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STATUTORY INSTRUMENTS

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**2015 No. 37**

**HIGHWAYS, ENGLAND**

**The Traffic Management (Essex County Council) Permit Scheme Order 2015**

*Made* - - - - *7th January 2015*  
*Coming into force* - - *16th March 2015*

The Secretary of State for Transport having approved the Essex County 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 (Essex County Council) Permit Scheme Order 2015 and comes into force on 16th March 2015.

**Interpretation**

2. In this Order—

“the Essex County Council Permit Scheme” means the permit scheme set out in the Schedule to this Order which was prepared and submitted to the Secretary of State by Essex County 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 Essex County Council Permit Scheme comes into effect on 16th March 2015.

**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 Essex County 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

7th January 2015

*Robert Goodwill*  
Parliamentary Under Secretary of State  
Department for Transport

SCHEDULE

Article 2

THE ESSEX COUNTY COUNCIL PERMIT SCHEME



Essex County Council  
**The Essex Permit Scheme**  
Transport and Infrastructure

July 2014

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## Document Control Sheet

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1. **Background**

1.1. Permit Schemes provide a way to manage activities on the public highway and were introduced by Part 3 of the Traffic Management Act 2004 (TMA) to improve authorities' ability to minimise disruption from street and road works.

1.2. This Permit Scheme is known as the 'Essex Permit Scheme for Road Works and Street Works' or within this document as 'the Permit Scheme'.

1.3. The Permit scheme is based on Part 3 of the Traffic Management Act 2004 ("TMA") (sections 32 to 39) and the Traffic Management Permit Scheme (England) Regulations 2007 ("the 2007 Regulations"), Statutory Instrument 2007 No. 3372 made on 28 November 2007. The Permit Scheme conforms with all details in the subsequent DfT publications referencing the TMA. These are the Code of Practice for Permits dated March 2008 (the "Code of Practice"), Permit Schemes decision making and development (2<sup>nd</sup> Edition) November 2010 and the Additional Advice Note January 2013 unless stated otherwise, within the Permit Scheme.

1.4. This document will be submitted under section 33(1) of TMA for approval by the Secretary of State for Transport as the "appropriate national authority".

1.5. **Chosen design for Essex's Permit Scheme.**

1.5.1. The Essex permit scheme is based on the feasibility study undertaken by Essex County Council, which reviewed feasibility studies undertaken by current permit schemes in the region. For example; Norfolk County Council's. Officers have further developed ECC's own feasibility work and tested a range of different permit and fee structure models. The chosen method was to base our scheme on the Norfolk permit scheme structure with minor developments to best fit the County of Essex.

1.5.2. Options were put before Essex County Council Members of the Environment, Sustainability and Highways for an overview, a scrutiny panel who also supported a recommendation of developing a full permit scheme and applying permits to 100% of the network. It was considered that this would best to meet the Council's objectives in support of its network management duty.

1.5.3. This principle is supported in the additional guidance issued in January 2013 by the Department for Transport

"It is considered that in order to best manage the network, schemes are likely to choose to apply permits either to 100% of the network, but waive or discount part or all of the fees on non-strategically significant streets, or to operate a permit scheme across the areas largely defined by its strategically significant streets"

1.5.4. Essex's scheme design incorporates the former and the other aspects of the additional advice note. Essex County Council fully supports the aims and objectives of the 'Superfast Broadband' roll-out. There are currently no other known major projects such as Olympics, TIF projects, Thames Gateway projects etc. affecting Essex at present. However, this scheme has been

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designed to give flexibility in the delivery of such major projects, should they affect the county.

Essex County Council is fully supporting works relating to the Crossrail nationally significant infrastructure project as part of our role in co-ordinating works (and working with undertakers who will be co-operating with that role). We are committed to ensuring that the commencement of the Essex Permit Scheme will not have a detrimental impact on the implementation of Crossrail so our permit scheme shall not (for the duration of the build) apply in relation to works proposed to be, or being, carried out under powers contained the Crossrail Act 2008

- 1.5.5. The objectives and benefits of the scheme are contained in Section 2 of this document.
- 1.6. **General Principles**
- 1.6.1. The Permit Scheme (as a scheme defined within the TMA), is designed to control the carrying out of relevant activities on the public highway. It replaces the “notice system” under the New Roads and Street Works Act 1991 “NRSWA” whereby Statutory Undertaker companies inform highway authorities of their intentions to carry out works in their areas. It uses similar concepts to the notice system in a number of key areas, such as road categories and works categories. This is to ensure consistency and facilitate better co-ordination.
- 1.6.2. In making the application to the Secretary of State under Regulation 3(1) of the 2007 Regulations to run this Permit Scheme, a full consultation complying with that Regulation was carried out which includes those stakeholders specified in Regulation 3(1).
- 1.6.3. Essex County Council whilst preparing the Permit Scheme have taken into consideration the requirements of the Equality Act 2010.
- 1.6.4. The Permit Scheme is operated by Essex County Council as the Street Authority for Essex, hereinafter referred to as ‘the Permit Authority’. The scheme will apply to the whole of the area encompassed by the authority’s boundaries with the exception of the Highway Agency’s Motorway & Trunk Roads (currently the M25, A12, A120 and A13/A1089), unitary authorities (Southend and Thurrock) and Essex County Routes which are beyond the scope of this permit scheme.
- 1.6.5. The Permit Scheme applies to the road categories as set out in paragraph S1.3.1 of the Specification for the Reinstatement of Openings in Highways (Third Edition). The Permit Scheme shall not apply to roads not maintained at the public expense. Within the Permit Authority’s area permits will be required on all road categories.
- 1.6.6. To assist with identification of the road categories Essex County Council will provide, through any current National Street Gazetteer “NSG” Custodian, an Additional Street Record for each street for which a permit to carry out activities is required.

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- 1.6.7. The Permit Scheme will apply to any person or organisation responsible for commissioning activities [works] in streets covered by the Permit Scheme. In the Permit Scheme these persons or organisations will be referred to as a “Promoter” who will be either a statutory undertaker or Essex County Council as a highway or traffic authority.
- 1.6.8. Essex County Council must apply for permits in the same manner as a Statutory Undertaker. All fees and charges for highway authorities will not apply in the application of the Permit Scheme, but shadow fees and charges should be collated and monitored in demonstration of “Parity”.
- 1.6.9. Section 59 NRSWA places a duty on highway authorities to co-ordinate works of all kinds on the highway. Equally important is the parallel duty on Statutory Undertakers to co-operate in this process under Section 60. The TMA and the associated Regulations widened the Section 59 coordination duty to include other prescribed activities that involve temporary occupation or use of road space and incorporates any activities included in a permit scheme.
- 1.6.10. All works comprising and categorised as “specified works” in the 2007 Regulations will require a permit. Section 9.1 of the Department for Transport’s Code of Practice (March 2008) prescribe the “registerable activities” which qualify as “specified works” and which activities will require a permit. Registerable activities for the Permit Scheme are set out section 6.2 of this document.
- 1.6.11. Permits will be required for all registerable activities and works for road purposes except activities licensed under section 50 of the New Roads and Street Works Act 1991. All applications must be made by licensed undertakers or highway authorities. Each application will be treated in a non-discriminatory way as required in Regulation 40. This will be monitored by conforming to Chapter 20 of the Code of Practice which stipulates a number of Key Performance Indicators for use by a Permit Authority.



## 2. Objectives and Benefits of the Permit Scheme

- 2.1. Any activity undertaken in a street has the potential to cause disruption. They can reduce the width of the street available to traffic, pedestrians and other users, and can also inconvenience businesses and local residents
- 2.2. The scale of disruption caused is relative to the type of activities being undertaken, the capacity of the street, the duration and timing of the works and the methods employed to carry them out. Works on those streets where the traffic flow is close to, or exceeds, the physical capacity of the street will have greatest potential to cause congestion, disruption and delays.
- 2.3. The objective of the TMA is to enable the management of the traffic network to ensure expeditious movement of traffic (including pedestrians, cyclists and other vulnerable road users) as required under the TMA Network Management Duty.
- 2.4. Under a permit scheme it is intended to enable more effective co-ordination to empower the Local Highway Authority to minimise disruption from both street and highway works.
- 2.5. **The Permit Scheme Objective**
  - 2.5.1. The strategic objective for the Permit scheme is to provide a capability to manage and maintain the local highway network for the safe and efficient use of road space, whilst allowing Promoters access to maintain their services and assets.
  - 2.5.2. The principle of the Permit Scheme is to improve the planning, scheduling and management of activities so that they do not cause unnecessary traffic disruption to any road user. It will help Essex County Council meet their network management duty under the TMA. Coordination of activities through the Permit Scheme will enable differences between those competing for space or time in the street, including traffic, to be resolved in a positive and constructive way.
  - 2.5.3. The sub-objectives of the Essex Permit Scheme are:-
    - To proactively manage the local highway network to maximise the safe and efficient use of road space.
    - To improve the quality and timeliness of information and compliance with highway legislation from all activity promoters.
    - To improve the information available to the public to help provide and inform reliable journey times.
    - To ensure the safety of those using the street and those working on activities that fall under the scheme, with particular emphasis on people with disabilities.

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- To protect the structure of the street and the integrity of the apparatus in it.
- To ensure parity of treatment for all activity promoters particularly between statutory undertakers and highway authority works and activities.

2.6. **Aligned Objectives**

2.6.1. The Permit Scheme objectives align with the strategic objectives of Essex County Council. In July 2013 Essex County Council's (ECC's) new Cabinet outlined their Vision for Essex – a vision of a county where innovation brings prosperity.

In support of this vision, there are seven specific 'outcomes' that ECC will work towards. Securing these outcomes will make Essex a more prosperous county – one where people can flourish, live well and achieve their ambitions. Progress towards securing these outcomes will be measured by a number of indicators. Taken together, these outcomes and indicators make up ECC's Corporate Outcomes Framework for 2014-2018

2.6.2. The key outcome for transport is:

2.6.3. Sustainable economic growth for Essex communities and businesses

Two of the indicators relating to this outcome are:

- Increased connectivity and journey time reliability on priority route network (PR1)
- Number of bus and/or community transport journeys

2.7. **Benefits**

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

- 2.7.2.
- Improvements to overall network management
  - Reduced congestion on the road network
  - Improved journey time reliability
  - A reduction in delays to the travelling public
  - A reduction in costs to businesses caused by delays
  - Promotion of sustainable communities and businesses
  - Promotion of a safer environment

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- Reduced carbon emissions
- 2.7.3. Other impacts” include more general quality of life factors related to the effect that activities have on the lives of local people.
- 2.7.4. This could include the consideration to the environmental impact of activities, for example where works involve excavating activities under the canopy of a tree, emphasis will be applied to the Promoter to adhere to the appropriate Code of Practice requirements when excavating.
- 2.7.5. Another example could be the minimising of any impact where permission for the storage of materials or plant is required, outside of the main activity. The locations of these storage areas can create difficulties for traffic flows, businesses and deliveries.
- 2.7.6. The Permit Scheme has been prepared to accommodate the undertaking of street and road works while delivering the statutory duties.
- 2.7.7. Works will always need to be carried out by Promoters, but people will be more understanding if they perceive that the activities are being managed by the Permit Authority and Promoters in ways that minimise impact. These quality of life factors are of particular relevance on the minor, more residential roads.

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**3. Permit Scheme Principles for Coordination**

- 3.1. Effective co-ordination and management by the Permit Authority is essential to ensure that traffic disruption is minimised whilst allowing Promoters the required time and space to complete their works.
- 3.2. The Permit Scheme is not intended to prevent or delay activities necessary for the installation of new services, maintenance or improvement of the road network, or the services running underneath it. The Permit Scheme aims to achieve parity and balance between the interests of the various parties.
- 3.3. Minor works and short duration activities, particularly in non-traffic-sensitive situations, are unlikely to cause significant disruption. However where smaller multiple activities are close together they can cause disruption. Effective co-ordination of such works therefore, needs to take into account proposals of every scale and duration.
- 3.4. Before any specified works are undertaken on a specified street the promoter must obtain a permit from the Permit Authority, in accordance with the Permit Scheme (Please also refer to section 8.5 and 11.9 in this document).
- 3.5. All Promoter activities are treated in the same way with regard to co-ordination and the setting of conditions.
- 3.6. The Permit Scheme objective will be facilitated by improving performance in line with the Authority's Network Management Duty in relation to the following key factors:
- 3.7.
  - Enhanced coordination and cooperation
  - Encouragement of partnership working between the Permit Authority, all Activity Promoters and key stakeholder groups identified within this document
  - Provision of more accurate and timely information to be communicated between all stakeholders including members of the public
  - Promotion and encouragement of collaborative working
  - Improvement in timing and duration of activities, particularly in relation to the busiest streets within the network
  - Promotion of dialogue with regard to the way activities are to be carried out
  - Enhanced programming of activities and better forward planning by all Activity Promoters

### 3.8. Principles for Promoters

- 3.8.1. It is essential that everyone involved in activities on the highway take both the Permit Scheme objectives and the broader TMA objective of expediting the movement of traffic into account. To meet these objectives the Permit Authority and Promoter must adhere to four key principles:
- i. The need to balance potentially conflicting interests of road users, Promoters and their customers;
  - ii. The importance of close co-operation and liaison between the Permit Authority and the Promoter.
  - iii. Acknowledgement that planned activity programmes and practices may have to be adjusted to ensure the statutory objectives of co-ordination provisions are achieved;
  - iv. The provision of timely, clear, accurate and complete information.
- 3.8.2. The Permit Scheme will give the Permit Authority greater influence over how and when activities are carried out although the initial responsibility for planning, supervising and carrying out activities remains with the Promoter.
- 3.8.3. Promoters must consider the needs of all road users, including those with disabilities, whether they are pedestrians, cyclists or motorists, throughout the planning and execution of activities. All Promoters should also have regard to existing road activities and consider how their proposals will integrate with such activities and the broader operation of the local and strategic highway network. This has implications for:
- a) The timing of activities, for example, to avoid peak periods, the duration of the work, out of hours working;
  - b) The method works are carried out, including complying with:
    - i. Road safety, health and safety legislation and The Construction (Design and Management) Regulations 2007;
    - ii. The effective management of noise, lighting and traffic management;
    - iii. The programming of activities, and;
    - iv. The coordination of activities with other Promoters.
- 3.8.4. Promoters must be prepared to discuss their proposals with other interested parties such as neighbouring authorities, bus operators, rail operators, schools, businesses and residents. Where necessary, proposals may be required to be modified when appropriate and practical.
- 3.8.5. The greater the disruption an activity is likely to cause; the earlier the application for a permit must be made. Promoters should recognise statutory application periods are a minimum and whenever possible provide longer periods of notice. This benefits both the Permit Authority and the Promoter - if

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modifications are required, the earlier the Permit Authority informs the Promoter, the easier it will be for them to comply.

- 3.8.6. Promoters should take into account the space needed for both the works and the storage of plant or materials when assessing the likely disruption an activity might cause. Where storage outside of the working space, including where appropriate in another street; is required the Promoter should consider impact not only on traffic disruption, but also the impact on the local environment. Conditions may be applied when storage of plant or materials could cause disruption or network congestion.

3.9. **Collaborative Working**

- 3.9.1. Collaborative working within the Permit Scheme not only includes trench sharing between Promoters, but also provides opportunity for cooperation and coordination between Promoters with respect to concurrent activities on a single street. The primary objective of collaborative working is to coordinate activities so that they take place within the same set of traffic management or tailored traffic management by different works within the same street.

- 3.9.2. In addition to considering activities on a single street, when assessing an application for a permit the Permit Authority may also consider planned works nearby including planned works on a trunk road, if applicable, following consultation with the Highways Agency. The Permit Authority may seek opportunity for nearby works, on another street, but affecting the same traffic flow, to take place at alternative or similar timings in order to minimise the overall effect to traffic flow.

- 3.9.3. The Permit Scheme recommends and encourages Promoters to consider collaborative working when possible. It is accepted that there are often issues in such arrangements with regards to contractual, CDM and site management requirements, but where possible every opportunity should be sought to minimise the disruption to users of the highway.

- 3.9.4. No permit fee will be charged for any permit where the works are carried out with collaborative working involving more than one other Promoter and/or trench sharing. This is conditional on the correct collaboration type being notified in accordance with the latest version of Electronic Transfer of Notices "EToN".

3.10. **Forward Planning**

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

- a) Take part in early co-ordination;
- b) Consider joint working;
- c) Consider trench sharing;

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- d) Highlight other activities which need to be co-ordinated with these activities;
- e) Produce reports for the co-ordination process.

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

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4. **Key Performance Indicators (KPI)**

- 4.1. Every authority wishing to implement a permit scheme must indicate how it intends to demonstrate parity of treatment for promoters in its application.
- 4.2. The DfT's Code of Practice for Permits 2008 contains seven KPIs, which could be used for this purpose.
- There are 2 mandatory KPIs that each permit scheme must include.
- KPI 1 - The number of permit and permit variation applications received, the number granted and the number refused;
- KPI 2 – The number of conditions applied by condition type.
- 4.3. Authorities should select at least two other KPI's, which they consider will demonstrate parity across their scheme. Of these the Permit Authority will adopt KPIs 3, 4 and 5 to demonstrate parity of treatment between their own road works and streets works undertaken by statutory undertakers:
- KPI 3 - Number of approved extensions;
- KPI 4 – The number of occurrences of reducing the application period.
- KPI 5 - The number of agreements to work in Section 58 & Section 58A NRSWA restrictions.
- 4.4. The Permit Authority will supplement these KPI's with additional local indicators.
- KPI 6 - Cancelled permit requests.
- KPI 7 - Collaborative working.
- KPI 8 – 1<sup>st</sup> Time Permanent Reinstatements.
- KPI 9 – Coring Results.
- 4.5. These KPI's apply to both Road Works and Street Works. These KPI's will be produced on a monthly basis and the results will be discussed at the quarterly meetings with promoters. The information will also be published periodically on Essex County Council's website.
- 4.6. The data will provide useful information for the Department for Transport (DfT) and other regulatory bodies who may wish to inspect these figures. The information should therefore be readily available. The Permit Authority will remain committed to submitting the performance scorecard data to the DfT quarterly.
- 4.7. The Permit Authority accepts that when measuring KPI 3, a permit variation received from a Promoter may not specifically relate to a duration extension.



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- 4.8. Any changes made to the KPIs included with the Code of Practice will also be adopted by the Permit Authority in monitoring this Permit Scheme.
- 4.9. The KPI's are described in greater detail in Appendix G of this document.

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

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

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

5.7. **Reinstatement Categories**

5.7.1. The reinstatement categories of streets used in the Permit Scheme are the same as the reinstatement categories under NRSWA.

