

From: Neil Baker Cabinet Member for Highways and Transport
Haroon Chughtai Director of Highways and Transportation

To: Environment & Transport Cabinet Committee Meeting – 14
November 2024

Subject: Road Closures– Update Report

Key decision: No

Classification: Unrestricted

Past Pathway of Paper: N/A

Future Pathway of Paper: N/A

Electoral Division: All Districts.

Summary: This report updates the committee on the recommendation and questions raised at the last ETCC on 19 September 2024.

Recommendation:

The Cabinet Committee is asked to note the details of this report and actions being taken regarding Temporary Road Closures across the County.

1. Introduction

- 1.1 An update report detailing the progress of the recruitment of the Street Works Road Closure Inspectors and the current performance/actions to date was presented to ETCC on 19th September 2024.
- 1.2 The debate at ETCC on 19th September raised the need for clarify of signage (who is responsible for the road works), the need for stringent enforcement of permits/road closures, the need for maximum fees to be levied for over runs, live time updates when Inspectors have visited sites and direct contact with the Inspectors. And whether emergency closures by utilities are really an emergency or an abuse of the system

2. Background

- 2.1 The works promoters are responsible for road works and it is their responsibility to ensure their sites are safe and signed correctly. Street Work Teams arrange the road space to carry out the works. FPNs will be issued against work promoters if/when signs are left on site.

2.2 Application of S74 charges

KCC Street Works Inspectors carry out daily inspections of numerous sites across the county. Where we find sites still in progress after the permit has

expired an occupancy inspection will be carried out and an over run warning issued to the works promoter. Once the site has been cleared the final over run charge is calculated and issued to the promoter.

KCC street works teams will look to apply the maximum charges where applicable. Legislation sets out the maximum daily charges that can be applied but the expectation is that an authority must be fair and reasonable. For example, it is not reasonable to apply a £5000 charge for 1 x sign left out.

Works within the carriageway charges

Item	Description of Street	Amount (£) (each of first three days)	Amount (£) (each subsequent day)
1	Traffic-sensitive or protected street not in road categories 2, 3 or 4.	5,000	10,000
2	Other street not in road categories 2, 3 or 4.	2,500	2,500
3	Traffic-sensitive or protected street in road category 2.	3,000	8,000
4	Other street in road category 2.	2,000	2,000
5	Traffic-sensitive or protected street in road category 3 or 4.	750	750
6	Other street in road category 3 or 4.	250	250

*[Categories of road are based on how busy they are and the busier the road the greater the reinstatement specification that is required for that road. Roads are measured in **Million Standard Axels(MSA)** which is the average volume of large vehicles that use that road in a particular year. So for example our most traffic sensitive roads are a Type 1 = so the busier the road the greater the S74 charge as impact will be greater]*

Works within the Footway/verge charges

Item	Description of street	Amount (£)
1.	Street not in road category 2, 3 or 4.	2,500
2.	Street in road category 2.	2,000
3.	Street in road category 3 or 4.	250

The maximum charges are applicable where the most disruption and inconvenience is caused. Application of charges and discounts in Kent are as follows –

- Works in progress Road Obstructed and causing delay (Traffic Control still in situ) = Full Charge
- Works in progress, Footway Obstructed and no safe alternative for Pedestrians = Full Charge
- Works incomplete but **not** causing obstruction = Up to half charge
- Works completed with signage left behind but no obstruction of road or footway = up to half charge
- Within legislation where there are five items of barrier or signage left on site with no obstruction to traffic or pedestrians then a £100 mitigated charge is applicable. *Year to date 2024/25, 23% of S74s have been issued within this category.*

In 2023/24 £410,000 was paid in S74 over run charges by work promoters.

2.3 Application of Fixed Penalty Notices (FPNs)

A Fixed Penalty Notice (FPN) will be given where certain notifications are not received in a timely manner, where works are being carried out in breach of permit conditions or where works are being undertaken without a valid permit.

An FPN gives the contractor the opportunity to discharge any criminal liability for an offence by paying a penalty. This allows for resolution of minor infringements, without resorting to taking the matter to the Magistrates' Court, which can be both timely and costly to all parties involved.

The Street Works team permitting system allows us to easily monitor and issue FPNs where applicable and area inspectors will pick up FPNs for breach of conditions whilst carrying out their routine inspections.

In 2023/24 £248,000 was paid in FPN charges.

2.4 The objectives of FPNs are –

- Encourage accurate and timely permit information
- Improve the coordination of works
- Ensure compliance with permit conditions
- Improve data quality for all promoters
- Contribute to the wider aims of the TMA, including minimizing disruption arising from road and street works, by providing accurate and timely data to facilitate the coordination of works

Fixed Penalty Offences: A FPN will be issued for the following offences –

- Late works start – to be received within two hours of works commencing
- Late works stop – to be received within two hours of the site being clear
- Late or incorrect registration – to be received within ten days of reinstatement (both interim and permanent)
- Working in breach of permit conditions – may include but not limited to:
 - No courtesy board on display
 - Incorrect permit number displayed on site
 - Failure to manually control temporary lights where requested in permit conditions

- Not using the traffic management indicated on the permit
- Footway closed but permit does not indicate a footway closure
- Working outside of the times indicated in the permit conditions

The table below summarises the FPN offence codes –

Offence	Brief description	Full FPN £	Discount FPN amount £
Section 70 (6)	failure to give notice of completion of reinstatement. Correct reinstatement details must be registered within 10 days of the reinstatement being completed. Incorrect & Late registration will attract an FPN	£120	£80
Section 74 (7B)	Late notification of Start and stop notices	£120	£80
Regulation 19	working without permit a valid permit. Or working outside the dates agreed on the permit	£500	£300
Regulation 20	Breach of permit conditions	£120	£80

The fees can be reduced as shown in the last column if paid within 29 days.

