

AGENDA MANAGEMENT SHEET

Name of Committee Portfolio Holder (Environment) Decision Making Session

Date of Committee 30 April 2010

Report Title Response to the Department for Transport Consultation on Charges for Unreasonably Prolonged Occupation of the Highway

Summary The Department for Transport are consulting on increases in charges for overrunning works on the highway. They propose a higher maximum charge for any works on the more traffic sensitive streets that last longer than agreed. This report considers the questions posed by the consultation and recommends how the council should respond to the consultation.

For further information please contact Keith Davenport
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Would the recommended decision be contrary to the Budget and Policy Framework? No

Background Papers Consultation on the draft amendment to the charges for unreasonably prolonged occupation of the highway.

CONSULTATION ALREADY UNDERTAKEN:- *Details to be specified*

Other Committees

Local Member(s)
(With brief comments, if appropriate)

Other Elected Members Councillor M Doody
Councillor R Sweet
Councillor J Whitehouse

Cabinet Member Councillor A Cockburn
(Reports to The Cabinet, to be cleared with appropriate Cabinet Member)



- Chief Executive
- Legal I Marriott
- Finance
- Other Chief Officers
- District Councils
- Health Authority
- Police
- Other Bodies/Individuals

FINAL DECISION **YES** *(If 'No' complete Suggested Next Steps)*

SUGGESTED NEXT STEPS :

Details to be specified

- Further consideration by this Committee
- To Council
- To Cabinet
- To an O & S Committee
- To an Area Committee
- Further Consultation

Portfolio Holder (Environment) Decision Making Session- 30 April 2010

Response to the Department for Transport Consultation on Charges for Unreasonably Prolonged Occupation of the Highway

Report of the Strategic Director for Environment and Economy

Recommendation

That Members support the increase in charges proposed in the consultation and the response to the consultation in **Appendix A** be endorsed.

1. Introduction

- 1.1 The existing legislative framework for works within the highway is set out within the New Roads and Streetworks Act 1991 (NRSWA), which along with associated regulations, sets the broad responsibilities of highway authorities and utilities with regard to works. There are now some 200 utilities companies that have the statutory right to dig up the roads, a significant increase in the numbers since its inception in 1991.
- 1.2 The Department for Transport (DfT) has issued a consultation on proposed amendments to the "Charges for unreasonably prolonged occupation of the highway regulations" which provides for the imposition of the charges under section 74 of NRSWA.
- 1.3 This consultation is about proposed higher charges for works that overrun on traffic-sensitive streets. The consultation response should be sent by 25 May 2010.

2. Background

- 2.1 Local authorities have felt for some time that the current over-run charges do not adequately reflect the impact of the works on Traffic Sensitive Streets and have been lobbying the DfT to increase them. These streets are by their nature the key distributors on our network.

The intention behind overrun charges is to encourage undertakers to complete works in the highway within the planned duration. Any proposed increase in the

over-run charge is intended to encourage the right behaviour and to help minimise the disruption on key routes and help us fulfil our network management duties.

3. Consultation Proposals

- 3.1 The current regulations do not impose a higher charge for over-runs on our more traffic sensitive streets, despite the fact that the impact of disruption and congestion is significantly higher than on the other streets within our network.
- 3.2 The DfT are proposing higher maximum overrun charges for any works on traffic sensitive streets that last longer than agreed. As the impact of the work is the same irrespective of the category of that work, the DfT are proposing a single daily charge.

The proposed new charges are shown in the table below;

Table 3.1 Maximum Over-run Charges			
£	Road Category * 0 or 1	Road Category 2	Road category 3 or 4
Traffic-sensitive streets			
All work categories	25,000 (2,500)	8,000 (2,000)	1,000 (250)
Non traffic-sensitive streets			
**Major or standard works	2,500 (2,500)	2,000 (2,000)	250 (250)
**Minor or immediate works	500 (500)	500 (500)	100 (100)
<p>Figures in brackets are existing charges</p> <p>* Road category measures how busy a street is, based on commercial vehicle numbers it is designed to serve. Category 0 are the busiest and 4 the least busy. For the purposes of these regulations, the definition of Category 0 roads shall be taken to mean roads carrying over 30 million standard axles, with no upper limit.</p> <p>** Works Categories</p> <p>Major works are works with a duration of 11 days or more; or generally identified in advance in an organisation's annual operating programme; or works which require a temporary traffic order (e.g. to shut the street) under the Road Traffic Regulation Act 1984.</p> <p>Standard works are between 4 and 10 days duration.</p> <p>Minor works are works with duration of three days or less.</p> <p>Immediate works are emergency works (e.g. to deal with gas leaks) and urgent works (e.g. restoring an electricity supply where this has been severed).</p>			

- 3.3 These are maximum daily charges. The Council has the discretion to either reduce or waive the charge in such circumstance that we deem appropriate. The DfT only expect the full charge to be levied in situations where the overrun has resulted in significant disruption to road users. This may include taking into account the actual impact of the works on traffic flow, and a likely judgement

about an undertakers likely behaviour in response to the proposed charge. It is unlikely that the full charge will be levied unless significant disruption has been caused to the residents of Warwickshire.

