

ENVIRONMENT OVERVIEW AND SCRUTINY PANEL

26 MAY 2023

STREET WORKS

Summary

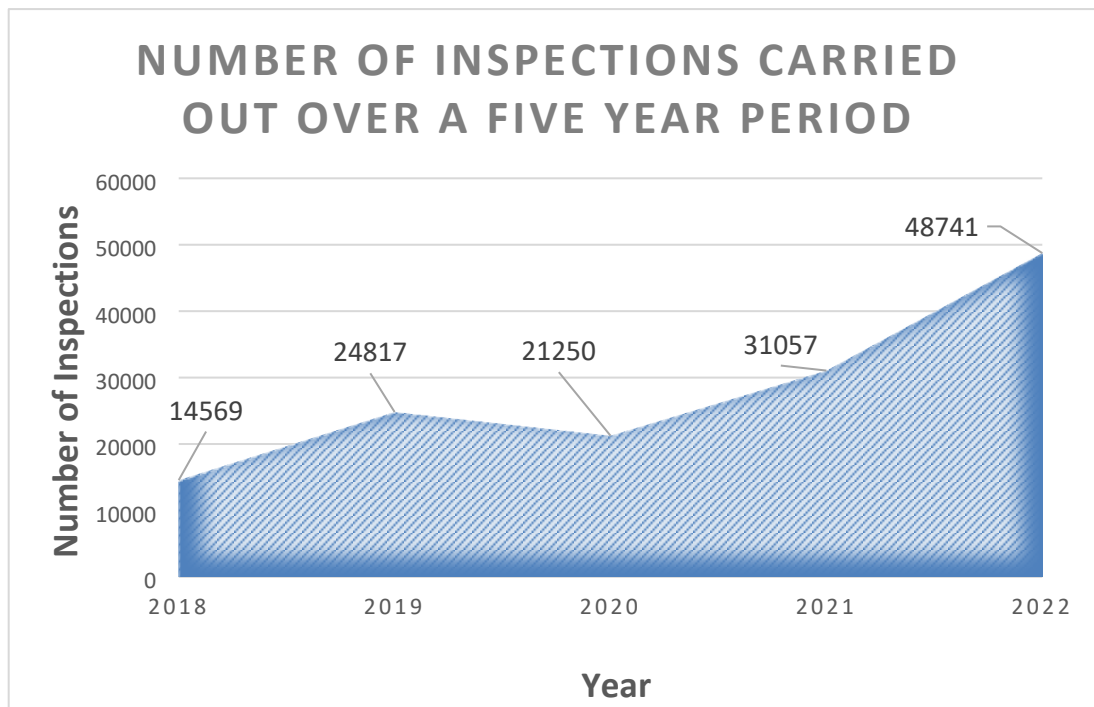
1. The Cabinet Member with Responsibility for Highways and Transport and Senior Officers from the Economy and Infrastructure Directorate have been invited to the meeting to provide detailed information on a number of areas relating to the co-ordination, compliance and control of Street Works activities on the highway.

Background

2. The Panel has identified the following issues which it wishes to consider in detail including the procedures and operating practices relating to the following activities:
 - Road closure diversion
 - Reinstatement defects
 - Section 58 restrictions – protection of resurfaced footways and carriageways
 - Emergency and urgent work permit applications
 - Lane Rental Scheme feasibility

Street Works Overview

3. In 2022, Worcestershire County Council's (the Council) team:
 - Processed **60,212** applications for permits and variations to permits each one reviewed and with specific conditions applied to minimise impact on traffic flow and impact on network.
 - Carried out **48,741** inspection checks including:
 - compliance with permit conditions,
 - occupancy and progress of works,
 - compliance with health and safety regulations with respect to protection of the public from harm,
 - reinstatement standards check
 - Issued **4258** fixed penalty notices:
 - Regulation 20 – breach of permit condition
 - Regulation 19 – working without a permit
 - Section 74 – unreasonably prolonged works
 - Section 70 – failure to register interim or permanent reinstatement
4. The Council's Street Works team has invested the permit income in staff resource and technology to enable an increase in compliance checks and enforcement.



Road Closures

5. In certain cases, the location or nature of the works being undertaken will make it impossible to achieve a safe working area and maintain traffic or pedestrian flows around the works. In these cases, a carriageway, footway, or footpath closure will be required. This option can only be considered if there is a suitable diversion route for the affected traffic or pedestrians. Under no circumstances will pedestrian access be denied to any property or premises.
6. A risk assessment must be carried out on any diversion route to ensure it is suitable and safe for the diverted traffic or pedestrians.
7. If it is necessary to close a road to vehicular traffic, a Temporary Traffic Regulation Order or Notice will be required, and sufficient notice must be given to comply with statutory obligations. For emergency works, Temporary Traffic Regulation Orders or Notices should be requested as soon as their need is recognised.
8. Every effort should be made to maintain pedestrian access past the works and to maintain vehicular access to all properties and premises within the closure area.
9. If a safe route past the works for motor vehicles cannot be provided, then consideration is given to maintaining two-way access for pedal cycles.
10. In some circumstances a full road closure may be avoided by the introduction of one-way traffic to reduce disruption and enable traffic flows to be maintained. This option can only be considered if there is a suitable diversion route for the affected traffic. Again, a Temporary Traffic Regulation Order or Notice will be required, and a risk assessment carried out on the diversion route.

