

THE CHESHIRE WEST AND CHESTER BOROUGH COUNCIL PERMIT SCHEME

Cheshire West & Chester Council

Permit Scheme for Road
and Street Activities

Permit Scheme Document



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Cheshire West and Chester Permit Scheme for Road and Street Activities

1 Introduction

1.1 Background

Part 3 of the Traffic Management Act (TMA) 2004 introduced permit schemes as a new way in which activities in the public highway could be managed and to improve authorities' ability to minimise disruption from road and street works.

1.2 Relationship to NRSWA

Permit schemes provide an alternative to the notification system of the New Roads and Street Works Act (NRSWA) 1991, whereby instead of informing a street authority about its intention to carry out works in its area, a statutory undertaker has to book time on the highway by obtaining a permit from the permit authority. Under a permit scheme, the highway authority's activities undertaken by itself, its partners or agents are also treated in exactly the same way as a statutory undertaker. A street authority may choose to implement a permit scheme on all or some of the roads under its control.

1.3 The Permit Scheme

This Permit Scheme, to be known as the Cheshire West and Chester Permit Scheme (CWaCPS), and hereafter referred to as the Permit Scheme, is based on Part 3 of the TMA and the Traffic Management Permit Schemes (England) Regulations 2007, (the Regulations) and has been prepared with regard to the Statutory Guidance issued by the Secretary of State to assist street authorities wishing to become permit authorities and in accordance with the requirements set out in the Regulations. Activity promoters should make themselves aware of the content of these documents and also "The Code of Practice for Permits" alongside which the Permit Scheme will be operated.

All current NRSWA and TMA legislation, codes of practice, etc, and any future amendments to that legislation, apply to the Permit Scheme.

1.4 Objective of the Permit Scheme

The Permit Scheme has been prepared in accordance with achieving the overriding statutory objectives and duties under the TMA 2004 and NRSWA 1991. It is an important aspect of the duties and policies for the permit authority to manage activities in the street, so as to minimise the impact of those activities, while allowing essential activities to take place. The specific objectives of the Permit Scheme are as follows:

- reduce occupation of the highway to benefit all road users;
- obtain greater control of all activities on the public highway;
- minimise/avoid/manage delays to all road users;
- enhance co-ordination of all activities on the highway;
- achieve an improvement in air quality;
- enhance safety of all road users at road and street activities;
- reduce potential incidents/accidents at road activities;
- improve public perception of managing road activities;
- enhance reliability of journey times;

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- enhance journey experience;
- reduce long-term damage to the highway asset;
- encourage collaborative activities between all activity promoters;
- enhance reliability of activities taking place at a particular time, especially on the strategic road network;
- promote best practices across Cheshire West and Chester;
- promote common activity practices across the region to ensure ease of operation for activity promoters;
- enhanced cross-boundary co-operation;
- demonstrate parity for all activity promoters;
- reduce instances of customer complaints regarding road and street activities;
- reduce the impact of noise on residents by having greater control of timing of activities.

1.5 The Permit Authority

The Permit Scheme is operated by Cheshire West and Chester Borough Council, hereinafter referred to as the permit authority.

1.6 Activities

The generic term “activities” has been used rather than “works” to reflect the fact that the scheme may eventually cover more than road and street works in subsequent regulations. These are the specified activities as set out in the Regulations.

1.7 Equivalent Definitions

As the Permit Scheme will operate alongside the NRSWA notice system, the same or equivalent definitions and requirements are used as in the NRSWA notice system, namely:

- registerable activities/works;
- categories of activities/works, (a s54 notice now becomes a provisional advance authorisation and a s55 notice becomes permit application for major permit, standard, minor and immediate activities/works);
- street gazetteers, including street referencing by means of a Unique Street Reference Number (USRN) and Associated Street Data (ASD);
- street reinstatement categories as defined in the NRSWA Reinstatement Specification;
- the distinction between main roads and minor roads where such distinctions are relevant;
- streets designated as Protected Streets, streets having Special Engineering Difficulties (SED), or Traffic Sensitive Streets.

1.8 Changes to NRSWA Legislation

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

- Sections of NRSWA not applied: s.53; s.54; s.55; s.56; s.57; s.66;
- Sections of NRSWA modified: s.58; s.58A; s.64; s.69; s.73A; s.74; s.88; s.89; s.90; s.93;

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Schedule 105; Schedule 3A;

- Regulations modified: The Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007 SI 2007/1951.

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

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2 Specified Activities

2.1 Activities Requiring a Permit

The Permit Scheme controls the following activities undertaken on the public highway and as defined as Registerable Activities in Chapter 9 of The Code of Practice for Permits:

- i. street works as in Part 3 of NRSWA, except for works by licensees under section 50 of NRSWA;
- ii. works for road purposes as defined by section 86 of NRSWA;
- iii. other activities that may be introduced under future regulations.

2.2 Activities for Road Purposes

The requirements of the Permit Scheme apply equally to both highway authority and statutory undertakers' activities with the one exception that fees will not be charged for permits issued for the highway authority's own activities for road purposes. Activity promoters of activities for road purposes must ensure that they have followed the equivalent processes for activities and declare that they have fulfilled these requirements in their applications.

2.3 Activities Not Requiring a Permit before they start

Immediate activities do require a permit, although as such activities are concerned with emergency or urgent situations, an activity promoter can start the activity before applying for a permit. (See section 7.5).

2.4 Activities for which No Permit is Required

Activities executed in a street pursuant to a street works licence issued under section 50 of the NRSWA are not included in the Permit Scheme.

3 Specified Area

3.1 Area Covered by the Permit Scheme

The Permit Scheme is a Single Scheme for Cheshire West and Chester Borough Council. The scheme will operate across the whole of the area encompassed by the Authority's Boundaries.

