

**Report to Councillor Joy Dennis, Cabinet Member for Highways and Transport**

**August 2021**

**West Sussex Road and Street Works Lane Rental Scheme**

**Report by Director of Highways, Transport and Planning**

**Electoral division(s): All**

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**Summary**

The New Roads & Street Works Act 1991 (NRSWA), as amended by the Transport Act 2000 and the Traffic Management Act 2004 (TMA), contains provision for Highway Authorities to operate Lane Rental Schemes that involve charging Promoters of street and road works for the time their works occupy the highway network.

A Lane Rental Scheme introduces a mechanism of charging any works promoter carrying out works in the highway for the time those works occupy the highway.

It is anticipated that a Lane Rental Scheme, which will enable the County Council to charge for occupation of the most traffic sensitive streets at traffic sensitive times, will encourage the planning of works outside of these times and lead to reduced delays for road users.

**Recommendations**

That the Cabinet Member for Highways and Transport -

1. Introduces a West Sussex Lane Rental Scheme (WSLRS) as set out in Appendix A and the lane rental charges and policy set out in Appendix C subject to approval by the Secretary of State for Transport; and
2. Delegates authority to the Director for Highways, Transport and Planning to submit the proposed Lane Rental Scheme to the Secretary of State for Transport for an Order to bring a Lane Rental Scheme into legal effect for West Sussex County Council.

**Proposal**

**1 Background and context**

- 1.1 The regulations are the Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 ("the Regulations") made under Section 74A of NRSWA.
- 1.2 Following trial schemes operated by Transport for London (TfL) and Kent County Council, the Government consulted on the future for lane rental schemes between September and October 2017 and announced its plans in February 2018

to allow local highway authorities to bid for and to set up schemes. Bidding guidance was issued by the Department for Transport in July 2019.

- 1.3 Before developing a Lane Rental Scheme, the underlying assumption is that there is a Permit Scheme in operation and that it has achieved its objectives around, co-ordination, consideration, traffic management and conditions, but road and street works durations are still too high and too many works are being done during Traffic Sensitive times.
- 1.4 WSCC has a well-run operational Permit Scheme that delivers these objectives effectively. However, as there is no cost associated with the length of the works there is no financial incentive for works promoters to reduce the numbers of days taken to complete the works or to work outside the busiest periods.
- 1.5 The Cost Benefit Analysis summary is set out in Appendix B and is based on an assumed reduction in works durations on the most congested 5% of the network, which equates to 662 streets as set out in Appendix D.
- 1.6 From the trials conducted by Kent CC and TfL it has been shown that for maximum impact, maximum charges need to be applied as lower charges deliver less of the behavioural change sought and therefore less of the subsequent societal benefit desired. These trials have indicated that the duration of works is reduced by up to 50%. The proposed lane rental charges and policy are set out in Appendix C.
- 1.7 The charge is also expected to increase the opportunity for two or more works promoters to coordinate their activities, reduce the occupation of the highway and pay a reduced charge.
- 1.8 A range of other discounts and waived charges are available to drive behavioural change. This ensures works promoters have a choice wherever possible.

## **2 Proposal details**

- 2.1 The Lane Rental Scheme encourages works promoters to:
  - Reduce the length of time taken to carry out the works
  - Improve planning, co-ordination and working methods
  - Carry out more works outside of peak times, for example, making greater use of weekend and evening working where the local environmental impact is acceptable
  - Complete works to the required standard first time reducing the need for the works promoter to return to the site to carry out remedial work
- 2.2 The West Sussex Permit Scheme will continue to deliver its functional role in the co-ordination and permitting of works in the street.
- 2.1 Where works take place on Lane Rental Streets, a Lane Rental charge will be levied instead of a Permit Fee.
- 2.3 Section 74 overrun charges will apply in accordance with the Section 74 Regulations following the end of the agreed reasonable period, in addition to the Lane Rental charges.
- 2.4 Charges will **not** be payable in the following circumstances:

