



Date: Monday, 14 March 2016

Time: 2.00 pm

Venue: Shrewsbury/Oswestry Room, Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND

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## ENVIRONMENT AND SERVICES SCRUTINY COMMITTEE

### TO FOLLOW REPORT (S)

- 7 Permits Scheme Update (Pages 1 - 10)**  
Report to Follow

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<u>Committee and date</u>
Environment & Services Scrutiny 16 March 2016

<u>Item</u>
<b>7</b>
<u>Public</u>

## **Street Works – Management of the Shropshire Council highway network**

**Responsible Officer** Ffion Horton - Economic Growth and Permit Scheme Manager

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### **1. Summary**

- 1.1 The following report provides an overview of the performance of the Street Works Team since the introduction of the West and Shires Permit Scheme in April 2014 to date.
- 1.2 This Committee will recall that at the Permit Scheme inception an update report back to this Committee was required. This report delivers upon this requirement.
- 1.3 This report provides details on the performance of the service within the first year of operating under the permit scheme while also outlining the enforcement and network management improvements that the team has made since the recommended team structure was adopted in spring 2015.

### **2. Overview of Street Works**

- 2.1 As Street Works is constantly evolving and adapting to meet the changing demands and needs of the network; predominately driven by central government policies and recommendations, there are future improvements required that we recommend the committee support.

### **3 Recommendations**

- 3.1 That Environment & Services Scrutiny Committee scrutinise and comment this report
- 3.2 Agree a further update report is presented to this Committee in the following calendar year (2017)
- 3.3 That Environment & Services Scrutiny Committee support the investment of Highway enforcement charges into the Highways and Transport infrastructure in Shropshire on a continual basis. The allocation of this will be agreed following consultation with the Highways, Transport and Environment Commissioning Manager and the Portfolio Holder for Highways and Transport.

## REPORT

### 4. Risk Assessment and Opportunities Appraisal

4.1 There are a number of opportunities that Street Works are currently planning to develop next financial year these include:

- Increased use of [www.roadworks.org](http://www.roadworks.org) in the processing of Traffic Regulation Orders and the creation of site signing schedules
- Joint project with Geo Place on the review of the Associated Street Data and the joint working with Highways England mentioned previously
- Review of the drop kerb and new accesses the team currently manage

### 5. Financial Implications

5.1.1 The Highway Enforcement penalties from Section 74 – Prolonged occupation of the highway (S74) and Fixed Penalty Notices (FPN) charges are required to be spent by Shropshire Council in a specific way; as directed by Department for Transport (DfT).

“apply the net proceeds to develop policies to promote and encourage safe, integrated, efficient and economic transport facilities and services, to, from and within its area.”

5.1.2 To ensure that we are able to record and monitor the financial aspect of Street Works the team work closely with the Finance business partner and have robust reporting and monitoring processes in place such as regular reporting and separate cost centres and subjective.

5.1.3 The current financial position for Street Works is detailed below.

5.1.4 Other income generated by the team in 2015/16 is forecast to be:-

NRSWA New Apparatus	£34,217
NRSWA Vehicular Access	£48,711
NRSWA Sample Inspections	£99,363
NRSWA Inspection Defects	£54,018
Section 14 Road Closures	£535,146
Skip Permit	£9,145
Scaffold Permit	£26,635

5.1.5 Overall cost summary for the Streetworks team (forecast 2015/16):-

Overall costs	£975,752
Income generated	£1,849,180

Net surplus	£873,428
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5.1.6 The surplus made by the service as previously stated, must be reinvested back into the authority in specific ways – for example following a prolonged overrunning gas work on the B4373 Broseley which resulted in an agreed Section 74 charge of £100,000, the charge was ring-fenced to Bridgnorth Highways team who used it to fund the resurfacing of roads in the local community.

5.1.7 Therefore all surplus income will be reinvested according to local needs, individual schemes or to provide additional finance for large programmes of work. As recommended in this report the decision on the agreed use of this finance will be made by Highways, Transport and Environment Commissioning Manager in consultation with the Portfolio Holder for Highways.

## **Economic Impact**

The Street Works team contribute to the wider commercial and economic environment for Shropshire – this includes the efficient provision and re-investment opportunities provided to the council.

