

Blackpool Permit Scheme Post-Consultation Report

28 December 2018

Introduction

The formal consultation regarding the proposed Blackpool Council Permit Scheme ran for a period of eight (8) weeks beginning on the 23rd October 2018. The deadline for receipt of responses was no later than 17:00 on 18th December 2018.

It was stated in the consultation covering letter that 'all responses received by the 18th December 2018 will be taken into consideration and, if Blackpool Council consider it to be appropriate, amendments will be made to the draft Permit Scheme.

The draft Scheme Document and accompanying covering letter was issued to 18 key stakeholder organisations, including local neighbouring Highway Authorities, Utilities, road user representative groups, and non-government organisations. The list is provided below. Some organisations had a number of consultees within them and if known those individuals were contacted directly. The total number of email addresses / individual contacts made was 30.

All comments received from organisations have been added to the comment list so there is transparency regarding all changes to the scheme document. A list of comments received, and responses or amendments are provided in this document.

List of Consultees

Robert Moloney – Department for Transport	Ann Morley – Department for Transport
Mary Maxwell – Department for Transport	David Capon - JAG
Roger Culpin - JAG	Mark Whittaker – United Utilities
Marcus Cartmell – Electricity North West	Amanda Beech – Virgin Media
Matthew Wright - Openreach	Paul Carter – Cadent Gas
Chris Nesbitt - Vodafone	Clare Nolan-Barnes – Blackpool Council
Mark Anderson– Blackpool Council	Latif Patel – Blackpool Council
Mandy Davies – Blackpool Transport	Colin Nicholson - Stagecoach
Philip Higgs – Catch22 Bus	Gary Greenwood – Lancashire Council
Michael White – Lancashire Council	Charlene Johnstone – Lancashire Fire & Rescue
Stephen Cheetham – Lancashire Fire & Rescue	Colin Hickson – Lancashire Fire & Rescue
Lee Wilson – Lancashire Police	Robert Conolly-Perch – Lancashire Police
David Rigby – NHS Ambulance Service	Steve Taylor – NHS Ambulance Service
Helen Hyder – Network Rail	Lawrence Cheung – Network Rail
Robin Chivers – Network Rail	Bill Lewtas – Blackpool Taxi Operators





Consultees who responded by the deadline

A meeting with Statutory Undertakers was held during the consultation period on 11th December 2018, and verbal comments/queries were raised by Electricity North West, Cadent Gas and Virgin Media. Email responses to the consultation were also received from Cadent Gas and Virgin Media.

This report includes details of all the issues that have been raised, both verbally at the meeting and via email. There have been a relatively small number of issues raised, and most of those were matters of clarification. A small number of the issues have resulted in changes to the Permit Scheme document.

Blackpool Council wish to thank all those who responded for their contribution to the scheme introduction.

The following pages contain an analysis of the issues raised and the responses.



Consultee	Document Reference	Suggested amendment / clarification / comment / question	Response / Reply / Action
ENW	2.4	How to register Barholes?	There is a specific EToN facility for registering a barhole (without having previously applied for a permit) if no other excavation work is required. If other excavation work is required, a permit must be applied for and any barholes will be registered as additional sites when the reinstatements are registered.
ENW Virgin Media	5.3 5.3	How will the discounts for multiple linked activities be operated? If VM do have any major works/ lightning works covering we will endeavour to liaise with yourself before works. Can you just clarify if it will be Blackpool LA who will apply the discount upon the invoice?	The discount is to reflect reduced authority effort in coordination and therefore can only apply when all the activity applications are submitted at the same time (i.e. on the same day). The project reference must be used on each application and text should be included to justify the reasons for the discount. The discount will not apply to any subsequent variations or additions to the scheme which are added at a later date.
Virgin Media ENW	5.6 5.6	Do you have a list of cross boundary areas just for ease of working. Submission of applications to two adjacent authorities for cross-border works.	It is the precise location of the activity itself that defines whether it must be treated as a cross-border activity. This cannot be listed in advance; it has to be considered in relation to the individual works. In any case where a works (not just a trench but any aspect of road occupation or traffic management) straddles the border with another authority, application must be made to both authorities.
Cadent Virgin Media	5.10 5.10	Activities taking place on non-working days – how will this be agreed? ‘without the express approval’ Could it say without an agreed condition imposed by the Permit Authority? Will weekend working become an official condition due to Blackpool being a tourist destination?	The document states that work may not continue on “non-working days” without the express approval of the Permit Authority”. It has been clarified in the document that this will generally be done by the promoter including an appropriate condition in the permit application that is granted.