- if the activities take place outside of the Traffic Sensitive Streets specified times
- for the first 48 hours from the start of genuine immediate activities
- for activities undertaken on Sundays, Bank Holidays and Public Holidays,
- for activities which are confined to a verge with no impact on the carriageway, cycle track or footway at the specified location
- for activities on the footway of a specified location, at a specified time, so long as the works do not involve breaking up the street or tunnelling or boring under it
- for activities that are diversionary works as defined in the WSLRS Glossary; and
- for activities required for replacing poles, lamp columns or signs

2.5 Consideration will be given by the WSCC Lane Rental Team to reducing charges for major works that deliver significant highway infrastructure improvements, substantially extend/renew the longevity of an asset, or future proof a highway to protect it from being excavated again.

### **3 Other options considered (and reasons for not proposing)**

The current arrangements could remain in place. However, if charges for the busiest roads at the busiest times are not introduced, traffic disruption relative to the volume of works undertaken on the network will continue at current levels or increase as traffic volume increases. In addition, the opportunity to reduce disruption and / or generate compensatory revenue to reinvest in network improvement will be missed.

### **4 Consultation and engagement**

- 4.1 The formal consultation regarding the proposed West Sussex Lane Rental Scheme ran for a period of 13 weeks between 18 December 2020 and 19 March 2021.
- 4.2 Documentation and an accompanying covering letter were issued to 182 key stakeholder organisations, including local neighbouring Highway Authorities, Utilities, road user representative groups, current IT suppliers and non-government organisations. Some organisations had several consultees within them and if known those individuals were contacted directly.
- 4.3 A full list of comments received, and responses or amendments are provided in the West Sussex Lane Rental Scheme Consultation Report and a summary report of this consultation is set out in Appendix E.
- 4.4 The utility companies disagree with the concept of a Lane Rental Scheme as it introduces increased charges on their works if they are carried out at the busiest times on the busiest streets. They challenged the need for a Lane Rental Scheme, suggesting that existing legislative powers should be used instead, and that a Lane Rental Scheme would not result in the expected benefits.
- 4.5 West Sussex County Council fully utilises existing regulatory powers. However, they do not drive the required culture and behaviour changes expected from a Lane Rental Scheme.
- 4.6 An important part of the engagement and development process involved working with Environmental Health Officers and they will continue to be involved in the

ongoing development of the scheme and particularly its policies relating to out of hours working.

- 4.7 There are concerns over out of hours working in the street (overnight) causing disturbance to residents. The impact on the community in the vicinity of out of hours works has been considered throughout the development of the Lane Rental Scheme which provides periods during the day to undertake works without charge.
- 4.8 Having considered the consultation, it is proposed that the scheme will not apply to footway works unless those works impact traffic flow on the carriageway.

## **5 Finance**

- 5.1 Based on the experiences of the existing schemes and the likely scale of the WSCC proposal, the expected income from charges would be in the region of £4.0m per annum. This is net of the County Council's operating costs of £1.0m.
- 5.2 The cost of operating the scheme may be recovered from the lane rental charge income generated as permitted under the regulations. The annual operating cost is estimated at £1.0m and would include:
- 1 x Lane Rental Scheme Team Manager
  - 3 x Senior Network Compliance Officers, who will monitor works taking place on the network to ensure adherence to the scheme
  - 2 x Senior Permit Coordinator, who will be responsible for coordinating works and other events on the lane rental network and
  - 2 x Network Permit Officer, who will be responsible for the increased administration of a lane rental scheme, including finances and the governance of surplus income.

In addition there will general scheme operating costs covering professional services, training and equipment.