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

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6. **Permit Scope**
- 6.1. The Permit Scheme applies to all registerable activities as defined in Section 9.1.1 of the Code of Practice and undertaken on any publicly maintainable, highways which are the responsibility of Essex County Council. The Permit Scheme does not apply to activities licensed under Section 50 of the NRSWA.
- 6.2. The term “registerable activities” corresponds to what are “specified works” under the 2007 Regulations. The following activities defined in the 2007 Regulations as specified works are registerable for all Promoters and information related to them has to be recorded on the register:
- a) All activities that involve the breaking up or resurfacing of any street;
  - b) All activities that involve the opening of the carriageway or cycleway of traffic sensitive streets at traffic-sensitive times;
  - c) All activities that require the use of any form of temporary traffic control as defined in the Code of Practice for Safety at Street Works and Road Works;
  - d) All activities that reduce the number of lanes available on a carriageway of three or more lanes;
  - e) All activities that require a Temporary Traffic Regulation Order or notice, or the suspension of pedestrian crossing facilities;
  - f) All activities that require a reduction in width of the existing carriageway of a traffic-sensitive street at a traffic-sensitive time;
- 6.3. Bar Holes which are used to detect and monitor gas leaks fall into the registerable category. When bar holes are carried out and it is known that no further activity in the street is required (such as when a gas leak is reported but none detected), a registration under Section 70(3) NRSWA should be sent within 10 ten days, once final monitoring checks have been established. The bar holes will count as a single excavation and reinstatement for registration purposes.
- 6.4. An application for a permit in respect of a bar hole must be made within two hours of the commencement of any other registerable activity (i.e. excavation, or any other activity defined above) associated with the bar holes. In this latter case, these bar holes will not count as further excavations and reinstatements for the purposes of registrations but will be incorporated with the registerable activity.
- 6.5. Non registerable activities are activities which do not fall under criteria set out in section 6.2 above and can take place without requiring a permit. If the circumstances change so that the work then becomes a “registerable activity”, the work must cease and the highway fully restored for use by all traffic, until the correct permit is obtained.

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

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## 7. **Types of Permit**

7.1. The Permit Scheme contains different classes of permit and establishes the requirements specified in Chapter 10 of the Code of Practice.

7.2. The Permit Scheme has been designed so that:

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

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

## 7.3. **Provisional Advance Authorisation (PAA)**

7.3.1. Within the Permit Scheme under Regulation 11 of the 2007 Regulations, a Provisional Advance Authorisation must be obtained as part of the application process for certain classes of permits. PAA's are a means of enabling significant activities to be identified, co-ordinated and programmed in advance, by allowing activities to be provisionally "booked in" by the Permit Authority pending the subsequent decision on whether, and with what conditions, to issue a permit for the activities. They are in many ways equivalent to advance notices issued under s54 of NRSWA.

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

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

7.3.4. In circumstances where a PAA has been granted, but a full permit has not yet been issued and proposals change, the Promoter must inform the Permit Authority of the proposed changes and the Permit Authority will indicate whether or not a new application for PAA or permit must be made by the Promoter.

7.3.5. This reflects the importance of ensuring that PAA's can be properly considered and issued in the expectation that a permit will ultimately be issued for the activities. The purpose of the PAA is to allow the Promoter to advise that they

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have work to undertake and would like to provisionally reserve workspace on the highway, although it must be made clear [Regulation 11(5)] that the issue of a PAA does not guarantee that a permit will subsequently be issued. In keeping with this purpose, the Permit Scheme requires an application for a PAA to specify proposed start and end dates for the relevant activities, although there is sufficient flexibility to enable the dates to be reasonably adjusted when a permit is ultimately issued.

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

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8. **Permit Applications**

- 8.1. The information which shall accompany a permit application is set out within Section 10.14 of the Code of Practice and section 10 of this document. This information should, wherever possible be supplied electronically using the EToN system and must be within the timescales as set out in Appendix D of this document.
- 8.2. Applicants should also note that in line with Regulation 9(9) of the 2007 Regulations, the Permit Scheme requires Promoters applying for permits or PAA's to copy their applications to any authority, Statutory Undertaker or other relevant body that has requested to see notices or permit applications on certain streets.
- 8.3. Where an activity crosses the boundary between Essex County Council & it's neighbouring authorities, the Promoter must apply for a permit from each authority in accordance with the their relevant scheme. Where an activity crosses the boundary between a Permit Scheme and an area where noticing under NRSWA is used, both regimes will need to be followed. However permit fees are only payable to a Permit Authority.
- 8.4. The minimum times within which applications must be made are set out in Section 11 and Appendix D of this document. Promoters are however encouraged to contact the Permit Authority early so conditions can be discussed and, if possible, an agreement can be reached so that the application is approved quickly. Early applications will improve the coordination process and enable the Permit Authority to better control activities that take place on the highway.

8.5. **Activity Categories**

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



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- 8.5.4. Minor Activities are those activities, other than immediate or major activities, where the planned duration is three working days or less.
- 8.6. Immediate Activities are either:
- a) Emergency works, which are defined in section 52 of NRSWA, are works required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property. This applies to both street works and works for road purposes which fall within the definition of activities. The term also includes activities not falling within that definition but which cannot be severed from those that do - such as activities away from the emergency site that are necessary to shut off or divert a supply; or,
  - b) remedial works for dangerous defects which are classed as emergency works (but there will be a need to cross reference these to the parent activity); or,
  - c) urgent activities which are defined in the 2007 Regulations as activities:
    - i. (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the works believes on reasonable grounds to be required):
    - ii. to prevent or put an end to an unplanned interruption of any supply or service provided by the Promoter;
    - iii. to avoid substantial loss to the Promoter in relation to an existing service; or
    - iv. to reconnect supplies or services where the Promoter would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and,
    - v. includes works that cannot reasonably be severed from such works.

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

- 9.1. Any Promoter as prescribed in the 2007 Regulations who wishes to perform or carry out an activity on a street within an area covered by the Permit Scheme must first obtain a permit from the Permit Authority. This permits the Promoter to carry out the specified activity, at the specified location, between the dates shown and agrees the conditions which are attached.
- 9.2. The timings of applications will vary according to the proposed activity. Early applications will allow the Permit Authority to give better advice to the Promoter in relation to the use of conditions, requirements and to deliver more effective coordination especially in the cases of major works.
- 9.3. Permit applications, wherever possible, must be made electronically using the EToN system, but where this is not possible, they may also be made by alternative means, i.e. by fax, email, post or hand delivery.
- 9.4. The definitive format and content of both paper and electronic permit applications is given in the Technical Specification for EToN, and all applications must comply.
- 9.5. The description of activities must be in plain English without any industry specific jargon. A standard description used consistently, with added text for exceptions, will allow quicker analysis resulting in clearer information to assist the Permit Authority to co-ordinate activities. Both the Utility and Essex County Council works promoters are encouraged to agree standard descriptions and durations locally that can be used.

**9.6. The Application Process**

- 9.6.1. A permit application process starts when the Permit Authority receives the application not when it was sent. In most cases when using EToN this process should be almost instantaneous and the precise time that the application was received is defined by the time of the electronic acknowledgement returned by the web services at the receiving site.
- 9.6.2. Where a permit application has failed three times by EToN and the notice or application cannot be sent for reasons such as server failure, notification can be given by fax or telephone for immediate activities with a formal EToN application sent as soon as reasonably practical. Where the activity falls into Major, Standard or Minor an application can be made by other electronic means such as email or fax.
- 9.6.3. It is assumed that notices or applications sent by fax have been received when transmitting equipment records satisfactory completion of transmission. Applications may also be made, by post or by hand, but it should be borne in mind the postal service may not guarantee that the application will be received by the Permit Authority on the next working day. For certainty once operation of the EToN system is restored a retrospective application should be sent through to the Permit Authority so that works are recorded correctly on the street works register.

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## 10. **Content of Permit Applications**

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

- a) The Street - An application shall relate to proposed activities in one street only. A street for these purposes must correspond to a USRN.
- b) Detailed Description of Activity and Collaborative Promoters - For all works a detailed description of the activity, clearly setting out what the works are and their purpose must be provided to allow the Permit Authority to assess its likely impact. Where collaborative working is proposed the Promoter must provide a detailed description of the collaborative scheme of works.
- c) Contact Details – each application must provide contact details of the Promoter's appointed representative who can deal with any problems occurring during the activity. This must include out-of-hours contact details for the Promoter. Where collaborative works are to be performed, the identity of the lead Promoter must also be provided.
- d) Location - Promoters must give an accurate location using a spatial feature (point, line or polygon) covering the extent of the works area based on National Grid References (NGR's). Ideally, using a polygon which accurately identifies the space identified needs to cover all the area used by the activity, including for storage of materials, working space, safety zone, provision for pedestrians and traffic management (as applicable). The more detailed the provision of this information will enable better understanding of the implications of the works and lead to fewer rejected applications.
- e) Duration - Each permit application must include proposed start and end dates of the works (the date from which the Promoter requires the road space until the road space is no longer required). The dates included on the permit are calendar days, not working days. Details of the times of day when the activity is to be carried out must also be provided, including any proposal to work at night. If the Promoter proposes to undertake activity on weekends or Bank Holidays to speed up the activity and reduce disruption, this must be included with the application. This information will be taken into account when considering whether to require conditions to be added to the application.
- f) Illustration - Promoters should provide an illustration of the activity with their permit application, where they consider there is potential for disruption due to the position and size of the activity. Illustrations provided should be based on an extract of the plan held by the Promoter showing the location of their apparatus at the site in question. Promoters are encouraged to provide illustrations in appropriate cases. Where the Permit Authority requires an illustration which is not submitted as part of the application, the application will be refused with a request for the illustration to be provided.

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

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

Whenever temporary traffic lights are required an illustration showing the distances from the 'wait here' boards to the centre of the junction must be provided with the Temporary Traffic Signals Application. The requested red and green phasing of the temporary traffic lights design should be included, Where two-way lights do not straddle a junction, no illustration will be required.

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

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

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

h) Traffic Management, Parking and Traffic Regulation Orders/Notices

- Where traffic management proposals will be required as a consequence of the proposed works then a description of the proposals and when they will be instituted as part of the works must be provided in the application.

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

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

(ii) the approval for all temporary traffic signals. Applications must be made using notice type 2700 – Temporary Traffic Signal Application in accordance with the latest version of EToN.

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

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

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

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

i) Inspection Units - To ensure consistency the Permit Authority require permit applications to include the provisional number of estimated inspection units

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appropriate to the activity, in accordance with the rules laid down in the latest NRSWA Inspections Code of Practice and The Street Works (Inspection Fees) (England) (Amendment) Regulations 2004.(or any overriding future legislation or guidance).

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

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

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

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

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

1. Refuse the request with an inclusion of a comment to reflect the change required. This will require a new permit application to be submitted by the Promoter. or
2. Respond to the request using a permit modification request

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

## 10.2. **Form of the Issued Permit**

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

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

- 10.2.5. Where a Promoter makes a permit application or variation to a permit application as a result of the Permit Authority's action, e.g. where the Permit Authority has imposed a variation, it is recommended a comment is included to this effect within the application. If applicable, reference to another relevant permit application can also be included.
- 10.2.6. In line with Statutory Guidance 71, the Permit Scheme requires all granted permits to be placed on the permit register and copied to any undertaker, authority or other relevant body that has asked to be informed about activities on a particular Street.

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11. **Timings of Permit Applications**
- 11.1. For effective planning and co-ordination, information needs to be provided to the Permit Authority in good time. In accordance with the advice contained in the Statutory Guidance, the Permit Scheme provides for the minimum time periods before the proposed start date of an activity by which time the relevant permit application must be made by the Promoter and a subsequent response made by the Permit Authority.
- 11.2. It is essential that applications for permits and variations are made in a timely manner.
- 11.3. The Permit Authority is aware of the need to be proactive in running a scheme. Time limits have been set out in Appendix D of the Permit Scheme committing the Permit Authority to respond to applications within set periods. The Permit Scheme has used the time periods set out in the Table in Section 11.3 of the Code of Practice.
- 11.4. A “response” for these purposes means a decision to grant, refuse or issue a permit modification request. Where there are reasons why the permit could not or should not be granted in the terms applied for (e.g. because of insufficient or obviously incorrect information or because of a clash with other activities), the response indicating that a permit will not be granted in those terms will explain the reasons. This will enable the Promoter to make a revised and compliant application.
- 11.5. **Timing of Applications and Responses**
- 11.5.1. The time period for a response to an application starts at the time of receipt of the application by the Permit Authority. The EToN system will provide an auditable record of the actual date and time of the receipt of the application; however the calculation of the application and response time for a permit received after 16:30 will use the next working day as the effective start date.
- 11.6. **Minimum Application Times – Major Activities**
- 11.6.1. Under the Permit Scheme, for a major activity Promoters are required to apply for a PAA at least three months in advance of a proposed activity and a permit ten working days before the activity is due to start.
- 11.6.2. In accordance with the Technical Specification for EToN where a major activity does not involve asset activity a PAA cannot be generated and therefore in such circumstances a permit application will be made in the first instance.
- 11.7. **Minimum Application Times - Standard Activities**
- 11.7.1. A permit application for standard activities is required ten working days before the proposed start date.
- 11.8. **Minimum Application Times - Minor Activities**

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- 11.8.1. A permit application for minor activities is required three working days before the proposed start date.
- 11.9. **Minimum Application Times - Immediate Activities**
- 11.9.1. In order not to prevent activities that are necessary for emergency or urgent reasons, the Permit Scheme provides that these works may proceed without a permit given their nature. Promoters must apply for a permit within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours, within two hours of the start of the next working day.
- 11.9.2. In all instances of an Immediate Activity, the Promoter must telephone the Permit Authority immediately after works commence on such streets where such a requirement is designated by the Permit Authority (as indicated in the ASD for that Permit Authority).
- 11.10. **Non Compliance with the Minimum Application Times**
- 11.10.1. Early Starts
- 11.10.2. Where it is not possible for a Promoter to adhere to the minimum permit application periods the Permit Authority may consider applications where mitigating circumstances justify this failure. Permission to allow a Promoter to submit such an application is solely at the discretion of the Permit Authority and will only be given exceptionally.
- 11.10.3. Where a permit application is granted, thereby providing such permission, it will be recorded by the Permit Authority. Where permission is not granted the permit application will be refused. It is recognised that some early starts will be required to achieve a positive outcome to potential collaborative working arrangements. However, a works promoter proceeding with the planned work following a refusal would be working without a permit.
- 11.11. **Variations and Extensions**
- 11.11.1. To vary or extend a permit, a permit application must be made by the Promoter a minimum of two working days before the permit expires or at a point when the existing permit has more than 20% of its duration to run, whichever is the longer.
- 11.11.2. Where the Promoter fails to apply for a permit variation or extension within the relevant time limits, the Permit Authority may consider applications to vary or extend permits where the Promoter is able to provide mitigating circumstances justifying the failure to adhere to the relevant timings.
- 11.11.3. The Permit Authority is aware of the need to be proactive in running a scheme. Time limits have been set out in Appendix D of the Permit Scheme committing the Permit Authority to respond to applications within set periods. The Permit Scheme has used the time periods set out in the Table in Section 11.3 of the Code of Practice.



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11.12. **Agreement Process**

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

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

11.13. **Maximum Response Times**

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

11.13.2. A “response” for the purposes of the Permit Scheme means a decision to grant, refuse or issue a permit modification request, in accordance with the “Statutory Guidance”. Where there are reasons why the permit cannot or should not be granted in the terms applied for (e.g. because of insufficient or obviously incorrect information or because of a clash with other activities), the response indicating that a permit will not be granted in those terms will explain the reasoning. This will enable Promoters to make a revised and compliant application.

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

11.14. **Response Times - Major and PAA’s**

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

11.15. **Response Times - Standard Activities**

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

11.16. **Response Times - Minor Activities**

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- 11.16.1. In respect of applications for a permit for minor activities, the maximum response time is two working days from the date of receipt.
- 11.17. **Response Times - Immediate Activities**
- 11.17.1. In respect of applications for immediate activities the maximum response time is two working days from the date of receipt. Works of this nature may proceed without a permit; however the Permit Authority may consider making the activity subject to conditions or refusing the permit application. .
- 11.18. **Response Times - Variations to Permits**
- 11.18.1. In respect of applications to vary a permit the maximum response time is two working days from the date of receipt.
- 11.18.2. There is no provision for the variation of a PAA.
- 11.19. **Phasing of Activity**
- 11.19.1. One permit can only relate to one phase of an activity. A phase of an activity is a period of continuous occupation of the street (whether or not work is taking place for the whole time) between the start and completion of the works, for example a separate permit would be required for interim, permanent and remedial reinstatements.
- 11.19.2. The dates given in a permit application and in the issued permit will denote the dates for that phase. A phase can end only when all the plant, equipment and materials, including any signing, lighting and guarding have been removed from the site and the highway is returned to full use.
- 11.19.3. A Promoter must clarify when an activity is to be carried out in phases on the application. Each phase will require a separate permit and, if a major activity involving asset activity also a PAA, which will be cross referenced to the other permits.
- 11.19.4. Phased activities must relate to the same works, with applications submitted using the same works reference.
- 11.20. **New customer connections**
- 11.20.1. A new main or cable run, which includes new customer connections, can be classed as one phase if all the work is completed in a single occupation of the street. Otherwise a new permit must be obtained for the customer connections stage.

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

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considerations, including ensuring the statutory duties to co-ordinate and to manage the network and that the Permit Scheme objectives are met, it will issue a permit to the Promoter within the response time.

- 12.3.2. The permit will cross reference the details provided in the application, including any associated documentation such as drawings, and any conditions imposed by the Permit Authority. Section 10 of this document specifies details and requirements of permit contents
- 12.3.3. Where the Permit Authority fails to meet the response times, the permit is deemed to be granted and in such terms only as reflected in the application. In such circumstances there will be no fee charged.
- 12.4. **Refusal of Permit Applications**
- 12.4.1. Whilst the Permit Authority cannot refuse legitimate activities, it can refuse a permit application if elements of the proposed activity, such as timing, location or conditions are not acceptable when measured in accordance with the relevant factors as referred to in Sections 9 and 10 of this document. In such cases the Permit Authority will contact the Promoter as soon as possible and within the response period specified in Appendix D of this document, to explain precisely why the application is not satisfactory and which aspects need modification.
- 12.4.2. A Promoter may cancel an application by an electronic works notice at any point prior to the Permit Authority granting, or refusing the permit application. No fee will be charged for the cancellation or withdrawal of an application under these circumstances.
- 12.4.3. There is no current legislation requiring a Promoter to respond to a works comment within specific time limits, however the application period continues where queries arise. Time limits are provided for reply because both the Permit Scheme and the Code of Practice state that if agreement cannot be reached in the time available, the Permit Authority will have no option but to refuse the permit.
- 12.5. **Examples of Reasons for Refusal**
- 12.5.1. The following provides examples of matters that are likely to lead to applications being refused or subject to requests for further information or modification:
- a) Overlapping Activities - Where other activities are scheduled to take place in the same street, or other streets affected by the proposed activity, at the same time, the Permit Authority may refuse a permit for the period requested but propose to grant it for different times. Information about other activities is available to the Promoter through the Permit Register, in such situations the Promoter must contact the Permit Authority to discuss acceptable options before applying for a permit. In appropriate cases the Permit Authority will encourage collaboration between Promoters.

