

**SURREY COUNTY COUNCIL****CABINET****DATE: 23 JUNE 2020****REPORT OF: MR MATT FURNISS, CABINET MEMBER FOR TRANSPORT****LEAD OFFICER: KATIE STEWART, EXECUTIVE DIRECTOR FOR ENVIRONMENT, TRANSPORT AND INFRASTRUCTURE****SUBJECT: SURREY LANE RENTAL SCHEME****SUMMARY OF ISSUE:**

The county of Surrey suffers with traffic congestion during peak periods, particularly at congestion hotspots. In fact, Surrey's congestion levels are 25% higher than the average for the South East region as a whole. This congestion is exacerbated when utility companies and highway authorities, undertake works on the highway, closing or limiting traffic flows, particularly at peak times.

A lane rental scheme, by which organisations working on the highway pays into a fund for such usage, can be applied to the most congested sections of the road network. Such a scheme provides a strong financial incentive for those working on the highway, including the Council for its own works, to avoid undertaking works on these roads at peak times, thereby reducing further impact at congestion hotspots.

**RECOMMENDATIONS:**

It is recommended that:

1. Surrey County Council undertake a consultation as prescribed in the Department for Transport Lane Rental Schemes Guidance for English Local Highway Authorities with a view to introducing a lane rental scheme. Subject to the results of that consultation having been taken into account and a scheme being considered appropriate to make a submission to the Secretary of State for an Order to bring a scheme into legal effect.
2. The Director for Infrastructure and Delivery in consultation with the Cabinet Member for Transport is given delegated authority to approve the commencement of a lane rental scheme once the Secretary of State approval has been obtained.

**REASON FOR RECOMMENDATIONS:**

Surrey County Councils' Community Vision for Surrey in 2030 has an aspiration that "Journeys across the County are easier, more predictable and safer". A lane rental scheme will help us achieve this aspiration. Analysis from pioneer lane rental schemes, introduced by Transport for London (2012) and Kent County Council (2013) demonstrate clear benefits from a scheme. These benefits are derived from behaviour changes by organisations undertaking works, to avoid lane rental charges, and additional control by both Authorities to coordinate works.

<b>DETAILS:</b>
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### Lane Rental Scheme

1. A lane rental scheme is a legislative scheme, brought into legal effect through a legal Order, to allow the Council, acting as the highway authority to charge organisations undertaking street works or road works for the time their works occupy specified streets of the highway (up to £2,500 per day). This is commonly referred to as “lane rental”. Surplus funds can be used to reduce the disruption and other adverse effects caused by street works.
2. Surrey’s introduction of a permit scheme in 2013 was a progressive increase in the ability of the Council to manage and coordinate works as part of its network management duty, and to minimise disruption. A lane rental scheme will complement this permit scheme by providing greater financial incentive to encourage organisations to improve their planning, work outside of peak times and reduce the duration of their work.
3. The provision for a lane rental scheme is provided through the Street Works (Charges for Occupation of the Highway (England)) Regulations (2012) (“the regulations”). These regulations set out the framework for the application of lane rental on a street; this includes which streets lane rental can be applied to, how charges can be applied and how revenues from charges can be used.
4. An Order in the form of a statutory instrument to bring a lane rental scheme into legal effect must be issued by the Secretary of State for Transport. The Department for Transport’s (DfT’s) Guidance<sup>1</sup> sets-out the criteria and process for the Council to apply to the Secretary of State for this order. The review process is carried out by the DfT.
5. There are currently two operational lane rental schemes in effect in the UK: Transport for London Lane Rental Scheme (from June 2012) and Kent Lane Rental Scheme (from May 2013). Both of these pioneer schemes were invited to form part of an initial UK Government trial.
6. In April 2015, the Department for Transport commissioned a research company to evaluate the impact and effectiveness of the two pioneer lane rental schemes. This evaluation<sup>2</sup> determined that both schemes had been implemented effectively.
7. In 2017, the Government undertook a consultation on the future of lane rental schemes, and subsequently announced plans in February 2018 to allow other local highway authorities to submit proposals to operate lane rental schemes.
8. In their published Guidance, the DfT state that the prospective lane rental network should cover no more than 5% of the total network length, unless any increase can be clearly justified. The DfT’s Guidance also states that Secretary of State approval for a scheme would be subject to certain conditions:
  - The Authority would need to have a well-run permit scheme already in place;
  - The scheme would also apply to the Authority’s own works, with real money charges being applied for these works;
  - Any charges should incentivise works outside of peak times; and

<sup>1</sup> <https://www.gov.uk/government/publications/street-works-lane-rental>

<sup>2</sup> <https://www.gov.uk/government/publications/street-works-lane-rental-evaluation>

- A scheme should be trialled before ‘go live’, and;
- Schemes should be reviewed annually to ensure charges remain proportionate and are applied to the most congested roads.