5.2.1 Typically these current re-investment opportunities are -

- a) Collaborating with Highways England (HE) on a trial project to improve the working relationship and effective coordination of works between HE and local authorities.
- b) Increase the use of [www.roadworks.org](http://www.roadworks.org) that all Members, general public, businesses and local Councils view; including the purchase of a new signing and site layout functionality recently developed
- c) Leading on a full review of our Gazetteer and ASD (Associated Street Data); this is information that is required through legislation to be collated and shared nationally with Utility Companies, other Authorities and any other interested parties. It is published by a company called Geo Place (national custodian of all gazetteers) in various formats; the information supplied is regarding the makeup of our road network including busy routes, level of traffic using the road, reinstatement type, special surfacing, oil pipelines, unique road identifiers etc. Plus our enforcement and permit fees are based around this information. The outcomes of the project is to provide more contemporary and worthwhile information to stakeholders; this will link into a Department for Transport (DfT) initiative with Geo Place and JAG (Joint Authority Group)
- d) Adopting a shift in our approach to large scale works on the highway, growth schemes and development opportunities; to provide a more proactive resource and assistance to these works which will need involvement from conception of the work rather than currently our engagement is sought a few months prior to commencement.

## **Network Management**

5.3.1 The management of the highway network is a complex and at times an emotive task that the Street Works team are solely responsible for managing as

per the requirements of the New Roads and Street Works Act 1991 and the Traffic Management Act 2004 and various DfT Codes of Practices, regulations and recommendations. This includes managing utility companies and our own works, events impacting on the highway, licences such as skips and scaffolds and facilitating new developments and growth schemes.

5.3.2 The Street Works team is set up to discharge Shropshire Council's legal requirement to coordinate and manage the highway network, as introduced by the Traffic Management Act 2004,(relevant section of the act below):

"The network management duty

(1)It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objectives, the following objectives—

(a)securing the expeditious movement of traffic on the authority's road network; and

(b)facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.

(2)The action which the authority may take in performing that duty includes, in particular, any action which they consider will contribute to securing—

(a)the more efficient use of their road network; or

(b)the avoidance, elimination or reduction of road congestion or other disruption to the movement of traffic on their road network or a road network for which another authority is the traffic authority;

and may involve the exercise of any power to regulate or co-ordinate the uses made of any road (or part of a road) in the road network (whether or not the power was conferred on them in their capacity as a traffic authority)."

5.3.3 This report will focus on the three main work streams of the team; the permit scheme, performance management and enforcement, all of which are focused on ensuring Shropshire Council excel in their network management statutory duty.

5.3.4 Members will appreciate that this vital work can be a sensitive process to manage due to the emotive and financially loaded nature of the work managed by the team which must be undertaken with the conflicting responsibilities, financial pressures, regulator driven timescales and local concerns while simultaneously all staff within the service are acting professionally at all times.

### **The West and Shires Permit Scheme (WaSP)**

5.4.1 Scrutiny recommended that Street Works investigated the implementation of a permit scheme within Shropshire in 2011, this was then developed and introduced over the next two and a half years in conjunction with DfT. As we were the first permit scheme in a rural authority we were asked by DfT to develop a common scheme for rural authorities in the West Midlands to join. To date Cheshire East,

Warwickshire and Coventry are operating the scheme with Telford and Wrekin and Worcestershire Councils due to join the scheme this year.

5.4.2 Having a large geographical region covered by the one scheme has introduced a number of savings to all authorities, shared processes etc. but has also due to the collaborative way the authorities work together, allowed for greater influence over performance of utility companies working in the region. There are quarterly meetings held with all authorities operating or introducing the scheme with a representative from each utility company industry i.e. water, gas, electric, communications, rail etc. where the operation of the scheme is discussed.

5.4.3 There are a great number of benefits from running a permit scheme:

- Greater control of the network
- Cost saving of existing and expanded team
- Reduced amount of disruption on the network

5.4.4 The difference between permitting and the old noticing system is that prior to April 2014 those working on the highway would only need to notify Shropshire Council that they intended to undertake work, now they are required to apply for permission. When the application is reviewed there is an associated charge paid by the applicant that covers the annual running of the scheme incurred by Shropshire Council, previously we had to run the service at our own cost. The new team is set up to review each and every application made and apply conditions that range from how the work will be undertaken, how long the work will be on site, what traffic management will be used, to who will be consulted with prior or during the work.