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b) Timing and Duration – A Promoter must ensure when making an application for a permit that the proposed duration of the activity takes into account both the legitimate need to complete the activity in an efficient and economic manner and the legitimate interests of other users of the highway. The Permit Authority may query the proposed duration, for example on the grounds that:

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

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

Refusals on this basis would only apply:

- i. In relation to the installation of new apparatus - it cannot be used to require existing apparatus to be moved, or
- ii. Where disruption would be reduced by installing the apparatus in an alternative street where it is reasonable to use the alternative street or a different location within the same street.

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13. **Permit Variations**

- 13.1. In accordance with Regulation 15 of the 2007 Regulations, the Permit Scheme allows for the variation of permits and for conditions to be attached to permits. This allows the Permit Authority, to actively manage other activities on the network in the light of changing circumstances. Variations can take place at any time after the permit has been issued and before the activity has commenced or during the activity itself. However, if a variation to a permit is required by the Promoter, the application to vary the permit must be made before the permit end date is passed and in accordance with EToN requirements.
- 13.2. PAA's cannot be varied. In circumstances where a PAA has been given but a full permit has not been issued and proposals change, the Promoter must advise the proposed changes to the Permit Authority who will indicate whether or not a new application for a PAA is required.
- 13.3. Data changes are notified as new applications (prior to approval) or variations (post approval). Error corrections for registration notices and works status corrections are still relevant however and should be made in accordance with the relevant Code of Practice or successor document.
- 13.4. In accordance with Regulation 15 (2) of the 2007 Regulations application by the Promoter to vary a permit or to vary permit conditions must be made in the following way:
- a) Where the existing permit has more than 20% of its duration or more than two working days to run, whichever is the longer, the Promoter shall apply for a variation; or
  - b) In any other case the Promoter shall first contact the Permit Authority to ascertain whether the authority is prepared to grant a variation and only apply, if the authority is so prepared.
- 13.5. Activities can be particularly subject to change where a Promoter has to make several excavations or registerable openings of the street in order to locate a fault. An example would be where gas had migrated along a duct to emerge from the ground some distance from the actual leak. In such circumstances the Permit Authority will comply with section 48 of the Statutory Guidance. While the Permit Scheme seeks to avoid too many permit variations, the Permit Authority must be advised of the site situation to enable coordination and management of these and other works in the area.
- 13.6. For multiple excavations the first application will contain the location of the initial excavation or opening. If any further excavations are required, refer to the Code of Practice paragraph 12.2.5, or successor document.
- 13.7. **Variation at Permit Authority's Initiative**
- 13.7.1. In accordance with Regulation 15 (3) the statement of policy as to the circumstances in which the Permit Authority will vary permits on its own

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initiative is set out below (the issue of revocation of permits is addressed separately in Section 14).

- 13.7.2. One of the main features of Permit Scheme is that it effectively allows road space to be “booked” by Promoters for their activities.
- 13.7.3. Once a permit is issued it will provide the Promoter with reasonable confidence that the road space will be available for them. Nevertheless, even where a permit has been issued by the Permit Authority, circumstances beyond the Permit authority’s control may require a review of the permit and may lead them to conclude that the permit or its conditions require changing.
- 13.7.4. Such changes will be the exception and will only happen when the new circumstances could not have been reasonably foreseen or where the impact is significant. Examples of such circumstances include:
- problems which would lead to traffic being diverted onto the road where an activity was underway or about to start, but the permit had been issued.
  - Roads closed by floods or burst mains;
  - a dangerous building or structure;
  - an unexploded bomb;
  - a significant traffic disruption has ensued;
  - Additional activities have come to light in the same street (or nearby) that will now conflict with the planned activity.
- 13.7.5. If the consequent disruption cannot be suitably mitigated, it may then be necessary to vary the permit for the activity e.g. by changing the time or manner of working.
- 13.7.6. In such circumstances the Permit Authority will contact the Promoter to discuss the best way of dealing with the situation whilst meeting the co-ordination duties and other statutory requirements of those involved. The aim of those discussions is to try to reach an agreement and see if a variation is a feasible option.
- 13.7.7. If agreement is reached, the Permit Authority will issue an Authority Imposed Variation to the Promoter. The Promoter may then, either cancel the existing permit and apply for a new permit in those terms; or they may apply for a permit variation. The latter will be more appropriate if the Promoter needs to reconsider elements of its plans within the parameters agreed with the authority.
- 13.7.8. If agreement cannot be reached, the Permit Authority will revoke the permit. The Promoter would have the option of invoking the dispute resolution procedure where it disagrees, set out in Section 19 of this document.

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



**14. Revocation**

- 14.1. There is no mechanism in the Permit Scheme to formally suspend or postpone a permit, only to vary or revoke one. If the Permit Authority has to suspend or postpone an activity for which it has already given a permit but which it intends must happen at a later date, the Permit Authority will contact the Promoter and agree that a variation is submitted by the Promoter. There will be no fee for this permit variation.
- 14.2. A Promoter who wishes to cancel a permit, for which they have no further use, must use the cancellation notice as specified in the Technical Specification for EToN. There is no fee for a cancellation notice, but no refund of the fee paid for issuing the permit will be made.
- 14.3. The Permit Authority can revoke a permit at its own initiative; in particular, it has the power to do so under Regulation 10(4) of the 2007 Regulations where there has been a breach of a condition (which is also a criminal offence). In such circumstances the Permit Authority may use the provisions replacing section 66 NRSWA to clear the street, if required, namely the provisions under Regulation 18 of the 2007 Regulations, referred to in Section 18 of the Permit Scheme.
- 14.4. In accordance with Regulation 15 (3) of the 2007 Regulations the statement of policy as to the circumstances in which the Permit Authority will revoke permits on its own initiative is as follows:-
- a) As with variations, where circumstances arise which require the Permit Authority to review the permit, the Permit Authority may conclude that the permit needs to be revoked rather than simply being varied.
  - b) Revocation will be the exception and will be where the circumstances could not have been reasonably predicted or where the impact is significant.
  - c) All revocations will be made in accordance with the EToN requirements.
- 14.5. No charge will be made for revocation where a permit is revoked on the Permit Authority's own initiative. If as a result of the revocation a Promoter has to apply for a new permit there would be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Promoter. In these circumstances, revocation will only be used as an alternative to criminal action, where it is reasonable, taking into account the nature of the breach and where it is proportionate.
- 14.6. Where the Promoter disagrees with the Permit Authority's decision in any of the above respects, then the Promoter may invoke the dispute resolution procedure detailed in Section 19 of this document.

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15. **Fees**

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

- a) the issue of a permit;
- b) an application for a permit, where the Permit Scheme requires a Provisional Advance Authorisation to be obtained as part of that application; and
- c) each occasion on which there is a variation of a permit or the conditions attached to a permit.

15.2. the Permit Authority will charge Fees in accordance with Regulation 30 of the 2007 Regulations.

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

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

15.4.1. Fees are payable by Statutory Undertakers, but highway authorities are not charged. This is due simply to the fact that the money charged would only circulate around a highway authority. However to promote good practice Essex County Council will use a shadow charging arrangement to show the cost of issuing permits to its own Promoters both to help understand its own costs and to set those alongside the costs to other Promoters. This is not a statutory requirement and it is not a requirement of the Permit Scheme.

15.5. **Level of Fees**

15.5.1. The Secretary of State in making an order for the Permit Scheme will have considered the fee levels and the justification for them as part of the application to operate the Permit Scheme.

15.5.2. The 2007 Regulations and Statutory Guidance set maximum fees the Permit Authority may not exceed. The fees are structured to reflect the greater work involved in handling larger activities and busier roads.

15.5.3. The 2007 Regulations and Statutory Guidance set a maximum flat fee for permit variations initiated by the Promoter with a lower fee for category 3 and 4 non traffic-sensitive streets and a higher fee for category 0, 1 and 2 and traffic-sensitive streets.

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

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- 15.5.5. All the Permit Scheme fee levels are at or within the current Regulations and Statutory Guidance maxima.
- 15.5.6. The permit Fees for the Essex Permit Scheme are shown in Appendix F of this document. These fee levels will also be published on Essex County Council's website.
- 15.5.7. It is possible for both charging categories to be relevant to a single USRN. To ensure the correct permit fee is always applied, spatial data is required in accordance with 10.1 d) of the Permit Scheme.
- 15.6. **Circumstances where no Fee will be Charged**
- 15.6.1. No fee will be charged in the circumstances described below:
- a) Cancellation of a permit - prior to the Permit Authority 's determination, a Promoter cancels a permit application;
  - b) Refusal of Permit or Variation - when an application for a permit or variation is refused;
  - c) Revocation of Permit – where a permit is revoked on the Permit Authority's initiative and the Promoter had to apply for a new permit; there would be no fee for the new permit, except where the original permit is revoked as a consequence of any action or omission on the part of the Promoter.
  - d) Variation of Permit at the Permit Authority's initiative - for permit variations initiated by the Permit Authority, unless at the same time the Promoter seeks variations which are not the result of the circumstances causing the Permit Authority's action - in that case a variation fee would be payable.
- In addition, if the Promoter decides to cancel the existing permit as a result of the Permit Authority imposed variation; any new permit for the originally planned activity would not be subject to a fee.
- e) Deemed Permits - where the Permit Authority fails to respond to an application for a permit or variation, within the relevant response time and the permit is subsequently deemed to be granted.
  - g) Coring Activity - any coring activity where the scope of the specified works is limited to the breaking up of any street. Where a coring activity scope of work covers additional criteria - as defined within Section 6.2(b) to (f) (inclusive) of the Permit Scheme - the permit for this activity would be subject to a fee.
  - h) Permits for Collaborative Works - where at least two or more Promoters intend to collaborate their works within the same site over the same period they should submit applications in accordance with the Technical Specification for EToN & ensure that the appropriate 'collaboration type' is defined . In such circumstances none of the permits will attract a permit fee.

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If work cannot be arranged for the same period that results in one of the works only being partially completed during the collaborative period then a reduction in permit fee will be calculated on a pro-rata basis calculated using the number of working days where collaborative working took place to the number of days it did not.

i) Highway Authority Works -permits required by the highway authority.

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

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

15.6.2. Where a Promoter expects a permit or variation would not be subject to a fee it is recommended that they include a comment to this effect within their application. If applicable reference to another permit, for example in circumstance where the Permit Authority has imposed a variation, within the new application would be encouraged.

## 15.7 **Circumstances where Fees may be Reduced**

15.7.1 a) Permits for Section 81 NRSWA – non-immediate works which are complete in relation to repairing apparatus to a permanent standard as the result of a section 81 notification from Essex County Council. Provided that all repairs are completed with the qualification period. On the first year of operating the permit scheme the qualification period is 21 calendar days of notification reducing by 1 day every subsequent year to 14 calendar days.

## 15.8 **Fee Review**

15.8.1 The Secretary of State may need to review fee levels particularly closely in the first years of the Permit Scheme. This is with a view to ensure that the overall income from fees paid by statutory undertakers does not exceed the prescribed costs described in Regulation 29 of the 2007 Regulations.

15.8.2 Essex County Council will review fees annually to satisfy themselves and the Secretary of State that overall fee income does not exceed allowable costs, in line with the 2007 Regulations. In the event of any surplus in a given year, the fee income will be applied towards the cost of the Permit Scheme in the next year and the fee levels adjusted accordingly.

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

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

**16. Permit Conditions**

**16.1. Principles for Conditions**

- 16.1.1. The Permit Scheme includes for the attaching of conditions to permits and also specifies the types of conditions that may be applied. Any permit issued will specify in detail the activity it allows and the conditions attached. Any constraints in the original application will be reflected in the conditions in the permit. For example, if the planned activity will be located in a street which is traffic sensitive at some times and the permit application stated that the activity was to be outside the traffic sensitive times, then 'working outside of traffic sensitive times' will be made a condition of the permit.
- 16.1.2. Any permit issued must set out in detail the activity it allows as set out in Section 10 of this document and the conditions attached.
- 16.1.3. In applying conditions the Permit Authority will consider the proposed activity's potential to cause disruption. Where possible, conditions attached to a permit will provide flexibility for the Promoter by requiring an outcome rather than stipulating the method by which the work must be carried out. When setting any condition, the Permit Authority must act reasonably and take account of how feasible it is for the Promoter to comply not only with the condition being imposed but also on their ability to meet their statutory obligations.
- 16.1.4. Where Essex County Council considers a condition attached to a permit has been breached, it may impose sanctions as specified in Section 18 of this document. It is the policy of the Permit Authority that where appropriate, prior to taking action, Essex County Council will contact the Promoter and seek to discuss the matter before deciding to take action.
- 16.1.5. Essex County Council may also under Regulation 10(4) of the 2007 Regulations revoke the permit. The policy that will be applied is set out in Section 14 of this document.
- 16.1.6. Essex County Council may vary the conditions of a permit issued, as an Authority Imposed Variation - set out in Section 13 of this document. This will also be done in accordance with the EToN requirements.

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16.2. **Condition Types**

16.2.1. The conditions Essex County Council can apply to permits, referred to as “types” (listed below) are detailed in Regulation 10 of the 2007 Regulations.

2007 Regulations	HAUC (UK) latest draft guidance
<ul style="list-style-type: none"> <li>• Timing and duration of activity;</li> </ul>	<ul style="list-style-type: none"> <li>• Date Constraints</li> </ul>
	<ul style="list-style-type: none"> <li>• Time Constraints</li> </ul>
<ul style="list-style-type: none"> <li>• Road space;</li> </ul>	<ul style="list-style-type: none"> <li>• Road Occupation Dimensions</li> </ul>
	<ul style="list-style-type: none"> <li>• Traffic Space Dimensions</li> </ul>
<ul style="list-style-type: none"> <li>• Traffic management provisions;</li> </ul>	<ul style="list-style-type: none"> <li>• Road Closure</li> </ul>
	<ul style="list-style-type: none"> <li>• Light Signals and Shuttle Working</li> </ul>
	<ul style="list-style-type: none"> <li>• Traffic Management Changes</li> </ul>
<ul style="list-style-type: none"> <li>• Methodology for carrying out activities;</li> </ul>	<ul style="list-style-type: none"> <li>• Work Methodology</li> </ul>
	<ul style="list-style-type: none"> <li>• Material and Plant Storage</li> </ul>
<ul style="list-style-type: none"> <li>• Consultation and publicity;</li> </ul>	<ul style="list-style-type: none"> <li>• Consultation and publicity;</li> </ul>
<ul style="list-style-type: none"> <li>• Environmental conditions.</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental</li> </ul>

Essex County Council will adopt solely the nationally agreed conditions text developed and approved by HAUC (England) as our standard conditions, including referencing. We recognise that these conditions may be subject to change and may develop over time. Any future changes to the conditions text ratified through HAUC (England) formal approval process will automatically be incorporated into this scheme. Any changes will have been consulted on and agreed by the sector and we will not undertake further consultation on those agreed changes, but will inform stakeholders of their implementation date for use within our permit scheme.

The initial conditions for the Essex Permit Scheme will be those identified in the HAUC UK/England Permit Advice note.

Of these, certain conditions apply to all permits. Given the constraints of EToN, there is therefore no need for the permit applicant or permitting authority to formally attach the National Condition Text 1, 2, and 3 to individual permit

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applications or granted permits. However in line with evolving practice reference can be made to the Condition Text number.

The Permit Authority may take reasonable actions in accordance with Part 5 of the Permit Regulations if any of these conditions are breached. It should be noted that only the conditions that are relevant to the work type apply. Therefore:

All the standard conditions 'NCT' will be detailed on our website. These conditions are likely to change in line with any new HAUC (UK/England) Permit Advice notes

- 16.2.2. Conditions applied to a permit by the Permit Authority will be pertinent to the objectives of the Permit Scheme, including the reduction of congestion and disruption, recognising the needs of other users of the highway and the integrity of the highway itself.
- 16.3. **Applying a Condition to a Permit**
- 16.3.1. Where the Permit Authority considers it necessary and appropriate to impose standardised conditions that differ from the proposals in the permit application, the Permit Authority will state the reasons for this action on their refusal of the permit. The Promoter can then choose whether to make a revised permit application or dispute the matter.
- 16.3.2. For the application of permits, the main principle behind the Technical Specification for EToN is that when the Promoter submits an application to the Permit Authority they enter the content of the permit, *for example the timing, duration and work methodology*. The Permit Authority cannot amend the content of a permit, including the conditions attached.
- 16.3.3. If the Permit Authority does not agree with the condition(s) applied or requires additional conditions the application may be either;-
1. Refused with the inclusion of a comment to reflect the changes required.
  2. Responded to with the issuing of a Permit Modification Request
- The Promoter should submit a subsequent permit application with any agreed changes. It is the responsibility of the Promoter to ensure the application meets the permit conditions specified by the Permit Authority.
- 16.3.4. Promoters are encouraged to consider the inclusion of conditions on their permit during the initial application. By doing so, the likelihood of the Permit Authority refusing a permit, with a subsequent re-application could be minimised.
- 16.3.5. Where a Promoter recognises that multiple conditions should be used, or as indicated by the Permit Authority, all multiple conditions should be included on the permit application.

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**16.4. Conditions upon Immediate Activities before Permit Issued**

- 16.4.1. By virtue of the 2007 Regulations, activities that are necessary for emergency or urgent reasons (i.e. immediate activities) can commence and continue for an initial stage without requiring a permit to be obtained first. The Permit Authority has the power under Regulation 13 to impose conditions in such circumstances upon immediate activities for the period between starting work on site and receiving a permit.
- 16.4.2. Until a permit is issued following an application for an immediate activity, a Promoter will be required to work within the terms of their application; for example if the application refers to specific working hours then the Promoter must work within those hours.
- 16.4.3. Promoters of immediate activities must contact the Permit Authority immediately where the specified street is susceptible to unplanned disruption as indicated in the ASD for Essex County Council.
- 16.4.4. Promoters will display the works reference number in respect of permits for immediate works on site within two hours of the immediate activity commencing or, in the case of the works commencing out of normal working hours, within two hours of the start of the next working day.
- This condition takes into consideration the requirement of the Promoter to submit an application for an immediate activity, in addition to displaying the required reference number.
- 16.4.5. Promoters must make application to the Permit Authority for any Temporary Traffic Regulation Order for immediate works by the end of the next working day, even if work on site has been completed.
- 16.4.6. A list of conditions for immediate activities will be detailed on our website if required. These conditions are likely to change in line with any new HAUC (UK/England) Permit Advice notes.

