given where -
- I. Two or more Permit applications for works are received within three working days of each other, beginning with the day on which the first Permit is received. As a result of the applicant, or the applicants working together, designing the timing or extent of the programme of the specified works, the subject of the applications, so as to produce the least impact for road users of the specified streets. This will include situations where the Highway Authority promoter and other undertakers are working in collaboration.
- 12.5 Fees will be discounted by
- I. 30% when 13.4.1 applies
  - II. 30% when a utility promoter (not the primary promoter) submits an application, not necessarily within the three working days described in 13.4.1 and is able to work within an area of road that has or will be closed by a Temporary Traffic Regulation Order; with the consent of the promoter who obtained the Order (primary promoter), and where the work can be completed without delaying the 'primary promoter' from reopening on or before the end date of the Order.
- 12.6 Variation fees may be waived where a promoter has identified that varying their application or Permit will allow collaborative working and the Permit Authority agrees that there is a benefit to road users from the proposed variation.
- 12.7 The Permit Authority has the option of waiving or reducing fees at its discretion depending on site circumstances.
- 12.8 The Permit Authority will review the scale of fees annually to ensure that the overall fee income does not exceed the allowable cost. The review will be published and open to public scrutiny.
- 12.9 The current approved scale of fees will be included in the order made by the Secretary of State for the Permit Authority to operate the Permit Scheme.
- 12.10 Monthly invoices will be sent to each promoter referencing all Permits where charges have been applied during the relevant period. A summary will be sent to each promoter two weeks ahead of the invoice being raised. Each

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promoter will be required to provide an email contact to receive the information. Any amendments to the charges should be made ahead of the invoice being sent by the Permit Authority. Invoices should be paid within thirty days.

### **13.0 Sanctions**

- 13.1 Appendix B describes the Permit Authority's policy regarding sanctions. This policy statement should be read in conjunction with this section.
- 13.2 It is a criminal offence for an activity promoter or a person contracted to act on its behalf to undertake a specified works activity in a specified street without obtaining a Permit, except in the circumstances in 4.4 above.
- 13.3 It is a criminal offence for an activity promoter or a person contracted to act on its behalf to breach a Permit condition.
- 13.4 If a promoter or person contracted to work on its behalf, undertakes works for which a Permit is required or breaches a Permit condition then the Permit Authority may
  - I. Serve a notice requiring the promoter to take such reasonable steps as detailed in the notice, which may include steps to remove works, to remedy the breach or to minimise or discontinue any obstruction of the street connected with the works.
  - II. If an activity promoter fails to comply with the requirements of such a notice, within the timescales, then the Permit Authority may undertake the steps specified in the notice and reasonable steps appropriate having regard to the breach and recover costs that are reasonably incurred from the promoter.
  - III. Issue a Fixed Penalty Notice (FPN) against the promoter
  - IV. Prosecute the promoter

### **14.0 Registers**

- 14.1 The Permit Authority will maintain a register of Permits in respect of the Permit Scheme, in accordance with regulation 33 and 34, Part 7 of the Regulations.
- 14.2 All information held in the register will be referenced to the USRN and will have Geographic Information System (GIS) interface.
- 14.3 Access to the register will comply with regulation 34, Part 7 of the Regulations.

### **15.0 Monitoring**

- 15.1 The Permit Authority will monitor and evaluate the Permit Scheme to ensure parity of treatment for all activity promoters and that the scheme meets its objectives.
- 15.2 Parity and performance will be measured using a set of Key Performance

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Indicators (KPIs) and the Permit Authority will produce mid-year and end of year data. It is likely that as operation of the scheme develops the Highway Authority and statutory undertakers will agree to the development of additional KPIs to reflect local concerns and conditions.

### 15.3 Mandatory KPIs

**KPI 1 – The number of Permits and Permit variation applications received, the number granted and the number refused.**

The figures will be reported for each activity promoter.

Showing:

- total number of Permit applications (excluding withdrawn applications)
- total number of Permit variations
- percentage of applications granted
- percentage of applications refused

**KPI 2 – Conditions applied to activities by condition type**

The figures will be reported for each activity promoter.

Showing:

- total number of Permits issued, for each category of activities
- condition type applied to each category, as a percentage

Conditions will be standardised under heading types, such as 'Restricted Hours', 'Manual Control of Temporary Signals' or 'Special Signing Requirements'. The indicator will then allow comparison of the application of conditions to activity promoters and activity types; including the percentage where no conditions have been applied. This should provide a key indicator of parity.

Additional KPIs will be selected. The initial selection is detailed in the application document (section 9). Other indicators may be selected and local indicators added in agreement with undertakers. Regular meetings will be held to discuss the scheme performance and to report and develop relevant measures.

15.4 The performance data will be published and will be available to all works undertakers and to any interested party via the Permit Authority's web site.

15.5 The performance data will be presented for discussion at quarterly co-ordination meetings.

### 16.0 Inspection of Activities

16.1 The Permit Scheme aims to improve the planning and execution of works on specific roads of importance within the administrative area of the Permit Authority. The inspection regime will reflect the relative importance of the road network, the needs of road users and the impact of avoidable congestion on these routes.

16.2 The basic sample inspection process as outlined in the Code of Practice for Inspections will apply, with A, B and C inspections being carried out.