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4 Specified Streets

4.1 Definition of the Term "Street"

For the purposes of the Permit Scheme, the term "street" refers to that length of road associated with a single USRN. Where a single street on the ground has more than one USRN, separate permits will be required for each USRN to which an activity relates.

4.2 Streets Covered by the Permit Scheme

The Permit Scheme will apply to ALL streets in the Borough. The street gazetteer will be updated with the relevant information indicating it to be a permitted street well in advance of the implementation date. The street gazetteer will be available to all work promoters via the National Street Gazetteer (NSG) concessionaire's website.

4.3 Identification of Streets

All streets that are subject to the Permit Scheme will be identified via the ASD record held on the National Street Gazetteer (NSG) concessionaire's website alongside the NSG data, where the Operational District responsible for maintaining the street is defined as operating a permit scheme.

4.4 Specified Streets

All streets maintained by or on behalf of Cheshire West and Chester Borough 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. For clarification, the Permit Scheme includes all streets within the borough of Cheshire West and Chester.

4.5 Non-Maintainable Highways

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.

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5 Permits General

5.1 Requirement to Obtain a Permit

Any activity promoter of specified activities who wishes to carry out such an activity on a specified street must first obtain a permit from the permit authority. The permit will allow the activity promoter to:

1. carry out the specified activity;
2. at the specified location;
3. between the dates shown (and subject to validity periods where relevant);
4. subject to any conditions the authority may require to be included.

5.2 Exempt Activities

The following activities do not require a permit:

- works carried out in pursuance of a street works licence issued under section 50 of NRSWA;
- traffic census surveys;
- the maintenance of fire hydrants by fire service vehicles provided the activity is undertaken outside traffic sensitive periods, unless these activities involve traffic control.

5.3 One Application Per Street Per Activity

Each application for a permit will be limited to one street (see Section 4.1 for definition of street) and for one activity only, multiple activities MUST NOT be grouped under one permit.

5.4 Activities Covering Several Streets

Where the specified activity involves a number of specified streets, a separate permit will be required for each street. Permit applications for specified activities covering more than one specified street shall be cross-referenced to all related applications. Fees for specified activities which involve several permits may be discounted (refer to if the applications are submitted together and cross referenced. For consistency with NRSWA, a street will correspond to a USRN.

5.5 Phasing of Activities

Phasing of Activities is as defined in the current code of practise for coordination and the ETon Technical Specification.

Activities in any street may involve one or more phases carried out at one or more sites. Separate Permits are required for each activity phase and all permit must use the same activity reference.

5.6 Interrupted Activities

If activities are interrupted because, for instance, the activity promoter finds that they need some specialist plant or apparatus, other than that originally planned for, it is the activity promoter's responsibility to notify the permit authority of a revised estimated end date.

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If undertakers are interrupted because the activity promoter or its contractor, has caused third part damage, then it is the activity promoters responsibility to notify the permit authority of a revised estimated end date, taking into account the likely duration of the repair works.

The works remain the responsibility of the original activity promoter until it is able to issue a works clear or works closed notice.

If an activity is interrupted at the request of the permit authority, they should discuss this and agree to a permit variation to cover the situation, or if necessary a further permit to allow the activity to be completed later.

Whenever an activity is interrupted, the activity promoter should first agree a way forward with the permit authority before starting any of the processes above.

5.7 Collaborative Working

The permit authority encourages collaborative working between activity promoters. To make such schemes work activity promoters must speak to the permit authority as early as possible.

Collaborative working can mean a range of items, however within this scheme document it refers to: where two or more activity promoters agree to undertake their activities at the same time at the same location under the same traffic management to reduce disruption.

Each activity promoter will require a permit to undertake their individual activity.

Collaborative working may qualify for a discount to the permit fee in line with the discounts in Appendix C.

Where collaborative working involves sharing a trench, one activity promotor must take on the role of the primary promoter with the overall responsibility for the activities and will be the point of contact with the permit authority.

While the secondary activity promoter(s) will be required to make a permit application for the activity for which they are responsible, only the permit application made by the primary activity promoter will need to show the number of estimated inspection units.

The primary activity promoter's permit application must give details of the other activity promoter(s) involved and the extent of the collaborative working. The primary activity promoter must also ensure that the estimates of the activity duration are agreed and confirmed with the secondary activity promoter(s) when submitting the application. While the permit authority will issue permits to all of the activity promoters involved, not just the primary activity promoter, the fees will be discounted (please refer to Appendix C to reflect the collaborative approach, subject to all criteria being met.

5.8 Permit Validity

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Permits will only be valid from the start date to the end date of the permit on category 0 to 2 or traffic sensitive streets, and between adjusted dates based on the validity period in the start date for category 3 and 4 streets. The start and end dates will be calendar days, not withstanding reference elsewhere to working days, and may include weekends and bank holidays where agreed by the permit authority, even if these are not working days.

5.9 Charges for Overrunning Street Works/Activities

Charges for overrunning street works/activities, under section 74 of NRSWA, will be made alongside the Permit Scheme. These regulations incorporate the process of setting and modifying the duration of the activity through the permit application, approval and variation processes, with the option to treat all or parts of a duration extension as overrun.

5.10 Start and End Dates

A permit will allow an activity to be carried out during the period between the start and end date on the permit. An activity promoter carrying out an activity outside these dates would not have a valid permit and potentially would be committing an offence. It should be noted that if the permit scheme states that the activity should start on a Monday and finish on a Friday, the weekend cannot be used as additional days without the express approval of the permit authority through a permit variation (extension).

Category 0-2 and Traffic Sensitive Streets

In category 0-2 and traffic sensitive streets, the duration of the activity will exactly match the time from the start date to the end date, for example: start date Wednesday 1 June, end date Friday 10 June, duration eight (working) days (no work undertaken at the weekend unless stated in the permit). The permit start date will be the proposed start date of the activity. If the activity cannot begin on the permit start date, the promoter should inform the permit authority on the previous day by telephone. There is no automatic extension of the permit in these circumstances. If the promoter thinks that it could still complete the activity before the permit end date, then they could begin the activity on a subsequent day, submitting an actual start of activity notice under section 74 of NRSWA.