**16.5. Condition Text for Conditions**

- 16.5.1. The Permit Scheme allows for the Promoter and the Permit Authority to reference model text for conditions within their permit.
- 16.5.2. The use of model text for conditions will provide opportunity for expediency in the permit application and to mitigate any EToN limitations in the practical application (description) of conditions - especially in the use of multiple conditions.
- 16.5.3. The model text for conditions is suggested text for conditions which the Permit Authority expects to apply or to be applied to permits. When referencing a condition text for condition, either the Promoter or the Permit Authority should make reference to the relevant model text reference number and/or the specified text. For expediency a reference to the model text number and any associated content can be applied. For example, a condition text for condition



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- reference NCT4a - Removal of surplus materials/plant may specify “NCT4a – surplus material to be removed by 18.00 each day as close to school”
- 16.5.4. Essex Council will adopt solely the nationally agreed conditions text developed and approved by HAUC (England) as our standard conditions, including referencing. We recognise that these conditions may be subject to change and may develop over time. Any future changes to the conditions text ratified through HAUC (England) formal approval process will automatically be incorporated into this scheme. Any changes will have been consulted on and agreed by the sector and we will not undertake further consultation on those agreed changes, but will inform stakeholders of their implementation date for use within our permit scheme. Essex County Council will publish a list of HAUC (England) model text for conditions on their website.
- 16.5.5. During the operation of the Permit Scheme, the Permit Authority and/or Promoters may identify further model text for conditions that can be applied to support the operation and objectives of the Permit Scheme. Prior to bringing these into effect, the Permit Authority proposing the change will discuss this text with the Promoters at the appropriate forums.
- 16.5.6. When applying the use of condition text for conditions both the Promoter and Permit Authority must ensure that there is no ambiguity within the description or understanding of the condition. The Promoter is encouraged to contact the Permit Authority during the application stage to clarify any interpretation or application of conditions, if needed.
- 16.6. **Publication of Conditions**
- 16.6.1. All Permit Authorities will publish and maintain a list of the standard conditions, conditions upon immediate activities before the permit is issued and condition text for conditions for the Permit Scheme on their website.
- 16.7. **Conditions Available on Site**
- 16.7.1. The Permit Authority recognises the importance for the Promoter work-force to have access to the permit detail, including conditions when carrying out the planned activity. It is recommended the Promoter ensures this information is available on site, but also recognises there may be an administrative burden to comply with a standard condition to have this information available, upon request.
- 16.7.2. Work undertaken in breach of a condition, or without a valid permit, on the basis of lack of knowledge from the Promoter work-force will not be accepted by the Permit Authority as any form of mitigation for such failure.
- 16.8. **Conditions for Timing and Duration of Activity**
- 16.8.1. This condition should only be attached to permits where it is necessary to limit the times of day that works are undertaken because the highway needs to be clear outside of these times. For instance the permit may be valid for 3 days but the site can only be occupied between the hours specified on the days specified.

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Environmental concerns must be taken in consideration when using this condition.

It should be noted that it may be possible to have more than 1 start and stop time i.e. if you are only permitted to work outside T/S times, in which case the text can be suitably amended.

- 16.8.2. As set out in Section 12 of this document, when considering a permit application the Permit Authority may consider an alternative period is appropriate. Where the Promoter disagrees they may appeal in line with the dispute resolution procedure set out in Section 19 of this document.
- 16.8.3. Conditions may be applied by the Permit Authority to control the timing and duration of planned works, especially where the activity affects a traffic-sensitive street even where the application states the activity is to be undertaken outside the immediate traffic-sensitive locations and times. If a Promoter is aware of a reason for the application of a timing and/or duration condition, then they are encouraged to use this type of condition within the initial application.
- 16.9. **Reasonable Period for Section 74 NRSWA purposes**
- 16.9.1. For all works the “reasonable period” for Section 74 NRSWA purposes will be the same as the duration of the activity set out in the permit.
- 16.9.2. The start and end dates will be in calendar days, even though many aspects of Permit Schemes will operate on working days. Where a permit allows working at weekends or on Bank Holidays, the permit start and end dates will also accommodate that, even though those days do not count towards the reasonable period under Section 74 NRSWA or the starting window.
- 16.10. **Conditions for Road Space**
- 16.10.1. Conditions for road space will take into consideration the amount of space taken by the activity in the highway and the impact of congestion and disruption. Where the area required to carry out the actual work is relatively small the activity may have little effect on traffic. Where associated plant and excavated material take up a greater area, possibly resulting in lane restrictions and/or temporary traffic control measures, the impact could be magnified considerably – especially when works are complete, but such associated items remain in the highway.
- 16.10.2. The following road space conditions could be attached to a permit:
- the width and/or length of road space that can be occupied;
  - the road space that is available to traffic at certain times of day.
- 16.10.3. When applying conditions related to road space, the Permit Authority recognises conditions must be realistic and allow works to be carried out in compliance with statutory guidance and codes of practice (especially in relation

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to safety and within the restrictions imposed by the available industry resources and technical capabilities).

- 16.10.4. If a Promoter is concerned about the safety at work in complying with a condition, they must contact the Permit Authority to discuss this and reach agreement on the permit.
- 16.10.5. The Permit Authority recognises the impact to users of the highway resulting from visible route signage for a diversion no longer in effect. It is therefore a standard condition of the Permit Scheme that signage relating to temporary traffic orders is only visible to the highways user when the restriction is in operation.
- 16.10.6. Where it is considered necessary to limit the impact of the works to the road space, either through the space occupied for works or to ensure that a certain width of road space is to be available to traffic (vehicles and/or pedestrians) a condition may be applied.
- 16.10.7. The Code of Practice for Safety at Street and Road Works indicates that one metre minimum width of footway must be available for pedestrians where footways are affected by works. In circumstances where a minimum width greater than one metre is required a condition may be applied.
- 16.10.8. In certain circumstances, for example in town centres or out of town pedestrianised shopping centres, it may be reasonable for the Permit Authority not to allow any materials or equipment being left on site unattended overnight. In these situations a condition may be applied.
- 16.10.9. Where permission for the storage of materials or plant is required, outside of the main activity, the location of these storage areas can create difficulty to traffic flows and result in public complaints by their impact on local residents and other frontagers. Promoters will be required to obtain a Section 171 Licence under the Highways Act 1980 in advance for such storage, together with any other related approval. In these situations a condition may be applied.
- 16.11. **Traffic Management Provisions**
- 16.11.1. As set out in Section 10 of the Permit scheme, Promoters must submit details of traffic management proposals with their permit applications. Traffic Management during the activity can have a major influence on congestion and disruption e.g. Promoters may propose closing a road which may be necessary for some activities but for others it may be possible and less disruptive to keep at least part of the road open. With smaller scale activities, portable light signals may be sufficient.
- 16.11.2. In such circumstances the Permit Authority may apply conditions for traffic management provisions, for instance
- the road, or relevant section of the road is closed to traffic during the works;
  - that shuttle working and/or portable lights are to be used.

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- 16.11.3. Where advance approval for any traffic management restriction (either by traffic order or notice) is required this must be noted within the permit application. A permit may be granted prior to any necessary traffic management order or approval being created; however, it is a standard condition of the Permit Scheme that no activity, or part of the activity commences prior to the traffic management order being operational.
- 16.11.4. It is possible that traffic management arrangements may change during the course of an activity. These changes can be included in the conditions where it is known that such changes will be needed. In all cases when traffic management arrangements change, the Promoter must inform the Permit Authority before any changes take place. This will be a permit variation request.
- 16.11.5. Permit applications must state the most severe type of traffic control required for the works even when that type of control is not required for the whole duration of the works. This can make the co-ordination and selection of appropriate conditions difficult to determine.
- 16.11.5.1. It is a requirement of the Permit Scheme that Promoters at both the application stage & during the course of the works inform the Permit Authority when changes to traffic management measures are likely to be needed or are about to take place, during the course of permitted works. This will allow road users to be advised and complementary traffic management measures implemented to minimise disruption.
- 16.11.5.2. To achieve this, a standard condition applies to all works in traffic sensitive streets where a lane closure, multi-way signals or road closure is in use during the course of the works. This condition requires all promoters to inform the Permit Authority before changes to this type of traffic control takes place. This will result in the Permit Authority being aware of which days of the overall works duration the works will require lane closures, multi-way signals or road closures.
- 16.11.5.3. It is recommended that where this type of traffic control is planned that the permit application is accompanied with a traffic management plan detailing the dates of the differing traffic management arrangements in order to minimise the amount of rejected applications.
- 16.11.6. Where there are either deliveries to a site, or where spoil or other material are to be removed from a site it is the Promoter's responsibility to ensure the movement of traffic at that location is not significantly delayed or interrupted by that operation in line with Safety at Street Works and Road Works Code of Practice.
- 16.12. **Conditions for Methodology for Carrying Out Activities**
- 16.12.1. The method the Promoter proposes to employ to carry out an activity can have a significant effect on the level of disruption. A Permit Authority may therefore attach conditions relating to the methodology for carrying out activities.

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- 16.12.2. While it would not be appropriate for the Permit Authority to make an engineering judgement on a Promoter's proposed methodology of work, the Permit Authority must be satisfied that minimum dig technology can be employed wherever practical to minimise inconvenience to the public and reduce congestion. It is therefore a requirement that a Promoter details in their application the methodology they propose to use.
- 16.12.3. The Permit Authority acknowledges that site conditions may be different from those planned for in the permit application and the Promoter may need to revert to other dig methods. In such cases an application for a permit variation would be required unless the Permit Authority decides that it is not necessary in the individual circumstances.
- 16.13. **Conditions for Consultation and Publicity**
- 16.13.1. To achieve many of the objectives of the Permit Scheme the advanced publicity and consultation of planned works will be the key for success. The availability of on-site information for the highway user on works in progress will provide information to assist journey planning and management of any disruption.
- 16.13.2. Advance Publicity
- 16.13.2.1. Where activities have the potential to be especially disruptive to local residents, businesses and/or road users, the Permit Authority may attach a condition requiring the Promoter to provide advanced notice to nearby householders or businesses, or to traffic or pedestrians using the road.
- 16.13.2.2. In order to be beneficial such an exercise has to be carried out well before the activity commences. The need for such an exercise will be identified at either the permit or PAA application stage in order to ensure that the Promoter has sufficient time to carry out any related exercise. In respect of permit applications for major works where advance publicity is required, the permit application may have to provide evidence that the exercise has been carried out.
- 16.13.2.3. The effect of planned activities to a Public Transport provider, such as bus company, has to be taken into consideration when the Permit Authority considers the permit application. These providers require consultation on the planned works to provide alternative services in order to minimise the impact of works. A condition may be applied as a result.
- 16.13.2.4. Where the Promoter seeks a variation or extension to a permit, the permit authority may apply a further condition for consultation and publicity (if the circumstances justify it). In these circumstances, the Permit Authority must act reasonably and such conditions will be local to the site and the activity.
- 16.13.3. Display of Permit Numbers and Other Related Signage
- 16.13.3.1. For all planned works a Permit Reference Number must be prominently displayed at all times on site for each phase of the works. This reference number will comprise the content of the ETON Works Reference number.

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Displaying this information will assist in identification of the site for the Permit Authority and members of the Public. It is a standard condition of this Permit Scheme that works shall not commence until a site information board has been erected on site in a prominent place so that it may be read easily by the Public, clearly displaying the correct Permit Reference Number. The sign will remain in place for the duration of works.

- 16.13.3.2. Where immediate works have started, it is accepted that the permit reference number may be unavailable and therefore cannot be immediately displayed on site.

For Immediate Works the display of the correct Permit reference number is required by 10.00am on the next working day after the works have started on site.

This condition takes into consideration the requirement of the Promoter to submit an application for an immediate activity, in addition to displaying the required reference number.

- 16.13.3.3. Standard conditions related to the display of the Permit Reference Number are to assist inspections, particularly in relation to the checking of conditions with which Promoters are required to apply and also to help identify the site for members of the public who may report queries to Essex County Council or Promoters.

- 16.13.3.4. In certain circumstances the location of planned works may have an impact to local business, especially within the footprint of the activity. In these circumstances a condition related to specific signage may be applied.

16.14. **Condition for Environmental Factors**

- 16.14.1. The Permit Authority may apply a condition for an environmental factor when considering the impact of the proposed activity to the local environment, including local residents and the highway infrastructure.
- 16.14.2. Promoters must contact, the Environmental Health Officer (EHO) of the local authority in whose area the works are to be carried out, when drawing up proposals that involve carrying out works during environmentally sensitive hours. That is, hours outside of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on a Saturday (see Section 60, Control of Pollution Act 1974). This should ensure that wherever possible, and at reasonable cost, the requirements of the EHO's can be met.
- 16.14.3. The Permit Authority may need to impose environmental conditions to protect residents or people working, as well as schools, close to the proposed activities from disturbance particularly as a result of noise. This can be done by imposing conditions limiting the times of day when the permitted activities can take place.
- 16.14.4. The Permit Authority may also need to impose environmental based conditions where there is concern about maintaining the site in a clean and tidy condition, including removal of any spillage of materials on the public highway, during and

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on completion of the works. In such circumstances a condition requiring action at the end of any working period to ensure that waste, whatever the source, must not be left on site may be applied.

- 16.15. **Imposing Conditions upon Highway Authority Works Permits**
- 16.15.1. Standard conditions will be imposed upon all permits regardless of Promoter. In addition, the Permit Authority will impose conditions upon a permit in respect of works to be carried out by or on behalf of a highway authority in the same form and for the same reasons for any Promoter.
- 16.15.2. In addition, in accordance with Regulation 10 (3) of the 2007 Regulations conditions on such permits may also require the highway authority to consult with any person who has apparatus likely to be affected by the works and require the highway authority to take all reasonably practicable steps to comply with any requirement made by that person which is reasonably necessary for the protection of the apparatus or for securing access to it.

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17. **Inspections**

17.1. The procedures for dealing with all aspects of inspections under the Permit Scheme, with the exception of those related to overrun charges under Section 74 NRSWA and permit condition checks, will reflect the procedures set out in the current Code of Practice for Inspections.

17.2. In addition, inspections under the Permit Scheme will include processes for dealing with any defective signing and guarding and for reinstatements; improvement plans; together with any costs that may be recoverable, e.g. sample inspections fees from the Promoter.

17.3. **Section 74**

17.3.1. These inspections are related to works that should have been completed by a due date or have been notified as having done so.

17.3.2. The Permit Authority will run the overrun charging scheme alongside the Permit Scheme under Section 74 of NRSWA as set out in section .20.

17.4. **Permit Conditions**

17.4.1. Adhoc inspections will check for compliance with permit conditions specified in individual permits which are not included in any other inspections procedures.



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**18. Sanctions**

18.1. The Permit Authority may use the sanctions provided by the 2007 Regulations to achieve compliance with Permit Scheme

18.2. Where there is proof that a Statutory Undertaker has committed a criminal offence and it is both practicable and appropriate, the Permit Authority may contact the Statutory Undertaker before taking action and seek to discuss the matter in order to establish whether such action is required.

18.3. As defined within the Regulation (18) of the 2007 Regulations, the Permit Authority may take action for unauthorised works, where a Promoter:

a) undertakes, without a permit, works for which a permit is required to have been obtained; or

b) breaches a permit condition.

18.4. Any Statutory Undertaker not working within the content of an issued permit (either granted or deemed) will be seen as undertaking works, without a permit, for which a permit is required to have been obtained. It is the Promoters responsibility to ensure the content of the permit accurately reflects the proposed activity.

**18.5. Criminal Offences**

18.5.1. Regulation 19 of the 2007 Regulations provides that it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake works without a permit. The offence carries a maximum fine of level 5 on the standard scale.

18.5.2. Permit offences only apply to Statutory Undertakers, not to highway authorities, however Essex County Council is required to monitor the performance of highway authority promoters to ensure a consistent approach is taken. It will therefore be a matter of public record if a highway authority acts in such a way that would amount to the commission of an offence under Regulations 19 and 20 of the 2007 Regulations were it not the highway authority.

18.5.3. Regulation 20 provides that it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake works in breach of a condition.

**18.6. Fixed Penalty Notices (FPN)**

18.6.1. Regulations 21 to 28 (and Schedules 1 and 2) of the 2007 Regulations authorise Essex County Council to issue Fixed Penalty Notices (FPN's) in respect of the criminal offences. Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

18.6.2. FPN's shall be in the form as set out in Regulations 23(1) and Schedule 1 of the 2007 Regulations.

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- 18.6.3. Section 98 (2) NRSWA provides that a notice given after 16:30 on a working day is deemed to have been given on the next working day.
- 18.6.4. In accordance with Regulation 27 of the 2007 regulations where the Permit Authority considers that a FPN has been incorrectly issued a further notice will be issued to the recipient withdrawing the FPN. The notice shall be in the form set out in Schedule 2 of the 2007 Regulations (or in a format substantially similar).
- 18.7. **Prosecution**
- 18.7.1. Once a Statutory Undertaker has paid either the full penalty or the authorised discounted amount and this payment is made within the required period, no further proceedings will be taken for that offence.
- 18.7.2. If the Statutory Undertaker does not pay the penalty within the 36 calendar days (Regulation 24(2) of the 2007 Regulations) Essex County Council may bring proceedings in the Magistrates' Court for the original offence. Legal action must be taken before the expiry of the six months deadline from the date of the offence for bringing a case before the Magistrates' Court (Section 127 of the Magistrates' Courts Act 1980). This is the case even if the FPN was not given for some time after the offence was committed.
- 18.7.3. In circumstances where a Fixed Penalty Notice has been issued in relation to an offence, but Essex County Council subsequently forms the view that it would be more appropriate to prosecute the offender, Essex County Council must withdraw the FPN under Regulation 27 of the 2007 Regulations before bringing the proceedings unless the payment of FPN has been made.
- 18.7.4. Further, the Permit Authority may consider the most appropriate action in the circumstances is to proceed directly to prosecution of the offence.
- 18.8. **Application of Money by the Permit Authority**
- 18.8.1. Essex County Council may deduct from the fixed penalties received under Section 37(6) TMA, the reasonable costs of operating the FPN scheme under which they are paid.
- 18.8.2. Essex County Council shall apply any net proceeds from the costs of operating the FPN scheme to promoting and encouraging safe, integrated, efficient and economic transport facilities and services, to, from and within its area.
- 18.8.3. Essex County Council will need to be able to demonstrate that the costs of running the FPN scheme are reasonable and that the net proceeds after deducting these costs are being correctly applied. Those enquiring should note that accounts are generated annually.
- 18.8.4. Although it is not a requirement that separate accounts should be kept for the FPN scheme, it should be possible to follow the audit trail to check income and expenditure.