### Benefits of a Lane Rental Scheme

9. The expected benefits from a lane rental scheme are primarily derived from the financial incentive that results in behavioural changes by organisations undertaking works. For instance, it is expected that the length of time a work site on the highway is unoccupied would be reduced, in that organisations would want to reduce the level of the charge applied. As a result, organisations are more likely to complete works to the correct standard first time to avoid a return visit, and/or and undertake work outside of peak periods or overnight.
10. The Street Works Lane Rental Evaluation produced for the Department for Transport, summarises observations from both the London and Kent schemes. The key observations are in both cases, the scheme achieved an improvement in average journey times and journey time reliability and a reduction in serious and serve disruption in the areas in scope.
11. The most recent lane rental scheme monitoring report from TfL<sup>3</sup> (to 31 March 2019) demonstrates several clear benefits compared with the start of the scheme:
  - 84% of utility works avoided a charge, and therefore were undertaken outside of traffic-sensitive times;
  - the average number of collaborative works sites where more than one organisation utilises the site at the same time have increased by 65%;
  - there has been a 28% increase in planned utility works that take place overnight; and
  - customer satisfaction related to roadworks have experienced significant improvements, including reports of “un-manned sites”.
12. A successful lane rental scheme should result in all relevant works being undertaken outside of traffic sensitive times, and therefore no charges applied. However, in practice it is not always possible to undertake works outside of traffic sensitive times and will likely need to be applied, as found in both London and Kent.
13. A Lane Rental Scheme may therefore generate a surplus once running costs have been deducted from income received, but a lane rental scheme should not be viewed as an additional source of revenue for the Council. In fact, the regulations make clear that the “[charging] Authority must apply the net proceeds for purposes intended to reduce the disruption and other adverse effects caused by street works.” The DfT’s Guidance provides further examples on the areas that could apply for this application of such surplus:
  - Investment in innovation and developing new products or disruption saving techniques;
  - Trials of new techniques and products;
  - Installing “pipe subways” or ducting that enables apparatus to be accessed more easily and without causing disruption to traffic;
  - Measures to improve the quality or accessibility of records about the location of underground pipes, wires and other apparatus;

<sup>3</sup> <https://tfl.gov.uk/info-for/urban-planning-and-construction/our-land-and-infrastructure/lane-rental-scheme>

- Measures to help abate noise, pollution or safety hazards arising as a result of works
- Repairing potholes caused by utility street works; and
- Implementing extraordinary measures to mitigate congestion caused by works, especially major works projects.

SCC officers will work with utility company representatives so that both are actively involved in deciding how net revenues are applied. SCC are required to demonstrate the governance arrangements that will be put in place to ensure compliance with the legislation.

14. Finally, it is worth noting that whilst it has been shown that lane rental schemes can have significant benefits, the findings of the lane rental evaluations and monitoring reports include observations which could be viewed as disbenefits of a scheme and should be considered carefully in any decision to introduce a scheme:
- a move towards out-of-hours working as a result of the charges may lead to other social issues, such as noise and health and safety considerations;
  - organisations may be incentivised to delay non-urgent planned maintenance work to their assets where this would be liable for a lane rental charge;
  - there are additional costs for promoters to mitigate for lane rental charges, which can include additional employee and equipment costs; and
  - the costs to major works, especially highways major scheme works, for which the County Council may be responsible, can result in significant additional costs for the overall scheme. This is demonstrated by TfL where 99% of their works avoid a charge, however they still incur around £2million of charges because of high-duration major scheme work.