If the activity promoter could not complete the activity before the permit end date, they must apply for a permit variation (extension). This would be required even if the extra days were on a weekend (in the above case, the permit expires at midnight on Friday night). A permit authority may or may not agree to a permit variation (extension), depending on the circumstances, and the activity promoter may be subject to overrun charges.

Category 3 and 4 Non-Traffic Sensitive Streets

In category 3 and 4 streets that are not traffic sensitive, the permit will be issued with a start and end date. However, because both competition for space and the expected level of disruption is likely to be lower on less busy streets, there will be flexibility on the start of the activity -" validity period on a NRSWA notice.

The starting windows are:

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- 5 days for major and standard activities;
- 2 days for minor activities.

When the activity commences, the activity promoter would have to submit the actual start of activity notice, setting out the actual start of the activity, and the duration must be the same as that given in the permit. The permit end date will be automatically adjusted to allow the agreed duration if the activity starts on any day up to the last day of the validity period. The duration applies to continuous working days and, once the activity starts, the activity promoter has only the successive working day duration in which to complete the activity (no work undertaken at the weekend unless explicitly stated in the permit).

Note: Once the minimum period before the permit expires for an application for a permit variation is reached (2 days or 20% of the original duration, whichever is the longest), the activity promoter should apply for a permit variation (extension) if they wish to continue the activity after the current permit end date. If they continue undertaking the activity without an agreement of a permit variation, they will be committing an offence.

5.11 Actual Start (Sections 74(5B) and 74(5C))

Although the permit start date is also the proposed start for the activity, the actual start date may differ. For Category 3 and 4 non traffic-sensitive streets a flexible starting window is explicitly provided in regulations for permissible activities. On category 0-2 and traffic-sensitive streets, although they do not have the same flexibility, there may be occasions when activities cannot start when proposed. Therefore notification of the actual start for the activity must be given to begin the reasonable period. Activity must not begin before the date given in the permit, unless an early start has been agreed; to do so would be committing an offence.

Once the activity has begun, a Notice of Actual Start of an activity *must* be given by 10.00am the next working day on category 0, 1, 2 and traffic-sensitive streets and by the end of the next working day in the case of category 3 and 4 non traffic-sensitive streets. In the case of immediate activity the permit application will be taken as the actual start date notice as it is made after the activity has commenced, and the status should always be "In Progress". Notice of Actual Start must be given in accordance with the requirements described in the Technical Specification for EToN. The identity of the main contractor or, if appropriate the Direct Labour Organisation ("DLO") must be provided on the actual start notice. This should always be the organisation with whom the undertaker has the contract, and not any subcontractor who may be actually carrying out the activity.

5.12 Works Clear (Section 74(5C))

A works clear notice is used following interim reinstatement. The Notice of Works Clear must be given no later than the end of the working day following the one on which the activity was cleared. Where the activity is completed in different phases such as interim and permanent reinstatement, there will be a need to be separate permits for each phase. In no circumstances should permits be sought for more than one phase, although separate permits for the different phases may be sought

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at the same time if the promoter is confident that they can meet the dates of the later permits which may be some months later.

All spoil, excess materials, stores and all signing, lighting and guarding must be removed from site before the activity can be regarded as completed for a works clear notice. A new permit will be required for any subsequent phases such as to complete the permanent reinstatement.

Works Closed (Section 74 (5C))

A works closed notice is used following permanent reinstatement. The Notice of Works Closed must be given by the end of the next working day following the day on which the activity was closed. All spoil, excess materials, stores and all signing, lighting and guarding must be removed from site before the activity can be regarded as completed for a Works Closed Notice. If temporary road markings have been used, then the activity is not complete until the permanent markings are applied and the activity duration should also cover this period.

5.13 Early Start

The permit authority will consider an activity promoter's request for an early start before or after applying for a Provisional Advance Authorisation or a permit application. Where this is agreed after the original permit application has been made, the activity promoter shall submit a permit variation application. Early start requests should not be unreasonably refused.

5.14 Working Without a Permit

It is an offence for an activity promoter or a person contracted to act on its behalf to undertake specified activities in a specified street without a permit, except where the Permit Scheme provides that this requirement does not apply. Where it is believed that such an offence is being committed, the permit authority may impose a Fixed Penalty Notice (FPN) or pursue legal action via a prosecution and require the party concerned to remove the activity and return the street to its full use.

5.15 Application Requirements

Each application for a permit must include the information indicated in Section 8.

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6 Permits – Types

6.1 Types Covered by the Permit Scheme

There are two types of permit covered by the Permit Scheme as set out below.

6.2 Provisional Advance Authorisation (PAA)

PAA's, are a means of enabling significant activities to be identified, co-ordinated and programmed in advance by allowing activities to be provisionally planned in by the activity promoters, pending the permit authority's subsequent decision on whether, and with what conditions, to grant a permit for the activities.

An activity promoter who wishes to undertake Major Activities (see Section 7.2) on a specified street shall apply for a PAA at least 3 months in advance of those activities starting on the highway, or as agreed with the permit authority. Subsequent applications for permits for Major Activities that have not been preceded by a PAA will not be accepted by the permit authority.

Each application for a PAA will be limited to one street.

An application for a PAA must include a full description of the activity and specify start and end dates, although the start date may be considered as provisional and can be amended in the application for a final permit with full justification of the amendment of the start and end dates.

A fee will be charged for a PAA in addition to the fee which is charged for the issue of the major permit.

The granting of a PAA does not prevent the permit authority from subsequently refusing to grant a major permit to which the PAA relates, if circumstances should change.