5.4.5 Once there is an agreement on this the permission will be granted.

In regards to emergency or urgent works the rules have not changed and where there is a safety risk to stakeholders the work may start prior to the application being made however on the major roads the utilities are required to contact the authority as soon as is practical and regardless of where the work is no later than 2 hours after the work has started.

- Modifications

5.4.6 When a permit is received and there is incorrect information on the permit that needs to be addressed prior to the works being given the approval to commence Shropshire Council have the option to refuse the permit and then the applicant needs to submit a new permit or we can submit a modification request; in both instances we will detail the information that needs changing. In the first year of the scheme we sent 14,063 modification requests and 3,362 refusals totalling 17,425 permits where there have been insufficient information supplied to us, as a refusal or modification can detail upwards of 10 separate problems the scale of the insufficient information cannot be fully ascertained.

5.4.7 By having the street works team checking all applications which the permit scheme now allows us to do, this gives Shropshire Council significant control over the work being undertaken on our network.

5.4.8 The four most common mistakes on the permits are below with approximate percentage per reason against all permits received between 1<sup>st</sup> April 2014 – 31<sup>st</sup> December 2015; we received approx. 28,816 permit applications during the period

- 14.66% - Duration of work was excessive
- 4.01% - Incorrect traffic management stated
- 6.35 % - Application for traffic management not received
- 15.68% - Insufficient conditions stated on the permit

5.4.9 As can be seen the main reasons are very simple mistakes that can be foreseen by the applicant prior to submitting the permit however they choose not to properly review the application prior to submitting. However while they are simple to foresee and rectify if Shropshire Council did not check and make the amendments we would be unable to properly manage the network.

- Days of network occupancy saved

5.4.10 As shown above almost one in seven application are received with a duration that is longer than needed to complete the work; as we check every duration now we have been able to significantly reduce the number of road work days being undertaken in Shropshire.

5.4.11 Since 1 April 2014 to December 2015 we have through challenging approx. 3050 durations we have reduced the days of occupancy from 612 to 1076 days per calendar month; by taking an average of these monthly days we have saved approx. 10,128 days of work on the network.

## **Performance of Utility Companies**

5.5.1 The performance of utility companies is monitored through two key ways; statutory Key Performance Indicators (KPI's) and inspections of their work. Utility Companies are legally required to pay Shropshire Council to inspect 10% of their work during three stages; when the work is ongoing, within 6 months of completion and between 7 and 24 months from completion. Each inspection is charged at a rate of £47.50 regardless of whether it passes the inspection or not. Any inspections undertaken outside of the 10% are only chargeable should a failure be identified; there are two rates for these failures - £47.50 for all, except ones that are inspected following a complaint from the public, emergency services etc. – these are charged at £68.00.

- Defective utility works

5.5.2 In spring 2015 the full restructure of the Street Work team was completed with the employment of 8 inspectors. The funding for the inspectors is received from the permitting income and from the Sample Inspection income.

5.5.3 In the 6 months between July and December 2015 the inspectors have undertaken 4,617 inspections on individual sites of which 674 or 14.6% were found to be defective resulting in the utility company having to return to site and make safe or redo the reinstatement that failed. If these failures had not been identified by the



inspectors within 24 months the Highways teams will have, at the cost of Shropshire Council, been required to undertake the remedial works as the utility company would not be liable at that time.

- Improvement Plans

5.5.4 Since we have adopted a more robust and structured inspection process we have been able to serve improvement plans on four utility companies, this in its most basic terms is Shropshire Council formally telling the utility their on-site performance is of such poor quality that we are obligated to take additional steps to get them to improve or prosecution action will be taken for all performance failures; this is done on a national level and all the costs incurred by Shropshire Council in managing the notices are recharged to the utility.

## Enforcement

5.6.1 A main function of the Street Works team is the enforcement of legislative breaches by anyone working on the network. There are a number of main ways this is done by the team;

- Section 74 fines – whereby Street Works levy a charge for overrunning work on our network
- Fixed Penalty Notices (FPN) - are served for non-compliance to legislative requirements and breaches to permit conditions
- Coring failures - reinstatements have a sample taken and tested to ensure they are compliant with the regulations, when there is an identified failing there is a financial penalty applied and the utility concerned must return to site to rectify the failure.