- 5.3 Remaining surplus income collected would be ring-fenced for re-investment into highway network improvements, on eligible works as set out in the regulations which are intended to reduce the disruption or other adverse effects arising as a result of street works.
- 5.4 The utilisation of these funds would be determined through appropriate governance arrangements, under which both the highway authority (WSCC) and works promoters would be actively involved in deciding how funds are allocated. This is likely to involve a governance board chaired by a County Council officer, with membership including County Council officers and representatives from the different utility areas e.g. electricity, gas, water, telecommunications.
- 5.5 As set out above, scheme operating costs, estimated at £1.0m per annum, would be covered by the fee income generated and would therefore not be expected to cause a budgetary pressure for the County Council.
- 5.6 There are, however, financial implications to be considered relating to the loss of permit fee income and the impact of self-charging for the County Council's own schemes as follows although it should be noted that both can be managed within existing resources.

- 5.7 Permit fee income - where works promoters are charged under a lane rental scheme and permit fee is no longer levied. This means the County Council will experience some degree of income loss on its permit scheme if lane rental is introduced.
- 5.8 Charges on WSCC's own works - the County Council's own schemes will also be charged lane rental fees. Whilst it is possible to mitigate against this, including through consideration of scheme design, it is likely there will be an additional cost, currently estimated to be in the region of £0.500m per annum.
- 5.9 The application for a Lane Rental scheme made to the Secretary of State will detail the governance arrangements that will be put in place for allocating surplus revenues.

## 6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
As this is one of the first schemes to be developed following the trial there is a risk that elements have been mis-interpreted or not sufficiently considered or that policies will be perceived as incorrect as the national understanding of Lane Rental grows.	Lessons have been learnt from the Surrey CC submission to the Secretary of State and will be incorporated within the WSCC scheme. Extensive engagement has been undertaken with stakeholders and this continues. Key policies have been discussed at a national level and consensus between local authorities considering or developing Lane Rental sought. A specialist consultant has been engaged by WSCC who has experience of operational design and delivery of legislation and central government initiatives.
The Secretary of State does not approve application to introduce a lane rental scheme in West Sussex.	This risk is being mitigated through early engagement with the Department for Transport by Council officers. Required DfT processes have been undertaken during the development stages to ensure all requirements have been met.
The level of anticipated behavioural change cannot be precisely defined. Therefore, the actual revenue and total associated management costs of operating the Lane Rental scheme cannot be precisely defined.	The applied risk management approach to the levels of behaviour change and therefore levels of income achieved suggests the level of commitment in the report can be covered, however, operational costs will be aligned to works volume and the associated revenue so will continue to be cost neutral.

## 7 Policy alignment and compliance

### 7.1 Legal Implications

- 7.1.1 The power for local highway authorities to implement and operate a lane rental scheme in England is subject to the approval of the Secretary of State.

- 7.1.2 Any local highway authority making an application to the Secretary of State to run a lane rental scheme will need to have carried out a full consultation amongst a wide variety of stakeholders such as Statutory Undertakers and road works promoters.
- 7.1.3 Once a scheme has been submitted to the Department for Transport the Secretary of State can approve it, with or without modifications or reject it.
- 7.1.4 The Department for Transport will assess an application and advise the outcome within 30 days of receipt. If the application is successful, it will take approximately three months to prepare and finalise the Order which will be a Statutory Instrument and for it to come into effect.

## 7.2 Equality duty and human rights assessment –

An Impact Equality Assessment has not been completed for this decision as it is deemed that there are no implications for persons with protected characteristics because the proposal relates to changing the regulations and operational delivery of the management of works on the highway.

## 7.3 Climate change

Reduction of CO2 through the better management of road and street works activities leading to innovative methods of carrying out works or alternative non dig technologies being applied to works undertaken. Durations of works activities at the busiest times for transport will reduce resulting in less disruption for the travelling public.

- 7.4 There are no identified crime and disorder, public health or social value implications associated with this proposal.

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## Appendices

- A West Sussex Lane Rental Scheme Document
- B West Sussex Lane Rental Scheme CBA Summary
- C WSLRS Charges Policy and Table
- D WSLRS List of Lane Rental Streets
- E West Sussex Lane Rental Scheme Summary Consultation Report