16.3 The basic number of A, B and C inspections will be determined using the

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methodology contained within the Code of Practice for Inspections.

- 16.4 The Permit Authority has the right to carry out more than the 10% sample as the interests of the road users and the objectives of the Permit Scheme may benefit from an increased level of monitoring. However these additional inspections will not be charged as part of the sample charging regime.
- 16.5 All activity promoters will be subject to sample inspections at A, B and C. The Permit Authority already has a regime in place and this will be adapted to the Permit Scheme.
- 16.6 All results of A, B and C inspections will be recorded, published and reported to all promoters.
- 16.7 The Improvement Notice processes contained in the Code of Practice for Inspections will continue to be used where any activity promoter's non-compliance falls within the intervention criteria.
- 16.8 The inspection criteria for monitoring Permit compliance will be incorporated within the A, B and C process where Permits have been issued for works.
- 16.9 Inspections for overrunning works under NRSWA s74 will be carried out in relation to the works of all statutory undertakers and other works promoters, in the interests of parity. Fees may be charged for unauthorised overrunning works, in addition to other fees and FPNs that may be applied under the Permit Scheme. Fees for overrunning works will not be charged for works under S50 or for works for road purposes, but statistical information will be collected and reported at local and regional HAUC meetings, in a similar way to that currently used to report inspection information.
- 16.10 Figures for overrunning highway works will be published and reported alongside performance information relating to other activity promoters.
- 16.11 Defect Inspection (and third party inspections) as defined in the Code of Practice for Inspections will also be applied to works carried out on specified streets.
- 17.0 **Transitional Arrangements**
- 17.1 The arrangement is detailed in the application document.

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## Appendix A

### Policy Statement

#### Permit Authority Review, Variation and Revocation of Permits

The Permit Authority may take the initiative to review, revoke and vary Permits; however the promoter should have a reasonable expectation that the road space will be available for the activity to be executed. It is also desirable for road users and public transport operators to have reliable information and to have an expectation that work will be executed as and when planned.

It is reasonable to expect that situations will occur, outside of the control of the Permit Authority, which may cause the Permit Authority to review the Permit and, or the conditions attached to a Permit. It is possible in some circumstances that the Permit Authority may need to change or revoke the Permit or the conditions.

It is the intended policy that the Permit Authority will avoid making such changes in other than exceptional circumstances and such changes will be based on an assessment of impact on road users. It is envisaged that in circumstances where unpredictable events occur, which result in the loss of capacity on the road network or where strategic diversion routes are required to be activated then planned activities may need to be revised, changed, postponed or cancelled.

If circumstances determine that such action is required then the Permit Authority will contact the activity promoter(s) as soon as possible to alert them to the situation and discuss the possible course of action.

If possible and practicable the Permit Authority will seek to agree changes with the activity promoter. The Permit Authority will then issue a revised Permit or the activity promoter may apply for a revised Permit.

It is anticipated that in most cases agreement will be reached, however if agreement cannot be reached and the Permit Authority issues a new Permit, the activity promoter will have the option of using the dispute resolution procedure.

The fee for revoking and varying Permits will not be charged when the Permit Authority initiates the action described above, unless the activity promoter applies for a variation which is not directly linked to the cause of the Permit Authorities initiating action.

The policy only applies to unforeseen circumstances and the actions that are reasonably necessary. It does not prevent the Permit Authority from reviewing, varying and revoking a Permit where the Permit Authority considers that an activity promoter is acting unreasonably and causing unnecessary or avoidable disruption.



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## **Appendix B**

### **Policy Statement**

#### **Sanctions**

It is a criminal offence to fail to obtain a Permit for specified activities, where a Permit is required, or to fail to comply with Permit conditions.

The Permit Authority will seek to resolve problems quickly and effectively by giving direction of what is required to achieve compliance to the relevant activity promoter.

If possible situations will be informally resolved. If a quick and informal resolution is not possible then the Permit Authority will serve notice on the activity promoter giving a clear description of the non-compliance and direction as to the required remedial action to be taken by the activity promoter, with timescale for the action.

If the activity promoter does not respond by taking the required action, within the required timescale, then the Permit Authority may carry out the required action and recover all costs reasonably incurred from the activity promoter.

If non-compliance is serious or persistent then the Permit Authority may issue a Fixed Penalty Notice or initiate legal proceedings against the activity promoter.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order gives effect to the Derby City Council Permit Scheme.

The Derby City Council Permit Scheme is designed to control the carrying out of works in specified streets in Derby by imposing an obligation to obtain a permit from Derby City Council before undertaking the works.

*Article 3* gives effect to the permit scheme, which will come into effect on 1st October 2013. The permit scheme referred to in this article is set out in the Schedule.

*Article 4* applies Part 8 of the Traffic Management Permit Scheme (England) Regulations 2007 (which makes provision for the disapplication and modification of enactments in relation to specified works in specified streets) to the specified works and specified streets within the Derby City Council Permit Scheme.

A copy of the Derby City Council Permit Scheme is deposited and can be inspected at the offices of Derby City Council, the Council House, Corporation Street, Derby, DE1 2FS and is available to inspect on the Council's website <http://www.derby.gov.uk>.