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**To:** Environment, Highways & Waste Policy Overview & Scrutiny Committee – 27 September 2011

**Subject:** Reducing Congestion (Management of Road Works)

**Classification:** Unrestricted

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**Summary:** Work carried out on the highway, whether by utility companies or Kent as the Highway Authority, can unavoidably cause disruption to highway users. It is necessary to balance the rights that people have to access services against the right to use the highway.

The various Acts in national legislation seek to balance these rights, enabling the Highway Authority to Co-ordinate work to minimise disruption to the travelling public, but equally to allow the statutory undertakers to carry out what is required of them by statute.

Kent utilises the very latest legislation and approaches with the Kent Permit Scheme to drive improvement in how work on the highway is carried out. The first year report for the permit scheme shows several areas of improvement.

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## 1. Introduction

This report addresses questions raised by a member for inclusion in September's Policy Overview and Scrutiny Committee. The questions under the broad header of 'Reducing Congestion' are as follows:-

- The policy of the water company running large district to district water pipelines under roads.
- Unnecessary road openings or openings left un-worked for many days.
- The health and safety factors used in deciding on road closure. Who decides?

Part of the answer to these questions is progress made with the Kent Permit Scheme in its first year and part lies in national legislation and codes of practice. Key facts and references to the Kent Permit Scheme annual report and national legislation will be made in this report.

## 2. Background Information

There are principles in law that people have a right to access all available services and use the highway to pass and repass. Work carried out on the highway, whether by utility companies or Kent as Highway Authority, can unavoidably cause disruption to highway users. It is necessary to balance the rights that people have to access all available services against the disruption that may be caused in providing, maintaining, and enhancing the pipes and cables that supply these services.

The New Roads and Street Works Act and Traffic Management Acts are a methodology by which this can be accomplished and requires the Highway Authority to Co-ordinate work to minimise disruption to the travelling public but equally to allow the statutory undertakers to carry out what is required of them by statute.

To provide the Highway Authority with the powers to co-ordinate work there are two principal pieces of legislation, The New Roads and Street Works Act and the Traffic Management Act and the key clauses are summarised below:-

There are three fundamentally important sections of the NRSWA: Section 59, which places a duty on the street authority to co-ordinate works of all kinds on the highway, Section 60, places a parallel duty on undertakers to co-operate in the process; and Section 74 which covers the time to complete the work.

The Traffic Management Act which was introduced to provide the basis for better conditions for all road users. There are various parts to the Act that have been introduced over time. Part 2, Section 16 of the TMA introduced a network management duty on traffic authorities to manage their network. Part 3 of the TMA contains legislation to give effect to permit schemes. Sections 32–39 outline the broad framework within which permit schemes will operate. Part 4 includes new measures to control utility work.

To provide water and sewerage services within their licence area Water undertakers have certain rights with regard to the development of these services and the continuing maintenance of their apparatus. These are covered in Part VI of the Water Industry Act, 1991 and the key clauses are summarised below:-

s.155 Allows an undertaker to purchase compulsorily any land required by the undertaker for the purposes of, or in connection with, the carrying out of their functions, subject to authorisation by the Secretary of State.

s.158 Confers the power to lay relevant pipes for the carrying out of its functions in, under or over any street (and keep that pipe there). There is also the power to inspect, maintain, adjust, repair or alter any pipe in, under or over any street.

This section also allows for the erection of street notices indicating the position of the apparatus. This can be onto any building or fence abutting the street.

s.159 Confers the power to lay relevant pipes for the carrying out of its functions in, under or over any land which is not a street (and keep that pipe there). There is also the power to inspect, maintain, adjust, repair or alter any pipe in any such land.

These powers are only exercised after reasonable notice (at least three months for new pipes but 21 days if requisitioned) of the proposed exercise has been given (except in an emergency where shorter notice periods can be given).

Note – Other Undertakers – the gas, electricity and telecoms utility suppliers all have powers to lay their apparatus within streets but are more restricted than water and sewerage undertakers in that they need to come to private agreements with regard the laying of their apparatus in, under or over private land. They do, however, have CPO powers which they can utilise should they be unable to reach an agreement with a private landowner.