4. Summary

- 4.1 The consultation proposes significantly higher charges for overrunning roadwork's on traffic sensitive routes. Existing levels of charges do not provide sufficient incentive for utilities to complete their works on time. The proposal for higher charges is intended to encourage the right behaviours, to minimise disruption on our more important routes and to assist us in meeting our network management duty. We will exercise discretion in setting the charges applied in the particular circumstances of each case.

5. Financial Implications

- 5.1 The impact on income from fines on utilities may be affected if higher charges are imposed, but the impact is unpredictable. Higher charges may lead to improved compliance and therefore reduced income or it may lead to higher income if compliance by utilities does not improve. The amendments are to the maximum levels of fines so it will be under the control of the County Council to set fines at levels which do not distort incentives too much.

PAUL GALLAND
Strategic Director for Environment and Economy
Shire Hall
Warwick

14 April 2010

**Portfolio Holder (Environment) Decision Making Session-
30 April 2010**

**Response to the Department for Transport Consultation on
Charges for Unreasonably Prolonged
Occupation of the Highway**

CONSULTATION RESPONSE PRO-FORMA

**Consultation on the proposed Amendment to the Charges for
Unreasonably Prolonged Occupation of the Highway**

PART 1 - Information about you

Name				
Address	Po Box 43, Shire Hall, Warwick, Warwickshire,			
Postcode	CV34 4SX			
email	keithdavenport@warwickshire.gov.uk			
Company Name or Organisation (if applicable)	Warwickshire County Council			
Please tick one box from the list below that best describes you /your company or organisation.				
<input type="checkbox"/>	Small to Medium Enterprise (up to 50 employees)			
<input type="checkbox"/>	Large Company			
<input type="checkbox"/>	Utility Company			
	<input type="checkbox"/> Water	<input type="checkbox"/> Gas	<input type="checkbox"/> Electricity	<input type="checkbox"/> Telecoms
<input type="checkbox"/>	Representative Organisation			
<input type="checkbox"/>	Trade Union			
<input type="checkbox"/>	Interest Group			

<input type="checkbox"/>	Local Government			
	<input checked="" type="checkbox"/> County Council	<input type="checkbox"/> London Borough	<input type="checkbox"/> Metropolitan Borough Council	<input type="checkbox"/> Unitary
<input type="checkbox"/>	Central Government			
<input type="checkbox"/>	Emergency Service			
	<input type="checkbox"/> Ambulance	<input type="checkbox"/> Fire & Rescue	<input type="checkbox"/> Police	<input type="checkbox"/> Other
<input type="checkbox"/>	Member of the Public			
<input type="checkbox"/>	Other (please describe):			
<p>If you are responding on behalf of an organisation or interest group how many members do you have and how did you obtain the views of your members:</p>				
<p>If you would like your response or personal details to be treated confidentially please explain why:</p>				

PART 2 - Your Comments

Question 1

Q1: Do you consider that the proposed level of overrun charges correctly reflects the impact that works can have on road users? If not what do you consider an appropriate level, and what evidence do you have to support an alternative level of charges that reflects the impact on road users?

Yes

X

No

Please explain your view

Question 2

Q2: Do you agree that on traffic sensitive streets, the impact of works on traffic flow is the same whatever category of works is taking place? If not why do you think the impact varies by works category?

Yes

X

No

Please explain your view

Question 3

Q3: For immediate works, do you consider an alternative overrun charge for immediate works on traffic sensitive streets is required? If so what level would you consider appropriate to reflect the impact on road users and what evidence do you have to support this?

Yes

No

Please explain your view

Question 4

Q4: Do you agree that Chapter 10 of the Co-ordination Code of Practice should be revised as proposed to encourage greater use of the discretion to waive or reduce overrun charges, when the impact on road users is not significant?

Yes

No

Please explain your view

Warwickshire County Council already runs a Section 74 scheme and applies discretion and arbitration to agree final Section 74 overrun charges. The County Council will continue with this approach we will continue to set fines at levels which do not distort incentives to much.

Question 5

Q5: If you are responding on behalf of an authority, does your organisation already use the discretion to waive or reduce overrun charges? If so please provide examples of the occasions when this discretion has been used and, where possible, an indication of the range of charge levels imposed and the frequency with which charges have been reduced or waived.

Yes

No

Please explain your view

This discretion has been applied to a number of occasions where the utility have not picked up the cones and barriers from site at the end of the works. We have not used discretion where the works are on our more sensitive routes and the utility have failed to perform, i.e. left site early and not attending on a number of days during the period of the works.

Question 6

Q6: What factors would influence the use of discretion by authorities?

Yes

No

Please explain your view

As long as it can be proven that the undertaker has taken all reasonable steps to ensure that the works are completed on time then the County Council will take these into account, for example adverse weather or ground conditions etc....

IMPACT ASSESSMENT

Question 7

Impact Assessment Details

The Impact Assessment drafted by the department details costs and benefits associated with the proposed changes to the code.

Q7: Does the impact assessment identify the main costs and benefits likely to arise from the proposal? Do you disagree with any of the assumptions in the impact assessment?

Yes

No

If so why? Please provide justification supported with data for using alternative assumptions.

GENERAL

Question 8

Q8: Are there any additional issues that are not covered by this consultation?

Yes

No

If so, please describe why and provide supporting evidence