6.3 Permits

These are full permits with final details for all registerable activities. The timing of permit applications to the permit authority will depend on the proposed activity (see Section 7 and 10.9).

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7 Permits – Classes

7.1 Classes Covered by the Permit Scheme

There are four classes of permit covered by the Permit Scheme as set out below.

7.2 Permit for Major Activities

Major Activities are those which:

have been identified in an organisation'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 proposed date of the activity;

other than immediate activities, 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, having a duration of 11 working days or more.

Major Activity Permits are required for the most significant activities on the highway and will require the activity promoter to obtain a Provisional Advance Authorisation as part of the application process for a Major Activity Permit. (See Section 6.2).

An application for a Major Activity Permit shall be submitted to the permit authority in accordance with the timescales given in Section 10.9 and must include a description of the proposed activity together with the proposed start and end dates of the activity. Where these differ from those given in the PAA application, the applicant must justify the reasons for any variation.

7.3 Permit for Standard Activities

Standard Activities are those activities, other than immediate or major activities, that have a planned duration of between 4 and 10 working days inclusive. Activities lasting less than 10 working days of which require a traffic regulation order, such as a temporary road closure, will be classified as Major Activities and will be subject to the requirements in Section 7.2.

An application for a Standard Activity Permit shall be submitted to the permit authority in accordance with the timescales given in Section 10.9 and must include a description of the proposed activity together with the proposed start and end dates of the activity.

7.4 Permit for Minor Activities

Minor Activities are those activities, other than immediate or major activities, where the planned working is 3 working days or less.

An application for a Minor Activity Permit shall be submitted to the permit authority in accordance with the timescales given in Section 10.9 and must include a description of the proposed activity together with the proposed start and end dates of the activity.

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7.5 Permit for Immediate Activities

Immediate Activities are those which:

are emergency activities as defined in Section 52 of NRSWA;

urgent activities are defined in the regulations as activities:

- a) (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):
 - i. to prevent or put an end to an unplanned interruption of any supply or service provided by the promoter;
 - ii. to avoid substantial loss to the promoter in relation to an existing service; or
 - iii. 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 permit period; and
- (b) includes works that cannot reasonably be severed from such works.

Given the nature of immediate activities, the activity may commence without a permit, however, activity promoters must apply to the permit authority within 2 hours of the activity starting immediate activity.

Note

The Authority recommends that all works promoters check roadspace availability including that of diversion routes prior to commencement of any immediate works activity on site.

Information on roadworks can be found either on the Authority's website or at www.roadworks.org.

Special requirements relating to particular streets can be found in the ASD data for that street.

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8 Mandatory Requirements in a Permit Application

8.1 Permit Authority Requirements

To enable the permit authority to determine the granting of a permit and any conditions that it may wish to attach to the permit, activity promoters must supply the following information. In the case of Provisional Advance Authorisation applications, the activity promoter should provide the most accurate information available at the time of making the application.

8.2 Contact Person

All permit applications must include the contact details of the person appointed by the activity promoter to deal with any problems that may occur during the activity, including any provision made for out of hours contact.

8.3 USRN

Each application must relate to a single street only (see Section 4.1 and 5.4). Where a single street on the ground has more than one USRN, separate permit applications will be required for each USRN to which an activity relates.

8.4 Description of Activity

A sufficiently detailed description of the activity must be provided to allow the Permit Authority to assess the impact of the activity.

8.5 Location

The activity promoter must provide location details reasonably accurately based on National Grid References (NGR). In the case of small excavations, an NGR must be given for the centre of the excavation; for larger works, a polygon representing the works footprint is required. In addition, dimensions should be given of the space that will be taken up by the activity in the street, including space for the storage of plant/materials, activity space, safety zone, provision for pedestrians and traffic management. These dimensions can be provided in the form of text in the location field.

8.6 Timing and Duration

Each permit application must include the proposed start and end dates of the activity. The application must also include the times of the day when the activity is to be carried out and the applicant must also indicate if it is intended for the activity to continue over weekends and bank holidays and if night activities are required. For traffic sensitive streets, details of the times of day the activity is to be carried out must also be provided. This information can be provided on the application in the conditions.

8.7 Illustration

Provisional Advance Authorisation applications, Major permit applications and any other activities that pose disruption as directed by permit authority must be accompanied by an illustration(s) of the activity and should include details of the activity, and the extent of highway occupancy. The illustration may comprise plans, sections, digital photographs and similar material. Illustrations must also be submitted with the application for minor activities located on a designated traffic sensitive street and streets of engineering difficulty. This should be supplied via EToN.

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8.8 Techniques to be used for Underground Activities

Details of the planned techniques, including open cut, trench share, minimum dig technique or no dig must be provided. This information must be included by selecting the appropriate Excavation Type Code in ETON.

8.9 Traffic Management and Traffic Regulation Orders

The activity promoter must supply full details of the traffic management proposals, to be used whilst undertaking the activity.

Temporary Traffic Regulation Orders (TTROs) need to be applied for following the separate application process in advance of the PAA and a copy of the application must be attached, the permit application must have the granted TTRO attached.

Where portable light signals are required approval must be sought through the existing process and evidence and recorded through ETON by using the temporary traffic signals application process.

In the case of the suspension of a parking bay being required, the activity promoter should make an application to the Authority's Parking Manager.

Applicants should be aware that all of the above may involve additional costs and activity promoters should familiarise themselves with the timescales and procedures relating to all of the above.

8.10 Public Transport

If the proposed activities are likely to have an affect on public transport operators the promoters should have liaised with the operators to consider what measures could be taken to mitigate any adverse impact on public transport. The promoter should include information of such discussions and actions with their application.

Where bus stops need to be closed or relocated then the existing application process should be followed and evidence attached to the permit application.