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Cadent	6.1	When a PAA has been submitted, it causes the promoter a lot of problems if the subsequent PA is refused. Clarification at the PAA – to confirm that the works duration will be agreed at this stage and not then challenged if no circumstances change at the PA stage.	If the PAA has been provided with sufficient information and the PA is consistent with the PAA, then the authority would expect to approve it except in exceptional cases where there had been a significant change in circumstances. No change has been made to the document, as it already states the authority reserves the right to refuse the permit application “if circumstances change”.
Cadent	7.5	Clarification on how we know ASD is vulnerable to traffic disruption. Could there be acknowledgement that we can ring when safe to do so when immediate risk has been removed.	Specific critical streets have been designated on the gazetteer ASD as requiring an immediate phone call to the authority as soon as any requirement for Immediate works is identified. It is the promoter’s responsibility to ensure that those staff responding to emergency situations are aware of the requirement. It is suggested that the promoter should produce a list from the gazetteer of those streets that have been designated, and this should be referenced whenever an Immediate works arises. If the promoter does not know how to produce the list, they should contact their system supplier. Clearly, ensuring safety is the priority in emergency situations, but this should not generally prevent the promoter from also contacting the authority immediately.
Cadent/ENW	8.2	Is the requirement for Contact Details different to current practice?	The appropriate contact details must be provided on each application and must relate to the persons who are able to deal with any issues that arise in carrying out that specific works; not just a standard central contact.
Virgin Media	8.2	VM contact detail are the same, however if you require these resend just ask.	
Cadent	9.1	Is reference to FPN being a course of action worth a mention here?	This section already references Section 15, which deals with all the possible sanctions for offences, of which FPNs are one.

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Cadent	9.2	NCT 1a or 1b . Can we have clarification on whether we need to display the end date of the permit on the board. As with other permit schemes this is not required only the start date as the end date can change causing confusion to HA's and members of the public.	It is not a statutory requirement to display the end date of the works on the site board. However, Blackpool Council believe that it is in the public interest to do so wherever possible and encourage promoters to display accurate start and end dates.
ENW Virgin Media	10.8 10.8	What does a promoter need to do in relation to trees? Can you confirm if this will become a permit condition application?	There is a planned programme in Blackpool for planting more street trees, and the authority needs to protect its asset. If a promoter determines that work is required within the proximity of a tree, the promoter must contact the relevant section of the authority to initiate a dialogue regarding how to avoid damage. The document already states "Any requirements they have must be referred to in the application and reflected in a Permit Condition for an environmental constraint."
Cadent	10.10	table – "within 2". Should this read within 2 hours?	Yes. The document has been corrected.
ENW	10.11	When will Refusals and PMRs be used?	PMRs will be used wherever possible, if the application requires only minor modification to become acceptable. Refusals will be used where there are major problems with the application, including where the proposed dates are not viable.
Cadent	10.12	The Hauc advice note states if no response deemed Accepted in 2hrs. Could it mirror this?	HAUC Guidance states that the promoter should submit a relevant variation following the AIV. In any event, the details of the AIV pertain unless and until there is any further granted variation. However, the document has been amended to clarify that the AIV is deemed if there is no response within the required time.
Cadent	12.6	It reads like only if we have agreement are we allowed to submit an extension electronically. In Nrswa we are allowed to electronically submit extension on last day – (not that we want to do this) We are obliged even if	The promoter is obviously at liberty to submit an electronic variation at any time, but the procedure defined in this section is designed to help the promoter to ensure that