5.6.2 This financial year has generated in excess of £1million with the current income forecasted for 2015/16 are:-

Section 74	£808,475
Fixed Penalty Notices	£193,475
Coring	£39,995

Totalling £1,041,945

- Coring

5.6.3 When Street Works last came to the Scrutiny Committee a concern that was raised was the high level of coring failures compared to the low level of visual defects found on inspections. As a result of this it was that there was a need for a more rigorous coring programme, as such we increased the number of phases and cores taken annually.

5.6.4 Since we increased the number of coring's the failure rate has improved significantly, as such the number of cores taken has varied annually to respond.

Calendar Year	Phases	Cores Taken	Failure rate
2010	1	77	45%
2011	2	184	53%
2012	3	224	35%
2013	4	1141	28.9%
2014	5	1040	24%
2015	4	991	28%

5.6.5 The benefit of this increased coring programme is that had we not identified the failure within 24 months of the works being completed Shropshire Council would have been responsible for the cost of the repairs.

- Fixed Penalty Notices

5.6.6 Since Street Works started to issuing FPN's in 2012 it has been noted by the utility companies and the industry as a whole as one of the most proactive in this area issuing thousands of FPN's per year; to date we have issued 1973 FPN's this year so far.

5.6.7 FPN's are served in lieu of prosecutions being brought against the utility company as each FPN is a criminal breach of legislation; while we have commenced investigations on specific works to ascertain if a prosecution was in the public interest we have yet to progress any to court.

5.6.8 Having dedicated inspectors has permitted the service to more proactively inspect work taking place in Shropshire; this as therefore provided more evidence to support assumptions that there is a significant percentage of the work taking place that is non-compliant. In addition to the increased number of inspections having a dedicated team has given the back office team more evidence such as daily logs, photographs, samples of materials etc., this therefore ensures appropriate levels of penalties are served in accordance with the actual disruption felt to the network and reduces the number of challenges to the validity of the penalties.

- Section 74 - Charges for Unreasonably Prolonged Occupation of the Highway

5.6.9 As stated earlier on in the report, the duration of the works to be taking place are agreed between the works promoter and Shropshire Council when the application is received. In an effort to help accelerate the application process we took a years' worth of noticing durations and undertook an in-depth evaluation on the average time taken for each utility to undertake specific jobs on the network; this has led to the introduction of standard agreed durations within the regional permit scheme. These are only standard and there are always instances where the duration agreed need to be longer or shorter for example when the work is in a hard dig area it will take longer to excavate or where there is paving to be reinstated it takes a little longer. There are also instances on busy or locally important routes we need the work to be done as quickly as possible so agree to a shorter duration.

5.6.10 However when the works exceed this agreed duration and either an application to extend the work has not been sent or the reason given is not acceptable for the extra disruption caused to the network a charge will be applied; the level of charges applied are maximum levels set by DfT and they depend on the type of road the

work has taken place on, they range from a daily charge of £250 to £10,000. The amount agreed between Shropshire Council and the Utility may be less than the maximum charge as it will reflect the situation found on site and the actual disruption felt to the network.

5.6.11 The new inspectors have increased the number of overrunning sites identified while also giving us more evidence as to whether the work was done as quickly as possible.

5.6.12 While we have agreed £804,475 in charges this year; each charge is a recognised disruption on the network that reduces the expeditious movement of traffic within the County which we have a statutory requirement to achieve.

- Funding for the service

5.6.13 Members should note that since the permit scheme inception the main funding for the team has been reclaimed from the fees incurred by the Utility Companies in their permit applications; the remaining expenditure incurred by Shropshire Council in running the service is funded by the other licencing and approvals managed by the service.

<b>List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)</b>
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Street Works Management of the Utility Companies on Shropshires Highways - Environment Services Scrutiny Committee - 3/11/2011
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<b>Cabinet Member (Portfolio Holder)</b> Cllr Simon Jones
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<b>Local Member</b>
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<b>Appendices</b>
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