8.11 Reinstatement Type

The application should wherever possible indicate whether the activity is intended to be completed with interim or permanent reinstatement or a mixture of both. If it is the latter, then details must be provided as to where interim or permanent reinstatements will be completed within that permit. This may prevent the need for a different activity Closing Notice under the provisions of section 74. However, if there has been a change which has not hitherto been recorded, that difference in closure notice may still be required, although such a change would be a variation to the permit for which approval should have been sought.

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8.12 Inspection Units

The activity promoter is required to indicate the provisional number of estimated inspection units appropriate to the activity in accordance with the rules laid down in the relevant code of Practice for Inspections (activity promoters should be mindful of Section 5.7 where collaborative activities take place).

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9 Permit Conditions

The Permit Scheme will use the national standardised conditions as updated and agreed by HAUK UK.

9.1 Breaching of Conditions

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to warn them of its intention and allow the situation to be discussed.

Where it appears to the permit authority that a condition has been breached and that the activity promoter or a person contracted to act on its behalf has therefore committed an offence, it will take action as described in Section 15.4.

9.2 Avoidance of Conflict with Other Legislation

The permit authority will endeavour to ensure that any conditions applied to a permit do not conflict with the activity promoter's obligations under separate legislation. The activity promoter should bring such conflicts to the attention of the permit authority, who will then be responsible for resolving the issue with the other body and amending the permit conditions accordingly. If the activity promoter has safety concerns about conditions set by the permit authority, it should raise these concerns with the permit authority and, if necessary, challenge the permit condition. This challenge should be via an EToN comment.

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10. Permit Applications

10.1 Timing of Applications

The timing of applications for permits and PAAs and the permit authority's response varies according to the proposed activity. The minimum times are given in the table in Section 10.9 and activity promoters should give as much notice as possible, so as to facilitate the co-ordination process. The application process will begin when the permit authority receives the applications, as defined in the EToN Specifications, not when the permit was sent.

10.2 Submitting an Application

Permit and PAA applications should be made electronically. In the event of a system failure, activity promoters shall adopt the EToN Technical Specification procedure.

10.3 Compliance with EToN

All applications must comply with the definitive format and content given in the current EToN Technical Specification.

10.4 Use of Plain English

The description of activities must be in plain English, avoiding industry jargon, and preferably be agreed standard descriptions.

10.5 One Application Per Street

Each application shall refer to activities in only one street. Where a project covers more than one street, all related applications must be cross-referenced and the project reference included on each application.

10.6 Application Covering More Than One Street

Single applications containing activities in more than one street will not be accepted by the permit authority.

10.7 Notification to Interested Parties

Where the ASD indicates other interested parties, permit applications and subsequent notice transaction with the exception of reinstatements shall be copied to those parties.

10.8 Consultation Requirements

Activity promoters must carry out necessary consultations as set down in sections 88, 89 and 93 (as amended) and sections 90 and 91 of the NRSWA.

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10.9 Application and Response Times

The Permit Scheme sets down the application and response times for dealing with permit applications and permit variation applications electronically in the table below. In all cases given in the table, the time period is measured from the time of receipt of the application by the permit authority. A “response” means a decision to grant or refuse a permit, but where there are reasons why the permit cannot be granted in the terms applied for, the response indicating that a permit will not be granted in those terms will explain the reasons to the applicant or may consider issuing a modification request as per Section 10.10.

The term “days” in the table below refer to working days as defined in NRSWA and the Regulations.

Without a prior telephone call, the minimum period to apply electronically for a permit variation (extension) before the permit expires is 2 days or 20% of the original duration.

Application and Response 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		
	Application for Provisional Advance Authorisation (PAA)	Application of Permit		Application for Provisional Advance Authorisation (PAA)	Application of Permit	Response times for responding to variations
Major	3 Months	10 Days	2 days or 20% of the original duration, whichever is longest	1 Calendar Month	5 Days	2 Days
Standard	N/A	10 Days		N/A	5 Days	
Minor	N/A	3 Days		N/A	2 Days	
Immediate	N/A	2 Hours After		N/A	2 Days	

10.10 Refusal of Application

The permit authority reserves the right to refuse an application for a permit or PAA where it considers that elements of the permit application, e.g. timing, location or conditions, are not acceptable. If the Permit Authority is unhappy with the Conditions applied then the application is refused by issuing either a “Modification Request” or a “Refuse PAA / Permit / Variation” notification. The Conditions that the Primary Notice Authority require to grant the application may be recorded on the refusal notification. The promoter can then send a “Modified Application” with all the required Conditions or making further changes to original plans as necessary.

10.11 Restriction on Activities

Where an activity promoter wishes to apply for a permit to carry out specified activities on a specified street where a restriction under Sections 58 or 58A of NRSWA has been placed upon the street, and the activities are not covered by the specific exemptions of that notice, the activity promoter must make an application for the permit authority’s consent specifying the grounds on which the consent is sought. If the consent is given, then the permit authority will provide an

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agreement reference number. This agreement reference number must be included in the specific field for agreement details with the permit application for the permit to be approved.

10.12 Error Correction

Where the permit authority identifies an error in data recorded, or submitted for recording, in the permit authority register, it will contact the activity promoter to discuss and agree the corrections to be made. Where the activity promoter identifies an error, they will contact the permit authority to discuss and agree the corrections to be made. If an error has been identified on an application, the activity promoter shall submit a permit variation request by the end of the next working day following the agreement of the correction. This permit variation request should include the corrected data and the reference number provided while agreeing the correction, it must also state the data elements that have been corrected. The error correction process is described in the EToN Technical Specification.

This procedure must not be used without the prior agreement of both parties. A variation fee will be payable where the identified error has been caused by the activity promoter and identified by the permit authority, although if the error has been identified by the activity promoter, there will be no charge for the permit variation.