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		not agreed to put extension through electronically. We wanted to clarify this.	they do not end up committing an offence by overstaying the period of the permit without obtaining a granted variation.
Cadent	12.7	Are phone calls for every excavation within 50m of the original excavation necessary for all category of roads, FW and CW? We may be ringing for excavations within a few meters of each other out of hours potentially in the middle of the night for footways on side streets. Can criteria be put around this?	It is accepted that there may be situations where the “new location” is not sufficiently different to the original location to require this to be done. Wording has been amended to clarify the telephone call is only necessary if the new location has an additional disruptive impact.
Cadent/ENW	12.9	Exceptional circumstance beyond Permit Authorities control, can AIV's be submitted rather than the promoter being asked to submit a Permit Modification request on the authorities behalf? Concern was also expressed that any suppression of permit variation fees for changes initiated by the authority would be dependent on manual action, and experience on other permit schemes shows that this often does not happen. Also, it would be preferred to always have an AIV in these situations.	The issue of an AIV by Blackpool Council is not always the best approach. Following a discussion about the change in circumstances, and the need to vary the terms of the existing activity, it may be best for the promoter to work out the best way to accommodate the new requirement and submit a variation for approval. In other circumstances, an AIV may be appropriate, and that is what the document currently states.
Virgin Media	12.9	For clarification will this be down to the LA to invoice correctly if a permit variation is requested form yourselves?	Blackpool Council accepts that it is their responsibility to ensure that fees are suppressed in appropriate circumstances. The suppression of fees has to be a manual action on the part of the authority, as it requires a review whether the variation is related solely to what has been requested by the authority.
ENW	14.7	Will “draft invoices” be produced for fees, for pre-agreement before producing the final invoice?	There is no intention to provide draft invoices. Every effort will be made to ensure the invoices are correct before being despatched. In the exceptional circumstances of an error, credits will be issued.
Virgin Media	17.7	Can you confirm if a draft invoice will be generated and sent out or just a final invoice sent out?	
Cadent	15.1 – 15.3	Duplication in 6 other sections identified. 9.1, 5.11, 5.16, 10.12, 11.5, 12.3	These are not considered to be unnecessary duplication, and the document is therefore not changed.

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Cadent	15.4 – 15.7	Copy of Nrswa Code of Practice CH11. Why not just reference this?	There seems to be no reason to change the document.
Cadent	17	We may send our 3 month Notice in earlier than the 3 months, although not common. We would prefer if a job starts on Noticing for it to stay on Noticing and not be asked to cancel and re-raise.	The transition policy stated here is consistent with DfT and HAUC recommendations. Indeed, in relation to the specific query raised, the rules of the scheme are in accordance with Statutory Guidance (see Section 9.7 of Statutory Guidance for Highway Authority Permit Schemes – October 2015).
Cadent	19	We do not know why it is deemed necessary to have a section on Dispute Resolution in your Scheme Document. This only mirrors Section 13 in NRSWA Code of Practice. This section has not been included in any other Permit Authority Scheme Document. We do not hope this is included because you are expecting an increased amount of disputes due to the implementation of your permit scheme. We feel that this expresses an unnecessary negative impression of your Scheme. If this is still something you feel you need to make reference of, we feel it would be better to refer to Section 13 NRSWA Code of Practice, rather than include the full details of that section.	<p>Contrary to the statement made in this query, the vast majority of Permit Schemes in England DO contain a Dispute Resolution procedure, Further, whilst some are almost identical to this Blackpool scheme, others are different, and therefore it is considered appropriate to include the details. The Statutory Guidance for Highway Authority Permit Schemes assumes there will be a dispute resolution procedure and states “Various sections of The TMA provide powers to devise a suitable dispute resolution procedure”.</p> <p>In relation to the concern that this expresses “ a negative impression” of the scheme, that is not the case. The Statutory Guidance sates “It is expected that all concerned will use their best endeavours to resolve disputes locally without having to escalate them”. This is reflected in the first sentence of Section 19 of this document – “Blackpool Council welcomes the opportunity to informally resolve disputes before resorting to formal resolution procures.”</p>