11. Diversion routes have to cater for every type of vehicle that could be expected on the road that is closed. The Council can't, for example, divert traffic from a normal road onto a motorway, because tractors and cycles couldn't then follow the diversion. Neither can the Council divert traffic onto roads that are not suitable for larger vehicles.
12. This means A road diversions will normally take you via other A roads rather than onto B or C class roads. Those who know the area, often will use country lanes to give a faster route round the closed road. However, following the diversion signs is essential for HGV traffic to prevent vehicles having to make unsafe turning or reversing manoeuvres or travel down unsuitable roads potentially damaging the structures and environment of those lanes or roads.
13. To meet the requirement to ensure the safe management of the diversion of all vehicles, particularly larger vehicles, diversion route signage is placed at points on the network where those diversionary movements must take place, which is often a good distance from the actual closure. The advanced warning signage of closures is aimed at local and regular users to be alerted to the upcoming closure and to check the details which are always online through the one.network website. In addition, during the closure, signs will state access to frontages and businesses.
14. It is the responsibility of the works promoter to inform all stakeholders who are likely to be affected by the road closure or road restriction. This could include residents, parish councils, schools, businesses and churches. Every application is different, so all stakeholders in the area affected by the road closure have to be carefully considered, then informed and/or consulted. This allows stakeholders to make alternative arrangements during the closure period. The Council require evidence of this at the planning stage of any planned closure.

Section 58

15. Section 58 and 58A of the New Roads and Street Works Act allows a highway authority to place restrictions on any Street Works activity following authority works or major utility work. Such restrictions prohibit any planned street works following any major surfacing works depending on the type of work that has taken place:
 - New Roads and Reconstructed Roads – 5 years
 - Resurfaced Roads – 3 years
 - Other Works – 1 Year/ 6 Months
16. A proposed section 58 notice will be submitted in advance of the date on which surfacing works are expected to start, providing utility companies or private contractors/developers an opportunity to conduct their works in advance of the restriction coming into force.
17. This process promotes better works planning and co-ordination, helps minimise disruption to road users, and helps to prolong the life of the roads.
18. A section 58 restriction doesn't prevent emergency works (such as gas escapes or loss of power) or customer connections from taking place. However, customer

connections must not be undertaken until at least 21 days after the completion of the resurfacing works.

19. The roll out of the superfast broadband network provides a new community connection and the economic and social benefit of a high-quality digital infrastructure, as such the works associated are well supported by legislation. Although early engagement for the co-ordination and planning of these works is actively encouraged by the Council there are occasions when they are applying to carry out works on a highway protected by Section 58. In this instance the legal requirement for the permit application is only 21 days post surfacing works completion as for emergency works.

Street Works Inspections

20. The 'Specification of the reinstatement of openings in highways' (SROH) outlines the standards for reinstating streets after completing street works. Anyone who carries out street works must reinstate the street once the work is finished, in line with these standards.
21. The Council's Street Works team has greatly increased inspection resource over the last 2 years, and following updates to legislation in April 2023, has just restructured to strengthen the enforcement team to manage the change to a performance linked inspection regime.
22. As a result, companies that leave behind roads in poor condition could see 100% of their street works inspected, with charging set at £50 per inspection and a further £120 for follow-up inspections on defective reinstatements. Well performing companies will see a reduction in their inspection rates. Inspection rates are generated through the Department for Transport (DfT) Street Manager system. The rate was previously the same for all works promoters at around 30%, but now they are based on the performance data which is generated through inspection reports.
23. Previously, the defect charges were set at £47.50 for every 17 days a site was revisited and failed, the problem with this system was some defects rolled on for many months.
24. The new legislation charges a higher rate but following a second inspection of a defective reinstatement the issue moves to the escalation process and potentially dispute resolution.

Emergency and urgent works

25. **Major works** are those:

- Works identified in an undertaker's annual operating programme, which are normally planned or known about at least six months in advance of the proposed start date, or
- Works that require a temporary traffic order (not a temporary traffic notice) under the Road Traffic Regulation Act 1984 for any works other than immediate works, or

- Works with a planned duration of 11 days or more, other than immediate works.
26. **Standard works** are works, other than immediate or major works, with a planned duration of between four and ten days inclusive.
27. **Minor works** are works, other than immediate or major works, with a planned duration of three days or less.
28. **Immediate works** are either:
- **Emergency works** required to end, or prevent, circumstances, either existing or imminent, that might cause damage to people or property.
 - **Urgent works** as defined in the Regulations as street works:
 - (a) (not being emergency works) whose execution is required (or which the person responsible for the works believes, on reasonable grounds, to be required):
 - (i) to prevent, or put an end to, an unplanned interruption of any supply or service provided by the undertaker
 - (ii) to avoid substantial loss to the undertaker in relation to an existing service or
 - (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 appropriate notice period; and
 - (b) includes works that cannot reasonably be severed from such works.