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11 Issue of Permits

11.1 Timing of Permit Issue

Where the permit authority is content that all aspects of the permit application meet the criteria of the scheme, it will issue a permit within the response times detailed in Section 10.9.

11.2 Issue of Permit

A permit will be issued electronically (and copied to Interested Parties) in accordance with the formats given in the Technical Specification for EToN, with the details placed on the permit register. The permit will reference in detail the activity it allows and its duration. In case of an EToN system failure, the permit authority will contact the activity promoter and agree an alternative method by which permit should be sent.

11.3 Inclusion of Conditions

A permit granted notice will be issued to the activity promoter for every permit and will reference all of the conditions attached to the permit.

11.4 Permit Unique Reference Number

All permits will be given a unique reference number following the EToN numbering sequence. Where permits are issued for linked activities, the common project reference is used on all the related applications, therefore enabling them to be cross referenced.

Displaying Permit Reference Number – A valid permit reference number should be prominently displayed on the site information board.

11.5 Remedial Activities

In the event of remedial activities being required after the expiry of the permit, an application must be made for a new permit. This application should be submitted using the original activity reference, as a subsequent phase.

11.6 Notification of Refusal

If, having considered an application for a permit or PAA, the permit authority decides to refuse the application; it will contact the activity promoter within the response time given in 10.9 above to explain why the application is unsatisfactory and where amendments need to be made.

11.7 Amendment to the Original Application

Where the permit authority discusses its intention with the activity promoter to impose further conditions, which effectively amend the details of the original application, the activity promoter shall amend and resubmit a revised application. There will be no charge if instigated by the permit authority. The authority will issue a permit modification request via EToN in order to modify the permit.

11.8 Right of Appeal

The activity promoter has a right of appeal, in accordance with the dispute resolution process set down in the Code of Practice for Permits, should it not be possible to reach a satisfactory resolution

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in discussions with the permit authority. There may be cases where an immediate activity has to stop, subject to safety and legal considerations, until the issues are resolved.

11.9 Permit Application Deemed to be Approved

If the permit authority fails to reply to an application for a permit or PAA within the designated response times, Section 10.9, the permit or PAA is deemed to be granted in the terms of the application. The proposed start and end dates, description, location, duration, traffic management, etc. will be included in the permit and associated conditions for the activity and will then be binding on the activity promoter in the same manner as if the permit had been granted within the timescale.

- Breaching the conditions will constitute an offence.
- In case of deemed permits, no fee will be applicable.

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12 Reviews, Variation and Revocation of Permits and Permit Conditions

12.1 Permit Authority Powers

Within the Permit Scheme, the permit authority has the power, under Regulation 15 to review, vary or revoke permits and permit conditions on its own or an activity promoter's initiative. However, the permit authority is under no obligation to let activities run beyond the permitted period.

12.2 Changes to a Provisional Advance Authorisation

A PAA cannot be varied. Where a PAA has been given though a full permit has not been issued and the proposals change, the activity promoter must inform the permit authority immediately of the proposed changes and a revised application for a PAA should be made or if they are minor changes that are pre agreed with the permit authority, then they can be amended on the major permit application.

12.3 Avoidance of Criminal Offence

Permit variations should be sought as soon as changes are identified to avoid a criminal offence being committed by activities being undertaken without a permit or outside of the conditions associated with that permit.

12.4 Timing of Permit Variations

Applications for permit variations may be made at any time before or after the permit has been issued and before or during the activity itself. Applications must not be made after the end date has passed (no variation for an extension after the end date is allowed). If the actual dates of operation or details of the activities carried out are incorrect, they must be amended and this could therefore be done after the permit end date, so that the register is accurate.

12.5 Electronic Application for a Variation

Where the existing permit has more than 20% of its duration or more than two activity days to run, whichever is the longer, the activity promoter shall apply for a variation electronically.

12.6 Telephone Application for a Variation

Where the criteria in 12.5 are not met, the activity promoter shall first telephone the permit authority to ascertain whether the permit authority is prepared to grant a variation and only then apply, again electronically, if the permit authority has agreed.

12.7 Variations for Immediate Activities

In the event of immediate activities requiring a series of fault-finding excavations or openings, the following procedure shall apply where it is necessary to undertake activities beyond the initial excavation or opening that was indicated in the first permit application. For immediate activities, the activity promoter will submit the first permit application within two hours of starting the activity. That first permit application will contain the location of the initial excavation or opening:

For any further excavations or openings on the same street within 50 metres of the original excavation or opening, the activity promoter will telephone the permit authority with the new location. No permit variation will be needed and no variation charge will apply.

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- i. The activity promoter will telephone the permit authority to apply for a permit variation for the first excavation in each subsequent 50 metre band away from the original excavation or opening in the same street, i.e. 50-100 metres, 100-150 metres, etc. permit variation charges will apply.
- ii. If the search carries into a different street or a new USRN (including if the street changes to a different street/permit authority), then a separate permit application or notice will be required.
- iii. If the activity promoter cannot contact the permit authority by telephone, it should record the fact and send the message electronically by means of a comment. Conditions for these activities may be varied to take into account the fact that a new location, even within the permitted bands, may be more disruptive.

12.8 Information Required for Permit Variation Application

Applications for permit variations must contain the following information where applicable:

- i. the revised timescale;
- ii. any change to the description of the activity;
- iii. a revised illustration;
- iv. any change to the method of excavation;
- v. any variation to the depth of the excavation;
- vi. any changes to the reinstatement method;
- vii. any changes to the conditions, if applicable.

12.9 Review of Permit by Permit Authority Due to Circumstances Beyond its Control

The permit authority may review the permit and associated conditions in the event of circumstances beyond its control having a significant disruptive effect at the location of the activity. The permit authority's policy regarding the circumstances in which it will review, vary or revoke permits on its own initiative is given in Appendix B. No fee will apply for permit variations initiated by the permit authority unless, at the same time, the activity promoter applies for permit variations which are not the result of the circumstances causing the permit authority's action.