The wording for this is similar for all the various utility acts.

The safety at road works sites is governed by the Code of Practice for Safety at Street Works and Road Works. This sets out signing standards and minimum widths of safety zones and traffic running lanes based on speed and the type of traffic. This is the basis for the decision on road closures. Whilst the way in which work will be carried out is discussed as part of the permit application process, the

safety of a site always remains the ultimate responsibility of the company carrying out the work. Closing a road is never taken lightly and all other options have to be explored before a closure is agreed to.

### **3. The situation in Kent**

Kent was the first authority in the UK to have a permit scheme approved. The Kent Permit Scheme was made statute and law operative from 25 January 2010. The first year report is available at

[http://kent.gov.uk/roads\\_and\\_transport/highway\\_maintenance/kent\\_permit\\_scheme.aspx](http://kent.gov.uk/roads_and_transport/highway_maintenance/kent_permit_scheme.aspx)

and some key points raised in the report are:-

- There has been an increase in the number of times all work on site is completed and the road fully restored to a permanent condition, removing the need for a repeat visit.
- Nearly 6 years occupation of a highway have been saved through extending working hours and joint working with several companies completing work at the same time. This equates to saving 1 day in every 20.
- The better planning of work has meant that the number of sites where work has been completed to its original programme or, even better, earlier has increased to 94%. Records show that for the three months preceding the permit scheme just 86% of work was completed to time.
- Complaints and enquiries have steadily reduced giving a 26% reduction at year end as better information has been made available and implementation of works have improved.

In response to the specific water main issue there have been several grid mains laid in Kent recently, many of which have been laid in private land only affecting the highway to cross the road and access the next piece of open land. An example of this is the new main from Stansted reservoir to Exerdown.

An example from the gas industry is Farningham to Hadlow Gas storage main which again used private land.

Kent can, under the New Roads and Street Works Act, deny access to a highway for new pipes if there is a viable alternative. However, it can not unreasonably withhold permission as statutory water companies have powers of their own. Recent examples in Kent where private land has not been available are where SSSI's are in place or the land is ancient woodland or a private airfield.

Whatever the situation, Kent's roadwork co-ordination teams work with utility companies to reduce inconvenience and delays arising from road works to an absolute minimum.

An example of this is Spring Hill, between Fordcombe and Penshurst where the planned duration of work proposed by South East Water to replace nearly a kilometre of water main was 8 weeks. At a site meeting it was determined that a Road Closure would be required. However, as Spring Hill is a busy through-route, directional drilling was used to expedite the programmed works. To further minimise disruption, the roadwork's co-ordinator insisted that an extended hours work programme including weekends was implemented. As a result of the stringent permit conditions and innovative work method the works were completed in just over 4 weeks.

### **4. New Legislation**

On 22 August 2011 the Government announced the start of a consultation on its new Lane Rental proposals. In essence this is an additional tool to provide an incentive to companies working on the highway to complete work at less disruptive times and in a quicker and more effective way. A quote from the consultation referring to road works is:- “Although the Government understands that such works are essential they do cause significant disruption to road users and local communities, and so is determined to reduce the adverse impacts of these works.”

## **5. Recommendations**

Specifically, the Kent Permit Scheme has enabled Kent Highway Services to better co-ordinate the timing of Road Works, so that gas, water, telecoms, electricity companies and its own works are on the same part of the road at the same time, thereby reducing the number and duration of Road Works and minimising their impact on motorists and other road users.

The Kent Permit Scheme annual report commits to several actions to continue improving in this important area:

- That we work to consolidate and improve the number of joint occupations of the highway and use of extended working hours to maximise the amount of time the highway is available for use.
- To continue to work with all work promoters to improve the quality and timeliness of information and to explore innovative ways of working. This will improve information to highway users, improve the reliability of journey choices, and deliver more effective working practices.
- To continue to promote examples of excellent work in the press to improve the public perception of road works.

KCC Highways and Transportation are keen to formally explore the possible benefits of the newly suggested Lane Rental trial. It would further incentivise those working on the highway at the most difficult locations to do so as quickly and with as little inconvenience as possible. Kent is looking positively at the potential of this proposal and seeks the support of the POSC.

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