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- 18.9. **Regulation 18 of the 2007 Regulations – Discretionary Unauthorised Works Notices**
- 18.9.1. Using its discretionary power under Regulation 18(1) of the 2007 Regulations, Essex County Council, may instead of proceeding by way a criminal sanction route, issue a FPN notice. This discretionary power may be used where a person undertakes works without a permit for which a permit is required to have been obtained or breaches a permit condition. Essex County Council will only issue such a notice where it is considered to be an appropriate response in the circumstances and not as a matter of course.
- 18.9.2. Where such a notice is issued it will require the person to take such reasonable steps as are specified in the notice. This may include removing the works, to remedy the breach or to minimise or discontinue any obstruction to the street connected with the works. The notice may also propose remedial action which must be undertaken within a specified set timeframe.
- 18.10. **Failure to take Remedial Action**
- 18.10.1. Where a notice is issued under Regulation 18(1) of the 2007 Regulations and the relevant person has not taken the remedial action within the timeframe, Essex County Council may under Regulation 18(3) of the 2007 Regulations take such steps as it considers appropriate having regard to the original non-compliance, at the cost of the Statutory Undertaker. The policy to be applied in such circumstances is that failure to comply with a Regulation 18 Notice within the relevant period will normally lead to such action being taken on the part of Essex County Council.
- 18.11. **Other Offences under NRSWA**
- 18.11.1. Any offences relating to sections of NRSWA which run in parallel to Permit Schemes will continue to apply. These include offences relating to reinstatements, overrunning works and failure to send appropriate notices.
- 18.12. **Revocation of Permit**
- 18.12.1. Whilst it is a criminal offence for a Statutory Undertaker or someone acting on its behalf to undertake works in breach of a condition, as a further alternative to taking criminal action in such circumstances against the Statutory Undertaker the Permit Authority may under Regulation 10(4) of the 2007 Regulations revoke the permit. This use of this power is addressed in Section 14 of this document.
- 18.13. **Keeping of Records**
- 18.13.1. Essex County Council will keep records of all sanctions under the Permit Scheme. This information will be made available to any Permit Scheme working group and facilitated by HAUC.

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19. **Dispute Resolution**

19.1. The TMA provides wide powers to devise a suitable dispute resolution procedure and to identify the stages of the permit application process at which it can be invoked. There are no prescribed statutory dispute resolution procedures as yet and the approach taken therefore is to build on arrangements which already exist through the Highways Authorities and Utilities Committee (HAUC UK) at local and national level for resolving disputes and are set out in the Code of Practice.

19.2. The Permit Authority and Promoter are expected to use their best endeavours to resolve disputes without having to refer them to a formal appeals procedure. This might, for instance, be achieved by referring the issue to management for settlement.

19.3. **Incidence of Dispute Resolution**

19.3.1. Two stages of the permit process provide for dispute resolution:

a) A Promoter applies for a permit; the Permit Authority confirms it will only issue the permit with conditions attached or with different dates to the application. The Promoter believes one or more of these conditions are unreasonable or unrealistic. The two parties are unable to resolve their differences; or

b) A Promoter who has been issued with a permit and has started work realises that they will no longer be able to comply with the original permit. The Promoter therefore applies to the Permit Authority for the permit to be varied or extended. The two parties are unable to reach agreement on any variation or whether any variation should be allowed.

19.3.2. The Permit Authority and Promoter should try, where ever possible, to resolve their disagreements between themselves. However, it is recognised that occasionally this may not be possible.

19.4. **Appeals Procedure**

19.4.1. The dispute resolution procedure for appeals under the Permit Scheme may be by dispute review, adjudication or arbitration.

19.5. **Dispute Review**

19.5.1. If agreement cannot be reached locally on a matter arising under any part of the Permit Scheme the dispute will be referred for review on the following basis:

a) Straightforward issues - Where the two parties consider the issues involved in the dispute are relatively straightforward, the matter will be referred to impartial members of a regional HAUC (that is those not representing parties directly involved in the dispute) for review. That review should take place

within five working days from the date of referral. Both parties are recommended to accept the result as binding.

b) Complex issues - If the parties to the dispute think the issues are particularly complex, they should/will ask HAUC (UK) to set up a review panel of four members - two statutory undertaker and two Permit Authority representatives. One of the four persons will be appointed as Chair of the panel by the HAUC (UK) joint chairs.

19.5.2. Each party must make all relevant financial, technical and other information available to the review panel. The review would normally take place within ten working days from the date on which the issue is referred to HAUC (UK). It is recommended that both parties accept the advice given by the review panel as binding.

19.6. **Adjudication**

19.6.1. If agreement cannot be reached by the procedure above, for instance if one or more of the parties does not accept the ruling of the Regional HAUC or HAUC (UK) review as binding, the dispute will be referred to independent adjudication provided that the parties agree that the decision of the adjudicator is deemed to be final. The costs of adjudication will be borne equally unless the adjudicator considers that one party has presented a frivolous case, in which case costs may be awarded against them. Where the adjudication route is followed, the parties should apply to the joint chairs of HAUC (UK), who will select and appoint the independent adjudicator from suitable recognised professional bodies.

19.6.2. Where the parties do not agree that the decision of the adjudicator is deemed to be final the Promoter will have the option of challenging the Permit Authority's decision through the administrative court by way of judicial review.

19.7. **Arbitration**

19.7.1. Disputes relating to matters covered by the following sections of NRSWA may be settled by arbitration, as provided for in Section 99 NRSWA:

- a) Section 61(6) - consent to placing apparatus in protected streets;
- b) Section 62(5) - directions relating to protected streets;
- c) Section 74(2) - charges for occupation of the highway where works are unreasonably prolonged;
- d) Section 74A(12) - charges determined by reference to duration of works;
- e) Section 84(3) - apparatus affected by major works;
- f) Section 96(3) - recovery of costs or expenses.

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- 20. **Related Matters and Procedures**
- 20.1. **Essex County Council & the Permit Authority Contact Details**
- 20.1.1. Essex County Council & the Permit Authority will publish their contact details, including out-of-working-hours, on their website.
- 20.2. **Traffic Restrictions and Road Closures**
- 20.2.1. Provisions governing temporary road closures and traffic restrictions for works or other activities in the street are found in Sections 14–16 of the Road Traffic Regulation Act 1984, (“RTRA 1984”), as amended by the Road Traffic (Temporary Restrictions) Act 1991 and Regulations made under RTRA 1984.
- 20.2.2. There are two procedures:
  - a) Where urgent action is needed the relevant Permit Authority may issue a ‘temporary notice’ imposing a short term closure or restriction. Prior notice is not necessary. The notice is limited to 21 calendar days if there is a danger to the public or risk of serious damage to the road, independent of street works, a leaking gas main, for example. It can be extended by one further notice. The notice is limited to 5 calendar days if there is no risk of danger or damage.
  - b) For planned works and in less urgent cases the Permit Authority may make a ‘temporary traffic order’. A Temporary Traffic Order may remain in force for a maximum period of up to 18 months. This is limited to six months for footpaths, bridleways, cycle tracks and byways open to all traffic.
- 20.2.3. A temporary notice and a temporary order may provide that restrictions have effect only during the operational period of the order and when traffic signs are lawfully in place. This will assist to limit traffic disruption where activities progress along a length of road.
- 20.2.4. In extraordinary circumstances, the RTRA (1984), allows the police to suspend designated street parking places temporarily to prevent or mitigate traffic disruption, or danger to traffic, which may assist Promoters carrying out emergency works.
- 20.3. **Temporary Notices**
- 20.3.1. This procedure will normally only apply to immediate activities. The Promoter will inform the Permit Authority as soon as practicable if a closure or traffic restriction is needed. The Permit Authority will consult with the police and all relevant parties, and confirm, as soon as possible, whether or not a notice will be made.
- 20.3.2. The Permit Authority must state in the notice:
  - a) the reason for issue;
  - b) its effect;

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- c) alternative routes (where applicable); and
  - d) the date and duration of the notice.
- 20.3.3. The Permit Authority must also notify the emergency services statutory consultees and any other Permit Authority with roads that may be affected. This should be done on, or before, the day the notice is issued.
- 20.4. **Temporary Orders**
- 20.4.1. A temporary traffic order is generally required for planned activities in a street (and may be created where operations under a temporary notice have established the need for the closure to remain in place beyond the legal period for a temporary notice). If a Temporary Order is required, the Promoter should notify the Permit Authority at least three months in advance. This will allow the authority time to consult, and to obtain approvals and advertise the order.
- 20.4.2. Activities that require a temporary traffic order are automatically classed as major works and require at least three months' notice for applying for a PAA, initially, and the temporary traffic order.
- 20.4.3. The Promoter must submit all the information needed to justify a road closure with the application for a temporary traffic order.
- 20.5. **Maintenance of Statutory Undertakers' Apparatus**
- 20.5.1. Statutory Undertakers have a duty, under Section 81 NRSWA, to maintain apparatus in the street to the reasonable satisfaction of the street authority, having regard for the safety and convenience of traffic, the structure of the street, and integrity of apparatus in it. Bridge, sewer and transport authorities also have an interest, so far as any land, structure or apparatus they own is concerned.
- 20.6. **Practical Considerations**
- 20.6.1. Although NRSWA gives Street Authorities certain default powers to inspect and carry out emergency works, neither street authorities nor Statutory Undertakers expect the need to arise. However, should it happen, then (without impeding any immediate emergency action) the matter will be referred to the agreed dispute resolution procedure.
- 20.6.2. The Street Authority will notify the Statutory Undertaker if surface apparatus is found to be defective or the cause of significant surface irregularity, or where an unexplained subsidence or other disturbance of the road surface occurs. This will be done in accordance with the protocols set out in the Technical Specification for EToN. The Street Authority may arrange a site meeting by agreement with the Statutory Undertaker.
- 20.6.3. If the fault identified by the Permit Authority is for or as a result of previously un-attributable activities by Statutory Undertakers, and a Statutory Undertaker subsequently accepts responsibility for that activity, the Statutory Undertaker

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must retrospectively submit all the required notifications for the original works, before submitting any permit application for the remedial works.

- 20.6.4. If the problem is agreed to be the Statutory Undertaker's responsibility, they must take immediate action to investigate and initiate any necessary remedial works, in accordance with the following principles:
- a) Dangerous defects – requires an immediate response;
  - b) Non-Dangerous – requires a response within the timescales agreed with the street authority.
- 20.7. **Dangerous Occurrence or Defects**
- 20.7.1. Apparatus that requires an immediate response or remedial works to avoid injury or damage to persons or property shall be considered dangerously defective.
- 20.7.2. Essex County Council may execute any emergency action required to safeguard the public, for example, by fencing off the location from traffic and the general public.
- 20.7.3. Non-Dangerous defect or occurrence requires a response within the timescales agreed with the street authority. Non-Dangerous defective apparatus is apparatus which requires attention to comply with specifications or remove nuisance; or has the potential to escalate to "Dangerous" in the near future.
- 20.7.4. The decision on whether an occurrence is Dangerous or Non-Dangerous will, by necessity, be made on site. The relevant street authority will make the decision objectively. It should not be challenged unreasonably.
- 20.7.5. A Statutory Undertaker may reduce the time for response, to meet operational needs for example, but must not exceed the agreed timescales. It is important that only the responsible Statutory Undertaker, or a specialist contractor working on its behalf, investigates suspected damaged or defective apparatus, excluding manhole covers and frames.
- 20.7.6. Essex County Council will carry out investigations or remedial works (using appropriately trained and experienced persons) only in an emergency, or where the Statutory Undertaker is unable or unwilling to use their own operatives or specialist contractor.
- 20.7.7. Permit applications for any necessary remedial work that is a registerable activity must be made following the rules set out in this Permit Scheme and using the protocols set out in the Technical Specification for ETtoN.
- 20.7.8. If Essex County Council has opened the street or exposed a Statutory Undertaker's apparatus in an emergency, or in the circumstances described above, the Statutory Undertaker will assist the authority by jointly inspecting the problem, within a reasonable time agreed between them, to agree a remedial plan and timescale. The reasonable costs incurred by the Essex County Council may be charged to the Statutory Undertaker.



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20.8. **Working near Rail Tracks**

20.8.1. Particular attention must be given to the possible effects of activities taking place at or in the vicinity of level crossings. Promoters planning works in such locations must refer to the advice contained within the Code of Practice, or subsequent amendments, which sets out Network Rail's requirements.

20.9. **Vehicle Parking at Street and Road Works**

20.9.1. This is not safety advice. The Code of Practice on Safety at Street Works and Road Works should always be consulted.

20.10. **Vehicle within Activity Site**

20.10.1. A works vehicle may be parked in an activity site provided that it is necessary for the carrying out of that activity. Basic site layouts are shown in the Code of Practice on Safety at Street Works and Road Works.

20.10.2. A vehicle entirely within the coned-off area of the site may require a larger coned-off area than would otherwise be the case.

20.11. **Vehicle located outside Activity Site**

20.11.1. A vehicle may be parked outside an activity site provided the parking rules which apply to any other vehicles in that street are obeyed. Outside the activity site, a parked vehicle has no special status and no exemption from parking enforcement.

20.12. **Implications**

20.12.1. When assessing the impact of activities, the parking of any vehicles associated with the activity must be taken into account. This is a particular problem for activities which, but for the presence of a works vehicle, would take place entirely within the footway. If a vehicle is parked adjacent to the activity, in a place which vehicles could not normally use, then it must be part of the activity site. It must be signed and guarded appropriately. The activity is then not wholly confined to the footway but encroaches onto the carriageway. Applications for permits must reflect this.

20.13. **Parking Restrictions**

20.13.1. A Traffic Regulation Order imposing waiting restrictions on a particular street should contain an exemption for Statutory Undertakers to maintain their apparatus. A Street Parking Places Order does not contain such provision. Promoters should check whether any further dispensation is required when they make their permit application.

20.13.2. It will be a standard condition of a permit that where parking restrictions or suspension of a Traffic Order are required the necessary Temporary Traffic order or approval permitting a vehicle to park will be in place before the activity, or relevant part of the activity, starts on site.

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20.14. **Storage of Materials**

20.14.1. Promoters must ensure materials are not placed where they would cause an obstruction to road users. The location of any storage outside the designated working space must be with advance agreement of the Permit Authority. These storage areas will require a separate licence under section 171 Highways Act 1980.

20.14.2. This is especially important if materials are stored away from the working space, but are still deposited on the highway.

20.15. **Apparatus Belonging to Others**

20.15.1. There may be other apparatus where activities are planned. Section 69 NRSWA requires those carrying out activities must ensure that the owners of any other apparatus can monitor the activity and measures to reasonably protect the other apparatus are followed. Failure to do so is a criminal offence.

20.16. **Assessing the Impact of Activities**

20.16.1. All activities in the highway have a disruptive effect on traffic. An assessment of any effects is undertaken by Essex County Council as part of the process of the permit application process where deemed necessary.

20.17. **Disruption Effect Score**

20.17.1. The Disruption Effect Score is based on a measure of congestion resulting from a restriction on the highway. It is derived from a number of simple factors that should be easily established for any given activity.

20.17.2. The nature of traffic flow and the relationship between flow, capacity, and delay are highly complex and subject to a variety of factors. Three specific factors can be used to provide an indication of congestion: the total width of a road; the extent to which the activities reduce the available width; and the traffic flow. Appendix E of this document contains further detail on the application of the Disruption Effect Score.

20.18. **Impact Assessments**

20.18.1. Assessment of the impact of activities on general traffic, buses and pedestrians may be included, together with the disruption effect score, in the information considered for a permit application. The assessment is a broad indicator of the likely disruptive effect of the proposed activity.

20.19. **Use of Impact Assessments**

20.19.1. The impact assessment will be used within the co-ordination process to prioritise activities according to their potential for causing disruption. The assessment may also be used to provide public information on the disruptive effects of activities.

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20.20. **Environmental Issues**

20.20.1. Where works are planned near any conservation areas, culverts, water courses, trees with preservation orders, basements, bridges, monuments or any other location where environmental factors may be of concern, Promoters are strongly advised to liaise with the authority's relevant departments to ensure that environmental officials along with any necessary authority officers are notified when drawing up their proposals. This should ensure that wherever possible, and at reasonable cost, their requirements can be met.

20.20.2. Promoters considering the burying of plant and apparatus that is currently above ground should contact any other Promoter with similar apparatus in order to ascertain whether they would share the underground facility.

20.21. **Overrun Charging Scheme – Section 74 NRSWA**

20.21.1. Essex County Council will operate a scheme for overrun charging under Section 74 NRSWA alongside the Permit Scheme. Section 74 schemes are not compulsory. An authority does not require Secretary of State approval to operate a Section 74 scheme.

20.21.2. "Section 74 Regulations" are currently applied by the Street Works (Charges for Unreasonably Prolonged Occupation of the Highway) (England) Regulations. Any enactment which amends, applies, consolidates or re-enacts the provisions of these Regulations shall be constructed as a reference to the Regulations by virtue of that subsequent enactment. The operation of the overstaying regime however is modified under the Permit Scheme to incorporate the process of setting and modifying the duration of the activity (or "works" in Section 74 terms) through the permit application, approval and variation processes.

20.21.3. Activities carried out by a Promoter on behalf of a highway authority or by the highway authority themselves are not subject to Section 74 overrun charges. However, under the Permit Scheme, Promoters of such activities will be required to follow the same procedures as Promoters who are Statutory Undertakers.