12.10 Review of Permit Due to Non-Compliance by the Activity Promoter

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may issue a FPN and/or revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to inform them of its intention and initiate a discussion.

12.11 Waiving of Fees

If the permit authority has to revoke a permit through no fault of the activity promoter, no fee will be chargeable for a new permit.

12.12 Continuation of an Activity when a Permit has been Revoked

An activity promoter will be committing an offence if it continues an activity when a permit has been revoked.

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13 Cancellation of a Permit

13.1 Cancellation Process

If an activity promoter wishes to cancel a permit for which it has no further use, or withdraw a permit application that has been submitted, for which a permit has not yet been granted, it must use the cancellation process containing the relevant activity/works reference – see ETON Technical Specification. There is no fee payable for this process.

13.2 Continuing an Activity following Cancellation of a Permit

An activity promoter will be committing an offence if it continues an activity when a permit has been cancelled.

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14 Fees

14.1 Permit Authority's Power to Charge Fees

To meet the costs of introducing and operating the Permit Scheme, Regulation 30 gives the permit authority the power to charge a fee in respect of the following:

- i. the application for a PAA;
- ii. the granting of a permit;
- iii. each occasion where there is a permit variation or the conditions attached;
- iv. where a permit variation would move an activity into a higher permit category, the activity promoter will be required to pay the difference between the permit categories as well as the permit variation fee.

14.2 Fee Policy

The permit authority shall charge undertakers for the above actions as per Appendix A.

14.3 Where Fees will Not be Payable

Fees will not be payable in the following circumstances:

- i. by the highway authority in respect of its own activities for road purposes, although records of all permits issued and the fees that could have been charged will be kept in order to assist in the review of fees, referred to in Section 14.7;
- ii. where a permit is deemed to be granted because the permit authority failed to respond to an application within the time set down in Section 10.9;
- iii. if a permit variation is initiated by the permit authority or the permit authority has to revoke a permit through no fault of the activity promoter;
- iv. where the activity promoter has sent a cancellation before the permit has been approved by the permit authority.

14.4 Fee Discounts

Fee discounts and Incentives are set out in Appendix C.

14.5 Option to Waive or Reduce Fees

The permit authority retains the option to waive or reduce fees at its discretion.

14.6 Review of Fees

The permit authority will review its level of fees to ensure that the overall fee income does not exceed the allowable costs. The outcome of the fee reviews will be published.

14.7 Processing of Fees

Quarterly invoices will be issued to each activity promoter, with all permits referenced.

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15 Sanctions

15.1 Undertaking Activities Without a Permit

It is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to undertake specified activities in a specified street in the absence of a permit, except as set down in Section 5.2.

15.2 Breaching a Permit Condition

It is a criminal offence for a statutory undertaker or a person contracted to act on its behalf to breach a permit condition.

15.3 Action by Permit Authority

If the permit authority considers that an activity promoter is failing to comply with the conditions of a permit, then it may revoke the permit. Before revoking a permit, the permit authority will contact the activity promoter to inform them of its intention and initiate a verbal discussion followed by electronic communication.

Where a statutory undertaker or a person contracted to act on its behalf undertakes an activity without a permit, where a permit is required, or breaches a permit condition, the permit authority may take one or more of the following actions depending on the seriousness and persistence of the offence(s):

- give a Fixed Penalty Notice (FPN) against the statutory undertaker;
- prosecute the statutory undertaker.

15.4 Fixed Penalty Notices

Regulations 21 to 28 (and Schedules 1 and 2) authorise permit authorities to issue Fixed Penalty Notices (FPNs) in respect of criminal offences. Fixed Penalty Notices offer the offender an opportunity to discharge liability for an offence by paying a penalty amount.

A FPN will identify the offence to which it relates and give reasonable particulars of the circumstances alleged to constitute that offence. It will also state:

- i. the amount of the penalty and the period within which it may be paid;
- ii. the discounted amount payable in accordance with Regulation 25 and the period within which it may be paid;
- iii. the person to whom and the address at which payment may be made;
- iv. the method or methods by which payment may be made;
- v. the person to whom and the address at which any representations relating to the notice may be addressed; and
- vi. the consequences of not making a payment within the period for payment.

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The person specified under (iii) shall be the permit authority or a person contracted to act on its behalf. FPNs will be served electronically where possible, but other means of giving the fixed penalty notice are permitted.

If an undertaker wishes to receive FPNs by electronic means, it must tell the permit authority which method (e.g. EToN, email or fax) and provide details of the EToN web service URL, email address or fax number to be used as appropriate. Where an address for service using a particular method for transmitting an electronic communication has been given for receipt of FPNs and the permit authority has not been notified that the address is withdrawn, then a FPN must be given by sending to that electronic address.

In all other circumstances, including system failures or if the permit authority has tried and failed to use electronic means, the fixed penalty may be given by alternative methods such as:

- delivering it to the person to whom it is to be given;
- leaving it at the proper address;
- sending it by first class post to their address; or
- by any other agreed means.

Section 98 (2) of NRSWA provides that a notice given after 16:30 on a working day is deemed to have been given on the next working day. The Technical Specification for EToN includes a non-mandatory message type for sending a FPN using EToN.

15.5 Withdrawal of an FPN

In accordance with Regulation 27, if the permit authority considers that a FPN which has been given ought not to have been given, it shall give to the person to whom that notice was given, a notice withdrawing the FPN. The notice shall be in the form set out in Schedule 2 of the Regulations the permit authority in such circumstances will repay any amount which has been paid by way of a penalty in pursuance of the Fixed Penalty Notice. The permit authority shall consider any representations made by or on behalf of the recipient of a Fixed Penalty Notice and decide in all the circumstances whether to withdraw the notice.