- 2.5 As the Highways Authority, KCC, through its Streetworks Team, administers the process (for a fee) whilst also seeking to mitigate the impact of the proposed works and coordinate it with other prevailing/competing works.
- 2.6 It is important to note that when a works promoter meets the conditions of the permit, *KCC has no ability to refuse or reject the application and **as such the opportunity to reduce permits remains very limited especially during programmes of significant infrastructure modernisation which are stipulated by national regulators, such as broadband roll out.***
- 2.7 Between April 2024 and September 2024, there were a total of 4,461 emergency closures, which collectively amounted to 13,977 days. This results in an average duration of three days per closure. The number of KCC works closures during this period was 2,436 which collectively amounted to 4,893 days. This results in an average duration of two days. This information will continue to be provided in future reports to allow a comparison of average closure durations

- 2.8 Where planned closures are to be implemented as part of the permit application, advanced warning signs will be requested, as will formal and continued consultation and community engagement and this will include public meetings (on larger schemes) and letter drops to affected residents and businesses. Liaison with bus operators and other transport providers is required and any impact to local schools and businesses will also need notification and engagement. In some instances, we will request that additional signage is made up advising that “Business is Open as usual”. All this is to be undertaken by the works promoter.
- 2.9 Whilst KCC have no control on whether a road needs to be closed, utility companies are bound by the Safety Code when deciding to close a road.
- 2.10 KCC will be notified of an emergency road closure within two hours of the works having begun. If starting after 4.30pm we will be notified within t hours of the start of the next day (by 10.00am). Kent has no control over these emergency works and quite often Members and/or the Public will be aware of works before the Street Work teams. For emergency closures s14(2) of the Road Traffic Regulation Act 1984 s14 requires the restrictions/prohibitions come into force without delay. When using this power it is not possible to give advance notice to anyone.
- 2.11 KCC Street Work teams challenge utilities when they deem the works as emergencies but we cannot refuse them access; these are not our works and we are not qualified to determine whether the works are emergency or not.
- 2.12 All utility companies have a legal right to access and maintain their plant.
- 2.13 The Road Closure Inspectors will complete an onsite inspection report using Street Manager, and this is sent directly to the works promoter. The works promoter will receive this within minutes of the Inspector sending it and for high risk sites a call will also be made to the promoter if there is no one on site. Each site attended by an Inspector will have a report completed and submitted.
- 2.14 There is no evidence of work promoters abusing the term “emergency” but other local authorities have raised concerns of this, particularly concerning broadband works where the definition of urgent is possibly being abused.

We have been advised that clarification as to what constitutes an immediate urgent permit is being discussed with DfT imminently.

- 2.15 Any issue within the highway is to be reported using our website www.kent.gov.uk/highwayfaults and the enquiry will be assigned to relevant officer/team to ensure the matter is dealt with timely. We do not promote the use of individual names and numbers as this will not assist if the officer is absent. If the matter is urgent, please phone us on 03000 418181 or out of hours on 03000 419191

3. The future

- 3.1 SEHAUC (South East Highway Authorities and Utilities Committee) working group is to be set up to look at traffic management and how both utilities and Highway Authorities can better manager their work sites, with specific focus on road closures.
- 3.2 UKPN are trialling innovative traffic management software that helps them to determine whether a road closure is actually required or not. The initial results look promising which should feed into them reducing the number of closures for certain types of works.
- 3.3 Innovation is being trialled where intelligent temporary traffic lights, with CCTV on site. This has the ability for lights to be managed remotely from a control room so as soon as delay builds up a controller can intervene and amend the timings on the lights remotely which will improve and reduce delays in and around the area.
- 3.4 Innovation where push notification to social media (using location services) will advise the travelling public of upcoming works to allow the public to make informed decisions on their journeys, initial trials on high impact traffic sensitive sites. This is in the very early stages of trial.
- 3.5 Authorities in the South East are pushing DfT to challenge the current level of fines and inspection charges particularly around the lack of inflationary rises for permit fees and Fixed Penalty Notices etc.

4. Financial Implications

- 4.1 The charge for processing a Temporary Traffic Regulation Order (TTRO) to external organisations has been increased from £710 to £910 for 2024/25 and this includes all legal administrative and advertising costs.

5. Legal implications

- 5.1 Temporary road closures require a legal notice to be published and this is done in accordance with the Road Traffic Regulation Act 1984 and The Road Traffic (Temporary Restrictions) Procedure Regulations 1992.
- 5.2 Statutory guidance on safety is published in the Safety at Street Works and Road Works Code of practice

6. Equalities implications

- 6.1 Not applicable as this report is for information and has no effect on policy or service standards.

7. Background Documents

- 7.1 Link to KCC web site for a Road Closure Application [Apply to close a road - Kent County Council](#)

8. Recommendation:

The Cabinet Committee is asked to note the details of this report and actions being taken regarding Temporary Road Closures across the County.

9. Contact details

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