20.22. **Exempt Activities**

20.22.1. Certain types of activities are exempt from Section 74 charging:

a) activities in non-traffic sensitive streets that require opening the highway, but not breaking it up;

b) replacing manhole or chamber covers - that do not involve breaking up the street;

c) replacing poles, lamps, columns or signs in the same location where that does not involve breaking up the street;

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- d) pole testing that does not involve breaking up the street;
  - e) bar holes; and
  - f) works carried out on behalf of a highway authority.
- 20.22.2. If one of the exemptions applies, the Promoter must record the relevant data correctly (e.g. the correct Operational District, Excavation Type, Collaboration Type) in the permit application and/or Works Stop notices - see the Technical Specification for EToN.
- 20.23. **Prescribed Period**
- 20.23.1. The "Prescribed Period" is the period during which no overrun charges can be levied. It is determined by the Secretary of State in the Section 74 Regulations.
- 20.24. **Section 58 & 58a NRSWA Restrictions**
- 20.24.1. Details of Section 58 and 58A NRSWA restrictions will be provided as required under 8.3 of the Code of Practice.
- 20.24.2. Similar procedures will be followed for highway activities in relation to Section 58 and 58a restrictions, in order to facilitate the operation of the permit scheme and, as far as possible, parity of treatment for all promoters.

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21. **Changes and Ceasing to Operate**

21.1. It may be necessary to change the Permit Scheme from time to time.

21.2. Essex County Council, under Regulation 5 of the 2007 Regulations may make application to the Secretary of State to vary or revoke a permit scheme. Prior to this application Essex County Council must consult with those consultees originally consulted on implementation of the scheme as required in Regulation 3(1). Any variation to the permit scheme must contain the relevant explanation and justification for the change(s). The Secretary of State will then determine whether the proposed changes will be approved.

21.3. Currently there is no time limit within which agreed changes may be brought into effect. Essex County Council will liaise with the Department for Transport about this at an early stage.

21.4. Where revision to permit Regulations by the Secretary of State necessitates changes in existing schemes, new Regulations will make provision for such changes. The Department for Transport Code of Practice will reflect the effect of these changes.

21.5. **Ceasing to Run the Permit Scheme**

21.5.1. Should Essex County Council wish to cease to run the Permit Scheme, they will first consult all interested parties and then apply to the Secretary of State to revoke the Permit Scheme, in so far as their roads are concerned, in accordance with Regulation 5 of the 2007 Regulations.

21.5.2. Where an application to revoke a Permit Scheme has been submitted, it will continue in operate until such time as that the Order, made by the Secretary of State, comes into effect to revoke the Permit Scheme. A Permit Authority cannot discontinue operation of a Permit Scheme for their area and re-establish a notice system without the approval of the Secretary of State.

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22. **Street Works Registers and National Street Gazetteer NSG**
- 22.1. In accordance with Part 7 of the 2007 Regulations the Permit Authority will maintain a register in connection with their Permit Scheme. Each Permit Authority will maintain its own local register for their geographic area. The Register will include information on all streets other than those streets that are the responsibility of another authority
- 22.2. The Permit Authority will also maintain a street works register required under Section 53 of NRSWA for any private streets and for historic information.
- 22.3. Details in respect of registers are also shown in Chapter 3 of the Code of Practice and requirements for NRSWA registers are contained in the Code of Practice for Co-ordination of Street Works and Works for Road Purposes and Related Matters.
- 22.4. The statutory requirements for maintaining the two registers will be met in such a way that the information can be combined easily to aid the coordination of activities and to provide information to road users.
- 22.5. **Form of Registers**
- 22.5.1. The registers will be kept on an electronic system. In accordance with The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 requirement, the Permit Registers will use Geographic information System (GIS) by October 2008/April 2009. Permit registers will follow this requirement to ensure consistency between all holdings of street related data. Each register will be maintained against the same digital map base to ensure consistency between all holdings of street-related data. This common geographical dataset will be vector based, nationally consistent, maintained and seamless, with changes published on a regular update cycle.
- 22.5.2. The Permit Authority will ensure that all information held in the permit register is referenced to the Unique Street Reference Number (USRN). The Permit Authority will follow the requirements in the Technical Specification for ETon for the street works register.
- 22.5.3. The permit register will include:
- a) vector objects (polygons, lines and points) representing real-world geographical features and boundaries, each with well-defined lifecycles and royalty-free unique identifiers suitable for referencing; and
  - b) road centreline geometry objects, each with royalty-free unique identifiers, which reference the road surface and form a complete and fully consistent topological network with no breaks or misalignments at administrative boundaries.

- 22.5.4. The minimum specification of the common map base is as follows:
- a) Scale Urban areas: 1:1250;
  - b) Rural areas: 1:2500;
  - c) Remote areas: 1:10000;
  - d) Accuracy Urban areas:  $\pm 1.0\text{m}$ ;
  - e) Rural areas:  $\pm 2.0\text{m}$ ;
  - f) Remote areas:  $\pm 4.0\text{m}$ ;
  - g) Coverage: National and seamless, exhausting space over all land areas;
  - h) Geometry Types: Point, Line and Polygon;
  - i) Classification: Objects classified by physical form; and
  - j) Update Cycle: every 6 months
- 22.6. **Content of Registers**
- 22.6.1. The Essex Permit Scheme register will record:
- a) copies of all PAA's, permit and permit variation applications submitted to the Permit Authority relating to registerable activities in any street;
  - b) copies of all permits and PAA's given by the authority, including conditions attached as well as all variations to permits and conditions, including any permits "deemed" to be granted;
  - c) copies of all revoked permits, refused PAA's and refused permits, together with the reasons for such refusals;
  - d) copies of all notices, consents and directions served by a street authority under Sections 58 or 58A of NRSWA;
  - e) copies of all notifications served by a Promoter / Statutory Undertaker under Sections 58 and 58A of NRSWA;
  - f) copies of all notices given under Section 74 of NRSWA;
  - g) description and location of activities for which plans and sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties);
  - h) particulars of notices given by any relevant authority under Schedule 4 NRSWA;

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- i) particulars of street works licences under Section 50 of NRSWA, including details of conditions and changes of ownership and of any NRSWA notices or directions associated with those licenses;
  - j) information under Section 70 (3) and (4A) of NRSWA as to completion of reinstatements;
  - k) particulars of apparatus notified to the street authority under Section 80(2) of NRSWA;
  - l) every notice of works pursuant to Section 85 (2) of NRSWA;
  - m) details of every street for which the highway authority are the street authority;
  - n) details of every street which is a prospectively maintainable highway over which the Permit Scheme would operate;
  - o) details of every street over which the Permit Scheme would operate and which is a highway but not maintainable by the highway authority; and
  - p) details of every street which is a:
    - i. protected street;
    - ii. street with special engineering difficulties; or
    - iii. traffic-sensitive street.
    - iv. private street
- 22.6.2. Essex County Council will ensure that their register includes the road category of each street.
- 22.7. **Access to Registered Information**
- 22.7.1. Everyone has a right to inspect Essex County Council's register, free of charge, at all reasonable times, except as noted below where there are restrictions. "All reasonable times" means normal office hours (e.g. 08:00 to 16:30, Monday to Friday except Bank Holidays).
- 22.7.2. Essex County Council will publish a limited content version of their register on their public website or version of their register. This will be available 24 hours a day, seven days a week, except for those occasional times when it will be unavailable due to upgrade and maintenance. This work will, wherever possible, be done outside normal office hours.
- 22.7.3. Much of the detailed information in the register is unlikely to be of interest to the Public and it is the responsibility of Essex County Council to decide how much information to make available in this way. Permit applications and notices contain information such as names and telephone numbers of contacts in organisations. Whilst Essex County Council will restrict such contact information being published, the Promoter should take responsibility to ensure



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information contained in free-text fields does not contain information that they do not want to be published. Essex County Council will make it clear that they are not responsible for the accuracy of information concerning those activities for which they are not the Promoter.

- 22.7.4. The websites will allow records to be searched by the USRN or the "street descriptor" (the street name, description or street number) as given in the NSG. The Highways Agency has its own methods of disseminating such information on trunk roads and motorways. Public access to websites will be read-only to prevent unauthorised amendment to records.
- 22.8. **Restricted Information**
- 22.8.1. Restricted information is anything certified by the Government as a matter of national security, or information which could jeopardise the Promoter's commercial interests such as details of a contract under negotiation. The Promoter must indicate restricted information on the application.
- 22.8.2. The approach taken is that restrictions on the release of information should be as limited as possible. Where any request has such a restriction identified then the data that follows is also restricted for that works &/or phases.
- 22.8.3. The right of access to restricted information is limited to:
- a) persons authorised to execute any type of activity in the street; or
  - b) persons "otherwise appearing to the authority to have a sufficient interest".
- 22.8.4. Any person wishing to see restricted information must satisfy the Permit Authority, as a minimum, that his interest is greater than the general interest of the ordinary member of the public.
- 22.9. **Street Gazetteer**
- 22.9.1. The Permit Scheme recognises that a key element of controlling or managing an activity is knowing accurately where the activity will take place, in which street and where in the street.
- 22.9.2. There is already a nationally consistent street gazetteer system for identifying streets that is used under NRSWA whereby every highway authority produces a Local Street Gazetteer (LSG) and a copy is held centrally by the NSG Custodian. Each of these local gazetteers shall contain the information, required by and defined in the NSG Custodian documentation, about the streets in Essex County Council's area.
- 22.9.3. Essex County Council and Promoters must obtain full copies and updates of the street data from the NSG Custodian's website.
- 22.9.4. Under this system each street has a Unique Street Reference Number (USRN). The Permit Scheme provides for the same system to be used, along with the Additional Street Data linked to those streets.

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- 22.9.5. USRN's can refer to a whole street (as identified on the ground) or, if the street is long, to part of a street between significant junctions. Under the Permit Scheme a "street" refers to that length of road associated with a single USRN, i.e. to part of a whole street where a street is subdivided.
- 22.9.6. It is the responsibility of the highway authority (which in the case of the Essex Permit Scheme is the Permit Authority), either individually or jointly with others, to create, maintain and publish street gazetteer data for all streets within their geographical area, whether or not they are the street authority for any particular street.
- 22.9.7. The specification for street gazetteers is set out in British Standard BS 7666. The Standard specifies three levels of detail; the highest, level 3 includes the geospatial representation of the centre-line of the street as well as the end points. With the degree of attention which will be exercised by the Permit Authority, accurate locations will often need the centre-line information if the impact of activities is to be properly assessed.
- 22.10. **Additional Street Data (ASD)**
- 22.10.1. Additional Street Data (ASD) refers to other information about streets held on the NSG Custodians website alongside the NSG data. Highway authorities, Promoters and other interested and approved parties may obtain copies and updates to this data from the Custodian.
- 22.10.2. Essex County Council will provide the following information for the ASD alongside NSG data:
- a) the Primary Notice Authority for each street;
  - b) whether the street is publicly maintainable, prospectively publicly maintainable, or private;
  - c) whether the street, or part of the street, is covered by the Permit Scheme or NRSWA notification regime, which the Permit Authority is or street authority is and details of shared streets if this applies.
  - d) any other authorities and Promoters with an interest in the street;
  - e) the street reinstatement category;
  - f) designations of protected streets;
  - g) designations of streets with special engineering difficulty; and
  - h) designations of traffic-sensitive streets.
- 22.10.3. Essex County Council may also provide the following information for the ASD which is optional:
- a) whether the street is subject to early notification of immediate activities;

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- b) where possible, streets on which it might be expected that conditions relating to the non-use of that street for new apparatus, but not the maintenance of existing apparatus, may be used; and
  - c) other features of the street, such as structures, environmental areas, parking restrictions, priority lanes, special surfaces, standard surface and special construction needs etc.
- 22.10.4. Designations may cover only part of a street or vary along a street. The relevant detail should/will be recorded in the ASD.
- 22.11. **Responsibility for Creating and Updating ASD**
- 22.11.1. Where the street authority is also the highway authority, it creates the ASD together with the NSG.
- 22.11.2. Where the street authority is not the highway authority, it may create and submit its own ASD to the NSG Custodian. This will be referenced to the highway authorities' gazetteers. Organisations that fall into this category are:
- a) The Highways Agency (which manages the motorway and trunk road network in England)
  - b) Network Rail (which is the street authority for level crossings between the barriers).
- 22.11.3. Any other authority, Promoter or interested party must send their records to the NSG Custodian to ensure that their interest in a street is logged. The interest records should/will be entered into the ASD maintained by the highway authority.
- 22.11.4. This is particularly appropriate to neighbouring authorities in the exercise of their network management duty. The NSG Custodian will administer this process.
- 22.12. **Use of ASD and Level 3, Street Gazetteer**
- 22.12.1. All Promoters are advised to use the level 3 gazetteer and this ASD information when making their permit applications.
- 22.12.2. Promoters must ensure that they make their permit application to the Permit Authority.

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23. **Monitoring and Evaluation**

23.1. The objectives of the Permit Scheme are set out in Section 2 of this document.

23.2. In accordance with the 2007 Regulations, Essex County Council will seek to evaluate the Permit Scheme so as to measure whether the objectives are being met.

23.3. Specific guidance is provided by the Department for Transport in respect of the objective of ensuring parity of treatment, under Regulation 40 of the 2007 Regulations, for all types of work and Promoter.

23.4. Essex County Council accepts that the operation of the Permit Scheme would be subject to the Council's own audit process to assess regulatory compliance, together with the efficiency and the effectiveness of the scheme. This process would complement and not supersede any additional measures agreed at regional or national forums, or those introduced through revised legislation.

23.5. **Non-Discrimination: Parity Treatment**

23.5.1. A key principle and objective of the Permit Scheme is that it treats all activities covered by the Permit Scheme equally. The 2007 Regulations provide for permit schemes to include both street works by statutory undertakers (as defined in NRSWA) and highway works (as defined in Section 86 (2) NRSWA) as works for road purposes. Although the term "specified works" is used generically in the 2007 Regulations, "activities" is used in the Permit Scheme to encompass both types of works and anticipates subsequent sets of Regulations which may extend the scope of permit schemes to other activities on the street.

23.5.2. Whilst not all activities require a permit, Promoters are strongly recommended to check Essex County Council's street works register to ensure that all opportunities to work in a collaborative way with other promoters are taken & to avoid directly conflicting with other planned works.

23.5.3. Permits for all qualifying street works and works for road purposes, and all applications (which can only be made by licensed undertakers or highway authorities), will be treated in a non-discriminatory way, as required in Regulation 40 of the 2007 Regulations. In effect the highway authority's activities and their applications will be treated in exactly the same way as those of a licensed undertaker's with regard to co-ordination and the setting of conditions.

23.5.4. In order to show that Essex County Council is operating the Permit Scheme in a fair and equitable way each Officer responsible for making any decision related to a permit application will be separated from the highway activities of the authority.

23.5.5. In addition Essex County Council will apply a set of Key Performance Indicators (KPIs) developed by the DfT and set out in the Code of Practice. Essex County Council must report against these KPIs on an annual basis, together with any measurement of the Permit Scheme objectives.

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- 23.5.6. Essex County Council must apply two mandatory KPI's and select an additional two. These KPI's are set out in section 4 of this document.
- 23.5.7. The KPI reports will be discussed at quarterly co-ordination meetings (as defined under the NRSWA) as well as other regular meetings with Promoters such as regional Highways Authorities Utilities Committee, which will provide the forum for monitoring compliance with Regulation 40 of the 2007 Regulations..
- 23.5.8. If any Promoter considers they are not being treated in accordance with Regulation 40 they can raise the matter through the regular coordination or similar meetings or through the dispute resolution procedures specified in Section 19 of this document.

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24. **Transitional Arrangements**

- 24.1. The basic rules of transition will apply on all roads where the Permit Scheme operates:
- a) The Permit Scheme as provided for herein will apply to all activities where the administrative processes, such as an application for a permit or Provisional Advance Authorisation, start after the commencement date;
  - b) Activities which are planned to start on site more than one month after the changeover date (for standard, minor and immediate activities) or three months after (for major activities) must operate under the Permit Scheme. This means that even if the relevant section 54 or section 55 NRSWA notice has been sent before the relevant changeover date, the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a permit. If the Promoter has not substantially begun the activity (or phase of activity) by the time limit for the notice, 1 month or 3 months as appropriate, then again the Promoter must cancel the NRSWA notice for that activity (or phase of activity) and apply for a permit.
  - c) Any other activities which started under the notices regime and which will start on site less than one month or three months after the changeover date (according to activity category) will continue under that regime until completion.
- 24.2. Given the advanced notice of the changeover there should be few activities where these rules will create difficulties. Activities coordinated in the run-up to the imposition of a restriction might be such a situation. In those few cases, Promoters must contact the Permit Authority so that discussions can take place to ensure a practical way of dealing with the activities can be resolved.
- 24.3. Where an Order is made by the Secretary of State under section 34(4) or 36 TMA to create, vary or revoke a Permit Scheme, the Permit Authority shall give Notice to those parties referred to in regulation 3(1), to include all relevant Promoters, of the Order. Regulations 17(1) and (2) of the 2007 Regulations require this notification to be made not less than four weeks before the date on which the Permit Scheme will commence.

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25. **Permit Fee Payment**

25.1. All Promoters, except on behalf of highway authority works, will be required to pay the appropriate fee for a permit to Essex County Council under the Permit Scheme. Where the Promoter does not comply with the terms of the permit, a penalty may be applied using a Fixed Penalty Notice. This penalty will become payable to Essex County Council. Essex County Council may retain the permit fees and FPN penalties separately for accounting purposes.

25.2. In most cases the Statutory Undertaker will already have arrangements in place for payments to Essex County Council in relation to NRSWA e.g. for inspection or for section 74 overrun charges. These arrangements can be used for permit fee payments provided there is transparency over precisely which permit a payment is for. In any event, Essex County Council will provide flexibility over how payments are made, although electronic payments are the preferred option.

25.3. **Payment Options**

25.3.1. The range of payment options available are:

a) by electronic payment using the Bankers Automated Clearing Services ("BACS"): the Statutory Undertaker must contact Essex County Council, Finance Department;

b) by post to Essex County Council Finance Department at the relevant address.

25.3.2. For BACS payment, the Statutory Undertaker must support payment with details of the permit references covered by the payment and the amount being paid in relation to each.

25.3.3. When paying by telephone or via an e-payment system, the Statutory Undertaker must quote details of the permit references covered by the payment and the amount being paid in relation to each.

25.3.4. When paying by post, the payment must be accompanied by a list of the permit references covered by the payment and the amount being paid in relation to each.

25.3.5. While the use of electronic payment methods is strongly encouraged, in the event of a systems failure a Statutory Undertaker may use any of the other options available.

25.3.6. The Statutory Undertaker must set up payment facilities, provide contact details and agree methods of payment with the Essex County Council's Finance Department.

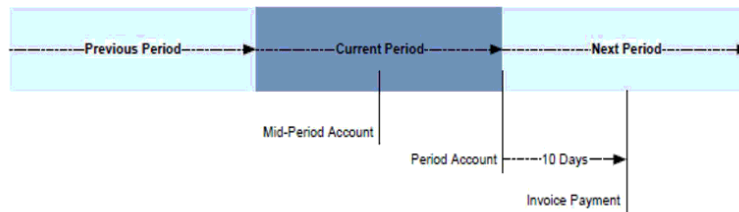
25.4. **Permit Fee Payment and Reconciliation**

25.4.1. There is no specific legislation regarding the reconciliation and invoicing arrangements for permit fees, however it is recognised the internal financial

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arrangements of Essex County Council and Statutory Undertaker do differ and some flexibility must be provided for this process.