15.6 Non Payment of FPN

If the undertaker pays either the full penalty or the discounted amount within the required period, then no further proceedings can be taken against that undertaker for that offence. If the undertaker does not pay the penalty within the 36 days, then the authority 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 sometime after the offence was committed. In circumstances where a Fixed Penalty Notice has been issued in relation to an offence, although the permit authority subsequently forms the view that it would be more appropriate to prosecute the offender, the permit authority must withdraw the notice under Regulation 27 before bringing

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the proceedings.

15.7 Application of Money by the Permit Authority

The permit authority recognises that the FPN scheme is NOT intended to be an additional source of income for authorities, although some income may be generated incidentally. The objective of the FPN scheme is to enable permit authorities to manage and control activities better on the street and thereby contribute to the overall aim of the TMA, which is to minimise disruption from street activities, and will be operated with that in mind, the permit authority should therefore not expect any net proceeds emerging from this Permit Scheme.

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16 Registers

16.1 Register of Permits

The Permit Scheme requires each permit authority to maintain a register of each street covered by their Permit Scheme. The register therefore will contain information about all registerable activities undertaken on Cheshire West and Chester Council streets and forward planning information about activities and other events, which could potentially affect users of the streets.

Permit authorities will still need a register under section 53 of NRSWA for street information. This will cover those streets that are not part of the Permit Scheme, including non-maintainable streets. A local register will be maintained by each of the street authorities for its own geographic area. It will include information on all streets other than those streets that are the responsibility of another authority. The Permit Authority will maintain a register of permits in connection with the Permit Scheme and in accordance with Regulation 33 and 34, Part 7 of the Regulations.

16.2 Referencing of Information

All information held in the register of permits will be referenced to the USRN and the permit register will be Geographic Information System (GIS) based.

16.3 Content of Register

The permit register will record:

- copies of all Provisional Advance Authorisation, permit and permit variation applications submitted to the permit authority relating to registerable activities in any street;
- copies of all permits and Provisional Advance Authorisations given by the authority, including conditions attached as well as all variations to permits and conditions including any permits "deemed" granted (Section 11.9);
- copies of all revoked permits, refused Provisional Advance Authorisations and refused permits, together with the reasons for such refusals;
- copies of all notices, consents and directions served by a street authority under section 58 or 58A of NRSWA;
- copies of all notices served by a promoter under sections 58 and 58A of NRSWA;
- copies of all notices given under section 74 of NRSWA;
- particulars of notices given by any relevant authority under Schedule 4 of NRSWA;
- 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;
- information under section 70(3) and (4A) of NRSWA as to completion of reinstatements;
- particulars of apparatus notified to the street authority under section 80(2) of NRSWA;
- every notice of works pursuant to section 85(2) of NRSWA;

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The Permit Authority will ensure that our register also includes the following items, which are contained within the ASD:

- the road category of each street;
- details of every street where early notification of immediate activities is required.
- details of every street for which the local highway authority are the street authority;
- details of every street which is a prospectively maintainable highway over which a permit scheme would operate;
- details of every street over which a Permit Scheme would operate, of which the local authority is aware, which is a highway but for which it is not the highway authority;
- details of every street which is a) a protected street; b) a street with special engineering difficulties; c) a traffic sensitive street.
- description and location of activities for which plans and sections have been submitted under Schedule 4 of NRSWA (streets with special engineering difficulties).

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17 Monitoring

17.1 Monitoring and Evaluating the Permit Scheme

The permit authority will establish monitoring group, which includes the Traffic Manager to monitor and evaluate the Permit Scheme to ensure that it demonstrates parity of treatment for all activity promoters, particularly between statutory undertakers and the highway authority's own activity promoters. To do this the following Key Performance Indicators (KPIs) will be used. These are taken from the Traffic Management Act 2004 Code of Practice for Permits. KPI 1 and 2 are mandatory for all permits schemes. KPI 3 and 7 are the additional indicators used in this Permit Scheme. The key performance indicators (KPIs) included in this scheme have been selected from the list approved nationally. Following any review of this list by Department for Transport and HAUC (UK) the Authority may amend the KPIs used to monitor the scheme.

As any additions or amendments to the KPI list will have been consulted on and agreed nationally it is proposed that any changes to the KPIs used will be implemented without the need for further consultation.

17.2 Use of National Permit Indicators

KPI 1 - The number of permit and permit variation applications received, the number granted and the number refused.

This will be measured by the promoter and shown as:

- the total number of permit and permit variation applications received, excluding any applications that are subsequently withdrawn;
- the number granted as a percentage of the total applications made;
- the number refused as a percentage of the total applications made.

This will be a core indicator of the operation of the permit system.

KPI 2 - The number of conditions applied by condition type.

This will be measured by promoter and shown as:

- the number of permits issued;
- 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. This KPI is dependent upon the use of standard conditions. Local or specific conditions should be grouped into a single category that may be analysed more fully if required.

The number and types of condition applied are likely to be determined by the specific location, scale and category of the works. There will be a need to separate the data to get down to reasonably equivalent situations. For example, if for minor works on category 2 streets, one promoter had an average of four conditions and another had an average of seven conditions then that would suggest an imbalance. Similarly, if one promoter had conditions for restricted hours of

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working on traffic-sensitive streets in 90% of cases and another had such conditions in only 60% of cases, then that would raise a question.

KPI 3 – The number of agreed extensions

This will be measured by promoter and shown as:

- the total number of permits issued;
- the number of requests for extensions shown as a percentage of permits issued;
- the number of agreed extensions as a percentage of extensions applied for.

KPI 7 – Number of inspections carried out to monitor conditions

This will be broken down by promoter and shown as:

- the number of sample permit condition checks carried out as a percentage of the number of permits issued;
- the percentage of sample inspections by promoter should also be shown.