Lane Rental Feasibility

29. Over the past 3 years, the Council has considered the potential for the implementation of a Lane rental scheme (LRS) for Street works. In the first instance the Council was required to ensure that it had published the performance and financial monitoring reports showing its 'well run' Permit Scheme and a regime of inspections on the Council's own works was implemented in order to report parity.
30. The team are currently keeping up to speed on the progression of any applications for Lane rental schemes by other local authorities. To date two applications have been submitted to DfT from Surrey and West Sussex County Councils (CCs) and these join the trial schemes for Transport for London (TfL) and Kent CC. Outside of the south-east no local highway authority has indicated a future application is to be made, although Oxfordshire have indicated a feasibility study.
31. Lane Rental Key Principles are to:
- maintain a level playing field for all work promoters and demonstrating parity treatment
 - work with all stakeholders operating within the scheme to ensure there is an open approach to delivering the scheme objectives

- provide reasonable periods of opportunity to work without incurring a charge to demonstrate that charges are genuinely avoidable in most circumstances
 - drive performance improvements and leading the industry through new ideas, innovations and good practices
 - take a practical and reasonable approach to decision making and any disputes that may arise
 - support the delivery of National infrastructure projects
 - provide transparency to the success and governance of the scheme through publication of monitoring and evaluation reports
32. To apply to Secretary of State for the authority to run a Lane Rental Scheme a local highway authority (LHA) must:
- evidence a well-run permit scheme
 - identify the top 5% most congested parts of the local highway network using the definition set out by DfT
 - apply the scheme to all works, only emergency works have exemption for 48hrs. Charges must apply to the LHA's own works
 - ensure charges incentivise works outside of peak times
 - arrange that the surplus revenue is made available to all works promoters to apply for schemes to reduce the disruption caused by Street Works. The income from lane rental is available to the LHA to cover the costs of running the scheme but the surplus revenue must be managed by a joint committee made up of all works promoters
 - arrange for the scheme to be trialled before it goes live, and;
 - review the scheme annually to ensure charges remain proportionate and are applied to the most congested roads and publish an Annual report.
 - Scheme development includes extensive consultation and application to Secretary of State with a lead time of around 18 months and cost circa £70,000
33. Based on the monitoring of the pioneer LRS for TfL and Kent CC the key benefits of their lane rental schemes are:
- the majority of utility works avoided a charge, and therefore were undertaken outside of traffic-sensitive times (84% across TfL scheme)
 - the average number of collaborative works sites where more than one organisation utilises the site at the same time have increased
 - there has been an increase in planned utility works that take place overnight (28% across TfL scheme), and
 - customer satisfaction related to roadworks has improved, including a reduction in reports of “un-manned sites”
34. The aim of a LRS is to achieve all works on these roads to be undertaken outside of traffic sensitive times. However, the practicalities of works means this is not always possible and charges must be incorporated into the costs.
35. Based on evidence from the existing LRS and Highways Authorities and Utilities Committee (HAUC) England Lane Rental Forum, there are a number of issues

that require thorough assessment and mitigation. A detailed review by the Council's financial and legal teams is required as well as consultation across the directorate to consider the impact of the:

- cost to major highways works, for which the Council may be responsible. LRS can result in significant additional costs for the overall scheme. This is demonstrated by TfL where 99% of their works avoid a charge, but they incur around £2m p.a of charges because of high-duration major scheme work. Surrey CC have estimated an additional cost of £800,000-£1.3m p.a. in lane rental charges to their own works.
- increased cost of the Council's highway works on ability to attract funding
- move towards out-of-hours working as a result of the charges and how to minimize social issues, such as noise and health and safety considerations
- organisations may be incentivised to delay non-urgent planned maintenance work to their assets where this would be liable for a lane rental charge
- additional costs for promoters to mitigate for lane rental charges, which can include additional employee and equipment costs and passing on of those costs to customers
- additional costs to developers and utilities of major works and potential of dis-incentive for investment in Worcestershire
- additional costs to developers and the level of developer contributions for community improvements

36. Prior to moving forward with such a substantial legislative change to this highway authority it may be prudent to either await the support of neighbouring highway authorities within the West and Shires Permit Scheme or monitor any future schemes that are applied for outside of London and the South-East region by highways authorities which are more similar to Worcestershire.

Purpose of the Meeting

37. The Panel is asked to:

- consider and comment on the detailed information provided,
- agree any comments to highlight to the Cabinet Member, and
- determine whether any further information or scrutiny on a particular topic is required.

Supporting Information

Appendix 1 – Presentation – Street Works

Contact Points

Alyson Grice/Alison Spall, Overview and Scrutiny Officers Tel: 01905 844962/846607
Email: scrutiny@worcestershire.gov.uk

Background Papers

In the opinion of the proper officer (in this case the Assistant Director of Legal and Governance) the following are the background papers relating to the subject matter of this report:

[Agenda and minutes of the Economy and Environment Overview and Scrutiny Panel 9 May 2018](#)

[All agendas and minutes are available on the Council's website here.](#)