- 25.4.2. As a standard process for permit fee payment and reconciliation it is expected that an account for a specified period will be produced, containing the permit fees to be charged for that period. Each account will have a reference number which can be used as the reference for any payment, instead of the individual permit numbers.
- 25.4.3. Essex County Council will submit this account to the relevant Statutory Undertaker to provide an opportunity for them to reconcile the charges to be invoiced for the specified period, prior to the generation of an invoice for payment.
- 25.4.4. Essex County Council will confirm with each Statutory Undertaker the invoicing arrangements together with the frequency of the account reconciliation and/or invoicing. This section contains a standard payment and reconciliation model, including (a) the information to be provided within the account issued to the Statutory Undertaker; and (b) the reconciliation and invoicing process.
- 25.4.5. The following standard procedure for the reconciliation and payment of permit fees is recommended:
  - a) An account of the permit fees to be charged for during the specified period will be produced by the Permit Authority and submitted to the Promoter to review for reconciliation. Two accounts during the period will be produced (1) a mid-period account; and (2) a full account at the period end.
  - b) There will be a period after receipt of the mid-period account to enable the Statutory Undertaker to liaise with the Authority to confirm fees and charges.
  - c) There will be a period of 10 days after receipt of the full account to confirm fees and charges for the entire period.
  - d) During both of the reconciliation periods it is the Promoter's responsibility to liaise with Essex County Council if they have any comments or queries on the content of the account.
  - e) Once the reconciliation period is complete, a full invoice for the full period will be issued.





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- 25.4.6. If during the reconciliation Essex County Council and Promoter cannot reach agreement on a permit fee and any details are still under discussion, these fees will be omitted from the final account for the period and subsequent invoice. Fees under discussion can be included or not included as a result of discussions, in a later invoice.
- 25.4.7. The account produced by Essex County Council will contain the following information related to the specified period:
- i. Account Reference - The reference for the account, or list of permit fees to be charged for;
  - ii. Date Issued - Date the account was issued to the Statutory Undertaker (DD/MM/YYYY format);
  - iii. Account Period – start and end date for the period the account relates to;
  - iv. District - the Statutory Undertaker Operational District (OD Number)
- 25.4.8. In addition to the information listed above, the account will also include details of the permit being charged for. These details will include:
- i. Application Type – PAA, permit or permit variation;
  - ii. Permit Number – the EToN Works Reference number, including the application and response sequence numbers, for each PAA, permit or permit variation;
  - iii. Date Granted –the date (DD/MM/YYYY) when the PAA, permit or variation was granted by the Permit Authority;
  - iv. Works Category - the type of works for which the permit has been issued;
  - v. Reinstatement Category - the reinstatement category of the street for the permit activity;
  - vi. Permit Fee and Discount – the permit fee being charged and any related discount applied.
- 25.4.9. To provide sufficient detail for the Promoter to reconcile the account, the account will include details of PAA, permit and variations that are not subject to a fee.
- 25.4.10. The account period and subsequent invoicing frequency may vary from the standard four-weekly cycle, to a weekly, fortnightly, monthly or quarterly basis depending on the volumes of work. This would enable Essex County Council to invoice the Statutory Undertaker with larger volumes of work more frequently, if required.

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# Appendices



## Appendix A – Glossary

Term	Explanation
Above Ground	Any works which do not involve the breaking up or opening of the street or tunnelling or boring under it.
Activity	Means street works as defined within part 3 NRSWA except for works under licence such as Section 50 NRSWA and works for road purposes as set out in Section 86 NRSWA.
Apparatus	Has the same meaning as in Section 105 NRSWA ("apparatus includes any structure for the lodging therein of apparatus or for the gaining access to apparatus").
Appeals	Where disagreement remains unresolved between the Promoter and the Permit Authority about a Permit Authority's decision or actions, the Promoter may appeal using the procedure in Section 19 of this document.
Arbitration	Has the same meaning as in Section 99 of NRSWA, ("any matter which under this Part is to be settled by arbitration shall be referred to a single arbitrator appointed by agreement between the parties concerned or, in default of agreement, by the President of the Institution of Civil Engineers").
ASD	Additional Street Data (ASD) means other information held on the National Street Gazetteer Custodians website alongside the NSG adjudication.
Bank holiday	Has the same meaning as in Section 98 (3) of NRSWA, ("a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the locality in which the street in question is situated").
Bar hole	A bar hole is used to detect and monitor gas leaks.
Breaking up (the street)	Any disturbance to the surface of the street (other than opening the street).
Bridge	Includes the entire meaning specified in Section 88(1)(a) of NRSWA, ("references to a bridge include so much of any street as gives access to the bridge and any embankment, retaining wall or other work or substance supporting or protecting that part of the street").
Bridge authority	Has the same meaning as in Section 88(1)(b) NRSWA, ("the authority, body or person in whom a Permit Scheme bridge is vested".
Bridleway	Has the same meaning as in Section 329 Highways Act 1980, "(a highway over which the public have the following, but no

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	other, rights of way, that is to say, a right of way on foot and a right of way on horseback or leading a horse, with or without a right to drive animals of any description along the highway").
Carriageway	Has the same meaning as in Section 329 of Highways Act 1980, ("a way constituting or comprised in a highway, being a way (other than a cycle track) over which the public have a right of way for the passage of vehicles".
Central Register	A central register is a register covering two or more street authority areas that is maintained by one single authority, the 'register authority'. For example, a central register could include all authorities in a metropolitan or county area.
Code of Practice (for Permits)	The means the Traffic Management Act 2004 Code of Practice for Permits (March 2008), as published by the Department for Transport. Referred to as the "Code of Practice "within the Permit Scheme.
Co-ordination Meetings	Quarterly meetings to co-ordinate work within the highway authority's geographical area and neighbouring authorities roads.
Critical gyratory or roundabout system	A gyratory or roundabout system where, in the absence of street works or works for road purposes, no less than 5 per cent of peak hour vehicles on average are delayed by more than 20 seconds.
Critical signalised junction	A traffic signal junction at which, in the absence of street works or works for road purposes and at times when the exit is not blocked, no less than 5 per cent of peak hour vehicles on average fail to clear the junction on the first green signal.
Culvert	A structure in the form of a large pipe or pipes, box or enclosed channel generally used for conveying water under a road.
Cycle track	Has the same meaning as in Section 329 of the Highways Act 1980, ("a way constituting or comprised in a highway, being a way over which the public have the following, but not other, rights of way, that is to say, a right of way on pedal cycles with or without a right of way on foot").
Day	Unless explicitly stated otherwise the reference to day means a working day.
DfT	Department for Transport.
Disability	Has the same meaning as defined in Section 105(5) NRSWA, "Section 28 of the Chronically Sick and Disabled Persons Act 1970 ("the 1970 Act") (power to define "disability" and other

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	expressions applies in relation to the provisions of this Part as to the provisions of the 1970 Act").
Disability Equality Duty	<p>Has the same meaning as in Section 49A of the Disability Discrimination Act 1995, inserted by the Disability Discrimination Act 2005 which requires that</p> <p>“(1) Every public authority shall in carrying out its functions have due regard to—</p> <p>(a) the need to eliminate discrimination that is unlawful under this Act;</p> <p>(b) the need to eliminate harassment of disabled persons that is related to their disabilities;</p> <p>(c) the need to promote equality of opportunity between disabled persons and other persons;</p> <p>(d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;</p> <p>(e) the need to promote positive attitudes towards disabled persons; and</p> <p>(f) the need to encourage participation by disabled persons in public life.</p> <p>(2) Subsection (1) is without prejudice to any obligation of a public authority to comply with any other provision of this Act.</p>
Distribution Network Operator (DNO)	Operator of an electricity distribution network.
e-government	The Government objective to deliver efficiency savings while improving the delivery of public services by joining up electronic government services around the needs of customers.
Emergency works	Has the same meaning as in Section 52 NRSWA, (“works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property”).
EToN	Electronic Transfer of Notifications
Excavation	Has the same meaning as in "Breaking up" (the street)".

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Extensible Markup Language (XML)	A self-describing data format providing (amongst other things) a method of transferring data between systems.  Note that the UK Government eGIF standard mandates XML for this purpose.
File transfer protocol (FTP)	A method of transferring data between computers defined by RFC959 (RFCs - Request for Comments) are the standard documents that define the operation of the internet).
Fixed Penalty Notice	Has the same meaning as in schedule 4B NRSWA, ("a notice offering a person the opportunity of discharging any liability to conviction for a fixed penalty offence by payment of a penalty").
Footpath	Has the same meaning as in Section 329 Highways Act 1980, ("a highway over which the public have a right of way on foot only, not being a footway").
Footway	Has the same meaning as in Section 329 Highways Act 1980, ("a way comprised in a highway which also comprises a carriageway, being a way over which the public have a right of way on foot only").
Frontager	A person or body occupying premises abutting the street.
Geographical information system (GIS)	A computer system for capturing, storing, checking, integrating, manipulating, analysing and displaying data related to positions on the Earth's surface.
HAUC(UK)	The Highway Authorities and Utilities Committee for the UK.
Heavy commercial vehicle	Has the same meaning as in Section 138 Road Traffic Regulation Act 1984, ("any goods vehicle which has an operating weight exceeding 7.5 tonnes").
Highway	Has the same meaning as in Section 328 Highways Act 1980, ("the whole or part of a highway other than a ferry or waterway").
Highway authority	Has the same meaning as in Sections 1 and 329 Highways Act 1980.
Highway works	Means "works for road purposes" or "major highway works".
Highways Act 1980	Means the Highways Act 1980
Immediate activities	Means emergency works as defined in Section 52 NRSWA or urgent activities or works as defined in The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.

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In	Has the same meaning as in Section 105(1) NRSWA, "in a context referring to works or activities, apparatus or other property in a street or other place includes a reference to works or activities, apparatus or other property under, over, along or upon it".
Land	Has the same meaning as in Section 329 of Highways Act 1980, ("land includes land covered by water and any interest or right in, over or under land").
Level 1 (or 2, or 3) Gazetteer	As defined in the British Standard BS7666.
Local authority	Has the same meaning as in Section 270(1) Local Government Act 1972(a).
Local highway authority	Has the same meaning as in Section 329 Highways Act 1980,( "a highway authority other than the Minister").
Local planning authority	Has the same meaning as in the Town and Country Planning Act 1990.
Local register	Means a register that is maintained by a single street authority for its own geographic area and will include information on all streets other than those streets that are the responsibility of another street authority.
Local street gazetteer	A subset of the NSG containing details of all streets in a local highway authority area, being a self-contained entity created and maintained by the local highway authority covering all streets in their geographic area regardless of maintenance responsibility.
Main roads	Category 0, 1 and 2 streets and category 3 and 4 streets which are traffic-sensitive for all or part of the time.
Maintainable highway	Has the same meaning as "Highway maintainable at public expense" in S329 Highways Act 1980,and includes highway by virtue of Section 36 Highways Act 1980, and any other enactment (whether contained in the Highways Act 1980 or not ).
Maintenance	Has the same meaning as in Section 329 Highways Act 1980,( "maintenance includes repair, and "maintain" and "maintainable" are to be construed accordingly").
Major activities	Activities which have been identified in an Promoter's annual operating programme, or if not identified in that programme, are normally planned or known about at least six months in advance of the date proposed for the works; or street works, other than immediate works, where (i) the street authority has indicated to the undertaker; or (ii) the undertaker considers, that an order under Section 14 of the Road Traffic Regulation

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	Act 1984 (temporary prohibition or restriction on roads) is required; or street works, other than immediate street works, which have a planned duration of 11 days or more".
Major bridge works	Has the same meaning as in Section 88 (2) NRSWA, ("works for the replacement, reconstruction or substantial alteration of a bridge").
Major highway works	Has the same meaning as in Section 86 (3) NRSWA, (" works of any of the following descriptions executed by the highway authority in relation to a highway which consists of or includes a carriageway -  (a) reconstruction or widening of the highway;  (b) works carried out in exercise of the powers conferred by Section 64 Highways Act 1980 (dual carriageways and roundabouts);  (c) substantial alteration of the level of the highway;  (d) provision, alteration of the position or width, or substantial alteration in the level of a carriageway, footway or cycle track in the highway;  (e) the construction or removal of a road hump within the meaning of Section 90F Highways Act 1980;  (f) works carried out in exercise of the powers conferred by Section 184 Highways Act 1980 (vehicle crossings over footways and verges);  (g) provision of a cattle-grid in the highway or works ancillary thereto; or  (h) tunnelling or boring under the highway".
Major transport works	Has the same meaning as in Section 91(2) NRSWA, ("substantial works required for the purposes of a transport undertaking and executed in property held or used for the purposes of the undertaking").
Material consideration	A consideration which relates to the carrying out of registerable activities and the impact of those activities. The weight to be accorded to any material consideration will depend upon the circumstances of the case.
Minor roads	Streets in reinstatement categories 3 and 4 which are not traffic sensitive at any time.



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Minor works	Means those street works other than immediate works or major works where the planned duration is three days or less.
National Grid Reference (NGR)	Location reference using nationally defined eastings and northings.
National Land and Property Gazetteer (NLPG)	Gazetteer providing a national reference of land and property related Data Nationally consistent street gazetteer (NSG), a database defined as “an index of streets and their geographical locations created and maintained by the local highway authorities” based on the BS7666 standard.
Nationally Consistent Street Gazetteer (NSG)	Means a database defined as “an index of streets and their geographical locations created and maintained by the local highway authorities” based on the BS7666 standard.
Network management duty	Means the duty imposed upon the local traffic authority under Section 16 TMA to manage their road network. The duty must be undertaken with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following overriding objectives:  (a) securing the expeditious movement of traffic on the authority’s road network; and  (b) facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.
Notice management system	Notice management systems receive electronic street works notices and are used by street authorities to manage them together with other relevant information.
NRSWA	New Roads and Street Works Act 1991.
NSG	National Street Gazetteer.
NSG Custodian	The body appointed to manage the NSG on behalf of the local highway authorities.
ODD	Operational District Data.
Opening (the street)	Removing a lid or cover to a manhole, inspection chamber, meter box or other structure embedded in the street without any “breaking up” of the street.
Ordnance Survey Grid	A spatial location based on the geospatially referenced national grid owned by the Ordnance Survey.
OSGR	Ordnance Survey Grid Reference.

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PAA	Provisional Advanced Authorisation. An indication of the likely future issue by the Permit Authority of a permit for certain proposed works.
Passenger Transport Authority	One of seven authorities (Greater Manchester, Merseyside, South Yorkshire, Strathclyde, Tyne & Wear, West Midlands and West Yorkshire) made up of representatives from local authorities in the area, responsible for public transport in their area.
Passenger Transport Executive	The executive arm of a Passenger Transport Authority.
Pedestrian Planning Order	Means an order made under Section 249(2) or (2A) Town and Country Planning Act 1990.
Permit Authority	The relevant local highway authority or authorities authorised by a Statutory instrument to operate a Permit Scheme.
Portable Traffic Signals	Portable signals used to control traffic at road junctions (multi-way) or to control traffic along a road (two-way), which are defined within the Traffic Signs Regulations and General Directions (2002).
Prescribed	Has the same meaning as in Section 104 NRSWA, "prescription by the Secretary of State by Regulations, which may (unless the context otherwise requires) make different provision for different cases".
Promoter	A person or organisation responsible for commissioning activities [works] in streets covered by the Permit Scheme. In the Permit Scheme Promoters will be either a statutory undertaker or a participating Council as a highway or traffic authority.
Protected street	Has the same meaning as in s61 NRSWA and includes any street that serves a specific strategic traffic need and therefore needs to be protected from unnecessary excavation and works and providing there is a reasonable alternative route in which undertakers can place the equipment that would otherwise lawfully have been placed in the protected street.
Provisional street	A street that does not yet have an entry in the NSG. Typically these will be newly created and/or private streets.
Public sewer	Has the same meaning as in the Water Industry Act 1991.
Railway	Has the same meaning as in Section 105(1) NRSWA and includes a light railway other than one in the nature of a tramway.

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Reasonable period	Has the same meaning as in Regulation 37(4) of the 2007 Regulations and Section 74(2A) NRSWA as inserted by section 256 Transport Act 2000.
Reasonable times	Means normal office hours (08:00 to 16:30, Monday to Friday except Bank Holidays).
Registerable activities	As set out in Section 6.1, the permit scheme applies to all registerable activities as defines in Section 9.1.1 of the Code of Practice.  As set out in Section 6.2 registerable activities correspond to what are "specified works" in the Traffic Management Permit Schemes (England) Regulations 2007.
The 2007 Regulations	The Traffic Management Permit Scheme (England) Regulations 2007.
Reinstatement	Has the same meaning as in Section 105(1) NRSWA, "and includes making good".
Reinstatement Category	The reinstatement category of a street in the Permit Scheme is the same as the reinstatement category under NRSWA, as defined in the Specification for the Reinstatement of Openings in Highways.
Relevant authority	Has the same meaning as in Section 49 (6) of NRSWA, ("references in this Part to the relevant authorities in relation to any works in a street are to the street authority and also (a) where the works include the breaking up or opening of a public sewer in the street, the sewer authority; (b) where the street is carried or crossed by a bridge vested in a transport authority, or crosses or is crossed by any other property held or used for the purposes of a transport authority, that authority; and (c) where in any other case the street is carried or crossed by a bridge, the bridge authority").
Remedial works	Means those works required to rectify defects identified in accordance with the provisions of the Code of Practice for Inspections and Regulations.
Road	Means "Highway".
Road category	Means one of the road categories specified in paragraph 1.3.1 Chapter S.1 of the Code of Practice entitled "Specification for the Reinstatement of Openings in Highways" dated April 2010, or where revised or reissued from time to time.
Road works	Works for road purposes.
Schema (XML)	Schemas express shared vocabularies allow machines to carry out rules made by people. They provide means for

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	defining the structure, content and semantics of XML documents.
Sewer	Has the same meaning as in the Water Industry Act 1991.
Small Openings and Small Excavations	All openings with a surface area of two square metres or less.
Special Engineering Difficulties (SED)	Has the same meaning as in Section 63 NRSWA, and refers to streets or parts of streets associated with structures, or streets of extraordinary construction where street works must be carefully planned and executed in order to avoid damage to, or failure of, the street itself or the associated structure with attendant danger to person or property.
Specified works	Means registerable activities and comprises both street works and works for road purposes as described in the Permit Scheme.
Standard works	Standard works are those street works, other than immediate works or major works, which have a planned duration of between four and ten days inclusive.
Statutory Guidance	Means the Traffic Management Act 2004 Statutory Guidance for Permits (March 2008).
Statutory right	Has the same meaning as in Section 105 (1) NRSWA, ("a right (whether expressed as a right, a power or otherwise) conferred by an enactment (whenever passed or made), other than a right exercisable by virtue of a street works licence").
Statutory Undertaker	Has the same meaning as in Section 48 (4) NRSWA, and in relation to street works means the person by whom the relevant statutory right is exercisable (in the capacity in which it is exercisable by him) or the licensee under the relevant street works licence".
Street	Has the same meaning as in Section 48 (1) NRSWA, and includes the whole or any part of any of the following, irrespective of whether it is a thoroughfare;-  (a) any highway, road, lane, footway, alley or passage;  (b) any square or court;  (c) any land laid out as a way whether it is for the time being formed as a way or not".
Street authority	Has the same meaning as in Section 49 (1) NRSWA.
Street managers	Has the same meaning as in Section 49 (4) NRSWA, and where used in relation to a street which is not a maintainable highway, means the authority, body or person liable to the

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	public to maintain or repair the street or, if there is none, any authority, body or person having the management or control of the street.
Street works	Has the same meaning as in Section 48 (3) NRSWA, "street works means works of any of the following kinds (other than works for road purposes) executed in a street in pursuance of a statutory right or a street works licence: (a) placing apparatus; or (b) inspecting, maintaining, adjusting, repairing, altering or renewing apparatus, changing the position of apparatus or removing it, or works required for or incidental to any such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street".
Street works licence	Has the same meaning as in Section 50 (1) NRSWA, "the street authority may grant a licence (a "street works licence") permitting a person  (a) to place, or to retain, apparatus in the street, and  (b) thereafter to inspect, maintain, adjust, repair, alter or renew the apparatus, change its position or remove it, and to execute for those purposes any works required for or incidental to such works (including, in particular, breaking up or opening the street, or any sewer, drain or tunnel under it, or tunnelling or boring under the street).
Technical Specification for EToN	Means the NRSWA (1991) Technical Specification for the Electronic Transfer of Notifications (EToN).
Traffic Regulation Order	Means an Order made under section 1,6,9 or 14 of the Road Traffic Regulation Act 1984.
The "Regulations" or "Regs"	Means the Traffic Management Permit Schemes (England) Regulations 2007 SI 2007 No. 3372.
TMA	The Traffic Management Act 2004.
Traffic	Has the same meaning as in Section 105 (1) of NRSWA, and includes pedestrians and animals.
Traffic authority	Has the same meaning as in Section 121A of the Road Traffic Regulation Act 1984.
Traffic control	Any of the five methods of controlling traffic detailed in the Code of Practice "Safety at Street Works and Road Works".
Traffic Order	Means an Order made under the Road Traffic Regulation Act 1984.

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Traffic sensitive street	Means a street designated by a street authority as traffic-sensitive pursuant to Section 64 NRSWA and in a case where a limited designation is made pursuant to Section 64(3). Any reference to works in a traffic-sensitive street shall be construed as a reference to works to be executed at the times and dates specified in such designation.
Tramway	Has the same meaning as in Section 105 (1) NRSWA, ("a system, mainly or exclusively for the carriage of passengers, using vehicles guided, or powered by energy transmitted, by rails or other fixed apparatus installed exclusively or mainly in a street").
Transport authority	Has the same meaning as in Section 91(1)(a) NRSWA, "the authority, body or person having the control or management of a transport undertaking".
Transport undertaking	As defined in Section 91(1)(b) of NRSWA, "transport undertaking means a railway, tramway, dock, harbour, pier, canal or inland navigation undertaking of which the activities, or some of the activities, are carried on under statutory authority".
Trunk road	Has the same meaning as in Section 329 Highways Act 1980, "a highway, or a proposed highway, which is a trunk road by virtue of Section 10(1) or Section 19 Highways Act 1980 or by virtue of an order or direction under Section 10 Highways Act 1980 or under any other enactment".
Unique Street Reference Number (USRN)	As defined in the British Standard BS7666.
Urgent activities or works	Means immediate activities which are <p>a) activities (not being emergency works) whose execution at the time they are executed is required (or which the person responsible for the activity believes on reasonable grounds to be required)</p> <p>i) to prevent or put an end to an unplanned interruption of any supply or service provided by the undertaker;</p> <p>ii) to avoid substantial loss to the undertaker in relation to an existing service; or</p> <p>iii) to reconnect supplies or services where the undertaker would be under a civil or criminal liability if the reconnection is delayed until after the expiration of the appropriate notice period; and</p>

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	(b) Includes activity that cannot reasonably be severed from such activities.
Working day	A working day means a day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday; and for the purposes of the Permit Scheme the commencement of a working day will be treated as being 08:00 and its end as 16:30.
Working Space	Has the same meaning as specified on page 5 of the current "Safety at Street Works and Road Works, Code of Practice.
Works	Street works or works for road purposes.
Works clear	A works clear notice is used following interim reinstatement.
Works closed	A works closed notice is used following permanent reinstatement.
Works comment	Means an electronic communication using EToN.
Works for road purposes	Has the same meaning as in Section 86(2) NRSWA, ("works for road purposes means works of any of the following descriptions executed in relation to a highway:  (a) works for the maintenance of the highway;  (b) any works under powers conferred by Part V of the Highways Act 1980 (improvement);  (c) the erection, maintenance, alteration or removal of traffic signs on or near the highway; or  (d) the construction of a crossing for vehicles across a footway or grass verge or the strengthening or adaptation of a footway for use as a crossing for vehicles").
Works Reference	Within the Technical Specification for EToN a works reference is detailed as "allocated by the promoter and includes Prefix and District. The works reference must be unique to an individual works".
XML	Extensible Markup Language

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## Appendix B – Dis-applied Sections from the NRSWA(1991)

NRSWA Section		Change	Permit Regulations - Revised Arrangements
Section 53	The street works register	Disapplied	Permit regulations prescribe similar provisions for permit registers
Section 54	Advance notice of certain works	Disapplied	Replaced by applications for provisional advance authorisation
Section 55	Notice of starting date	Disapplied	Replaced by applications for permits
Section 56	Power to direct timing of street works	Disapplied	Replaced by permit conditions and variations including those initiated by the Permit Authority
Section 57	Notice of emergency works	Disapplied	Replaced by applications for immediate activities
Section 66	Avoidance of unnecessary delay or obstruction	Disapplied	Replaced equivalent provisions for permit authorities to require Promoters in breach of the permit requirements to take remedial action and failing that for the authority to act. 24 hour compliance period to be replaced with a requirement for Promoters to comply within a reasonable specified period determined by circumstances



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### Appendix C - Modifications to NRSWA (1991)

The 2007 Regulations modify the following sections of NRSWA to accommodate the issuing of permits rather than the exchange of notices.

NRSWA Section		Change	Permit Regulations – Revised Arrangements
Section 58	Restriction on works following substantial road works	Modified	The authority's ability to issue permits with start and end dates replacing directions to start works covered in NRSWA S58 (5) to (7) - The 2007 Regulations provide the equivalent of S58A powers by allowing authorities to take into account whether Promoters responded to the S58 notice by submitting an application for their planned activities
Section 58A	Restriction on works following substantial street works	Modified	Schedule 3A is modified to work in conjunction with permits
Section 64	Traffic Sensitive Street	Modified	Permit regulations provide the requirement for notifying permit applicants the proposals for to designate streets as traffic sensitive
Section 69	Works likely to affect other apparatus in the street	Effectively extended	Permit regulations create an equivalent requirement on highway authority promoters
Section 74	Charge for occupation of the highway where works are unreasonably prolonged	Modified	Permit regulations make provision to operate S74 powers in parallel with Permits
Section 88	Bridge, bridge authorities and related matters	Modified	Modified to work in conjunction with permits
Section 89	Public sewers, sewer authorities and related matters	Modified	Modified to work in conjunction with permits

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Section 90	Provisions as to reinstatement of sewers, drains and tunnels	Modified	Modified to work in conjunction with permits
Section 93	Works affecting level crossings or tramways	Modified	Modified to work in conjunction with permits.

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## Appendix D – Application & Responses Times

Activity Type	Minimum application periods ahead of proposed start date		Minimum period before permit expires for application for variation (including extension)	Response times for issuing a permit or seeking further information or discussion		Response times to applications for permit variations (Days = Working days)
	Application for provisional advance authorisation	Application for Permit (Days = Working days)		Application for provisional advance authorisation	Application for Permit (Days = Working days)	
<b>Major</b>	3 Months	10 Days	2 Days or 20% of the original duration whichever is longest	1 Calendar Month	5 Days	2 Days
<b>Standard</b>	n/a	10 Days		n/a	5 Days	2 Days
<b>Minor</b>	n/a	3 Days		n/a	2 Days	2 Days
<b>Immediate</b>	n/a	2 Hours After		n/a	2 Days	2 Days

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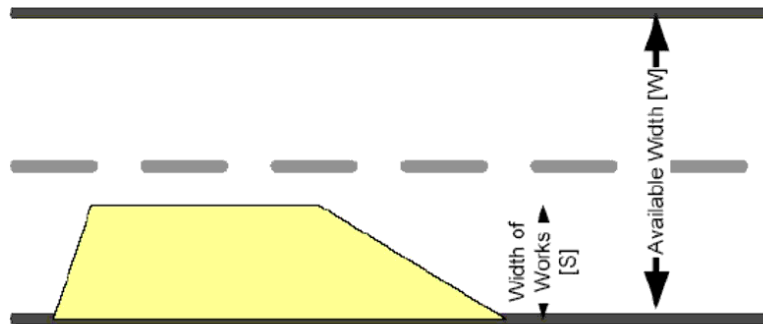
## Appendix E – Disruption Effect Score

### Derivation of Disruption Effect Score

The disruption effect score is based on the reduction in capacity resulting from an activity on the highway. The reduction in capacity may be calculated using an algorithm that requires the entry of a number of simple factors. These factors are as follows:

Factor	Description
[P]	The daily traffic flow, measured as an average am/pm peak hour flow in PCUs per hour, so that it takes account of HGV percentages. (Source: Highway Authority)
[W]	The total width in metres of the carriageway (or the width of both carriageways for a dual carriageway road) (Source: Ordnance Survey mapping using GIS tools)
[S]	The width in metres of the activity occupying the carriageway, or in the case of activities on the footway, this would be the width in metres of the carriageway occupied by attendant vehicles and associated traffic management, as well as the width needed for any incursion of pedestrians, cyclists and horse riders into the carriageway. (Source: Established as part of the works planning process)

### Disruption Effect Score – Calculation Illustration



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**Calculation of Disruption Effect Score**

The following algorithm is used to calculate the Disruption Effect Score:

$$\text{Disruption Effect Score} = [(Px100)/(1600x(W-S)/3.65)]$$

**Use of Disruption Effect Score**

The disruption effect score has a number of specific uses including:

- i. Derivation of the Traffic Impact Assessment,
- ii. Objective based prioritisation of activities for co-ordination, and
- iii. Performance indicators

**Impact Assessment**

The impact assessment is a broad indicator of the potential disruption that could arise from an activity on the highway;

Disruption Effect Score	Impact
Greater than or equal to 75	Severe
Greater than or equal to 50 and less than 75	Moderate
Greater than or equal to 25 and less than 50	Slight
Less than 25	None

**Impact on Buses**

The impact assessment for bus traffic is assessed for defined bus routes only and is derived as follows:

Disruption Effect Score Factor	Impact
Greater than or equal to 75	Severe
Dedicated bus lane closed	Severe
Greater than or equal to 50 and less than 75	Moderate
Dedicated bus lane diverted	Moderate
Greater than or equal to 25 and less than 50	Slight
Less than 50	None

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**Impact on Pedestrians**

The impact assessment for pedestrian traffic is derived as follows:

Factor	Impact				
	Footway Hierarchy Category				
	1a	1	2	3	4
Closure	Severe	Severe	Severe	Severe	Moderate
Complete Diversion	Severe	Severe	Severe	Moderate	Slight
Partial Diversion	Severe	Severe	Moderate	Moderate	Slight
Narrowing >50%	Severe	Severe	Slight	Slight	None
Narrowing <50%	Severe	Moderate	Slight	None	None

A 'complete diversion' of a footway is where a new route for pedestrians has been established, for example where there is a requirement to cross the road to use the opposite footway. A 'partial diversion' of a footway is where the route for pedestrians is diverted around the activity's site but remains on the same side of the road. In addition, the impact of any activities on footways associated with urban transport facilities will be considered as 'severe'. For the purposes of this section these are any activities on footways that are within 100 metres of an entrance to a bus, tube, railway or tram station.

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## Appendix F – Permit Fees

Essex County Council		
Reinstatement category of street	Road Category 0-2 or Traffic Sensitive	Road Category 3-4 and Non-Traffic Sensitive
Provisional Advance Authorisation	£100*	£50
Major Activity or requiring a TRO	£201*	£80
Major Activity – 4 to 10 days	£125*	£40
Major Activity – up to 3 days	£60*	£25
Standard activity	£125*	£40
Minor Activity	£60*	£25
Immediate activity	£50*	£35

### Permit Reduction

Reduction for works **Wholly** outside of Traffic Sensitive Times on Traffic Sensitive Streets. Essex County Council reviewed the HAUC Advice note No. 2013/02 and will apply a discount to both Road Category 3 – 4 that is Traffic Sensitive and Road Category 0-2, were the works are **Wholly** outside Traffic Sensitive Times. This is over and above the HAUC Advice note.

15% on permit fees as per marked on matrix above (\*)

### Permit Variation Fees

For permit variations, the Permit Authority will charge:-

- **£45** for all works on category 0, 1 and 2 streets and category 3 and 4 streets that are traffic-sensitive;
- **£35** for major activities on category 3 and 4 & non traffic-sensitive streets.

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## Appendix G – Key Performance Indicators (KPI's)

Every authority wishing to implement a permit scheme must indicate how it intends to demonstrate parity of treatment for promoters in its application. In this Appendix we have expanded upon the details in Section 4 to give greater information on the components within the KPI's. The intention is to provide these broken down into promoter organisation each month

The DfT's Code of Practice for Permits 2008 contains seven KPIs, which could be used for this purpose.

There are 2 mandatory KPIs that each permit scheme must include.

<b>KPI 1</b>	<b>The number of permit &amp; permit variation applications received, the number granted &amp; the number refused.</b>
A	The total number of permit & permit variation applications received, excluding any applications that are subsequently withdrawn.
B	The number granted as a percentage of the total applications made.
C	The number refused as a percentage of the total applications made.
D	The number deemed as a percentage of the total applications made

<b>KPI 2</b>	<b>The number of conditions applied by condition type.</b>
A	The number of permits issued.
B	The number of conditions applied, broken down into condition types. The number of each type being shown as a percentage of the total permits issued.

Authorities should select at least two other KPI's, which they consider will demonstrate parity across their scheme. Of these the Permit Authority will adopt KPIs 3, 4 and 5 to demonstrate parity of treatment between their own road works and streets works undertaken by statutory undertakers.

<b>KPI 3</b>	<b>The number of approved extensions.</b>
A	The total number of permits issued.
B	The number of requests for extensions shown as a percentage of permits issued.
C	The number of agreed extensions shown as a percentage of extensions applied for.

<b>KPI 4</b>	<b>The number of occurrences of reducing the application period.</b>
A	The total number of permit & permit variation applications made.



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- B The number of requests to reduce the notification period as a percentage of total applications made.
- C The number of agreements to reduce the notification period as a percentage of requests made.

**KPI 5 The number of agreements to work in Section 58 & Section 58A restrictions.**

- A The number of applications made to carry out works where a Section 58 or 58A restriction is in place, other than the allowed exceptions.
- B The number of agreements given for these works to take place as a percentage of the total number of requests,

Authorities can also include their own KPI's. Additional Essex Key Performance Indicators

**KPI 6 Cancelled permit requests.**

- A The total number of permits issued.
- B The total number of permits requested
- C The total number of permits cancelled before the permit has been granted shown as a percentage of permits requested
- D The total number of permits cancelled after the permit has been granted shown as a percentage of permits granted.

**KPI 7 Collaborative working.**

- A The total number of permits issued.
- B The number of instances of collaborative working shown as a percentage of permits granted.
- C The number of instances where collaborative working has been initiated by the works promoter, shown as a percentage of permits granted.
- D The number of instances where collaborative working has been initiated by the Street Authority, shown as a percentage of permits granted.

**KPI 8 First Time Permanent Reinstatements**

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- A The total number of permits granted that have an excavation type of 14 or 15 or 18 & where phase 1 has not been cancelled & where the works are not wholly within the verge (all sites).
- B The total number of permits granted where all sites were registered as being made permanent at the completion of phase 1. This figure will not include works that are wholly within the verge (all sites).
- C The total number of first time permanent reinstatements as a percentage of permits granted with an excavation type of 14 or 15 or 18.
- D The date range for this measure will be the 1 year period between 1 Apr & ending 31 Mar.
- E The actual start date will be used to determine which period each works relates to.

**KPI 9**

**Coring Results**

- A The total number of core samples successfully tested for thickness & correct use of surface and binder courses.
- B The total number of cores samples that did not comply shown as a percentage of cores successfully tested.
- C Only reinstatements that visually appear to comply with the current Specification for the Reinstatement of Openings in Highways will be selected for sampling.
- D Reinstatements for sampling will be selected by the Permit Authority.
- E Core sampling & testing will be completed by a UKAS accredited laboratory, appointed by the Permit Authority, which is accredited for the taking & analysis of the core samples.
- F The total number of non-complying reinstatements shown as a percentage of all cores successfully tested.
- G The date range for this measure will be the 1 year period starting 1 Apr & ending 31 Mar.
- H The date the reinstatement was registered as being completed will be used to determine which period each works relates to.

This document is issued by  
**Essex County Council, Transport & Infrastructure**

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## EXPLANATORY NOTE

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

This Order gives effect to the Essex County Council Permit Scheme.

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

*Article 3* gives effect to the permit scheme, which will come into effect on 16th March 2015. The permit scheme referred to in this article is set out in the Schedule to the Order.

*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 Essex County Council Permit Scheme.

A copy of the Essex County Council Permit Scheme is deposited and can be inspected at Essex County Council, County Hall, Market Road, Chelmsford, CM1 1QH and is available to inspect on the Council's website [www.essex.gov.uk](http://www.essex.gov.uk).