### **Surrey Lane Rental Network**

15. In their Guidance, the DfT state that the prospective lane rental scheme “must focus on those critical parts of the highway network and demonstrate that it is no more than 5% of its network [total length] ... and provide clear evidence and justification if it wants to apply lane rental to more than 5% of its network.”
16. Analysis undertaken by the Council’s Traffic & Streetworks Team, in collaboration with a specialist consultancy *Open Road Associates*, has identified the most congested sections of network in Surrey and ones that could be subject to lane rental.
17. With consideration of the analysis and DfT’s Guidance, this lane rental network has been defined as a core network, which comprises 5%, and an extended network, which comprises a justifiable additional 3%. If accepted the total lane rental network in Surrey would comprise approximately 8% of the total network should the Secretary of State accept the justification provided within the submission.
18. Models (estimates) created for this lane rental scheme, e.g. estimates of income from charges, have been based on this proposed network. However, the proposed lane rental network and associated models may be subject to change as a result of further analysis and the submission to the Secretary of State and therefore are indicative only at this stage.

## Operating a Lane Rental Scheme

19. Based on the proposed lane rental network, a scheme could impact around 2,500 works across the entire lane rental network (8%). These works amount to approximately 8,940 days of highway occupation during a year.
20. For the Council to administer these works under a lane rental scheme it is estimated that an additional 7 posts will need to be recruited. There are currently 30 members of staff in the Streetworks Team, so this is an increase of 23% of staff in the Streetworks Team:
  - 3 x Senior Streetworks Officers, who will monitor works taking place on the network to ensure adherence to the scheme;
  - 3 x Senior Network Coordinators, who will be responsible for coordinating works and other events on the lane rental network; and
  - 1 x Streetworks Technical Officer, who will be responsible for the increased administration of a lane rental scheme, including finances and the governance of surplus income.
21. The additional cost of these resources can be recovered from any income received from lane rental charges, as a *reasonable cost* allowed within the Regulations.
22. Several models have been developed to estimate income from lane rental charges. These models use historic works data and estimate behavioural changes by those undertaking works to avoid the charges.
23. The models have been developed using a combination of monitoring reports from operational schemes in London and Kent, and experience from the Council's Traffic & Streetworks Team.
24. The DfT's Guidance is clear that "levels of charges set out in any proposed scheme will need to be fully justified in each case ... it will not be sufficient for scheme promoters simply to apply the maximum charge level without clear justification."
25. Taking the DfT Guidance into consideration, the Council proposes to set the following charge structure:
  - £2,500 per day where works involve a road closure; and
  - £1,500 per day where works otherwise involve any form of impact to normal traffic flows.
26. The table below provides a summary of how the lane rental scheme would have applied to works undertaken between 2017 and 2019, including the durations and expected charges, delineated for highways and utility works based on the models produced. These figures take into consideration expected changes to working behaviours to avoid charges, and scheme discounts to incentivise these behaviour changes and mitigate for any possible scheme dis-benefits.

**Table 1: Summary of historic schemes analysis against proposed lane rental scheme**

Estimated Numbers per Year	Section of the lane rental network (LRN)	SCC Highways Work	Utility Work	All Work (Total)
Total number of works undertaken on the proposed lane rental network	Core (5%)	784	958	1,742
	Extended (6-8%)	379	391	770
	Total LRN (8%)	1,163	1,349	2,512
Total duration (days) of works undertaken on the proposed lane rental network	Core (5%)	2,584	3,675	6,259
	Extended (6-8%)	1,231	1,450	2,681
	Total LRN (8%)	3,815	5,125	8,940
Estimated lane rental charges	Core (5%)	£856,300	£1,036,863	£1,893,163
	Extended (6-8%)	£416,663	£382,575	£799,238
	Total LRN (8%)	£1,272,963	£1,419,438	£2,692,400

27. As shown in Table 1, if the scheme were applied to the proposed network over the historic period analysed, the expected income from charges would be up to approximately £1.9million for the core lane rental network, which could increase to approximately £2.7million if lane rental is applied to the total proposed lane rental network (8%).
28. Of these charges, around £850,000 to £1.3million are for SCC highways works which would be a cost to the authority. Given Surrey's aspiration to increase the capital investment into the highway network in Surrey, this may attract additional lane rental charges not included in this estimate.
29. Where works are re-designed to mitigate lane rental charges, it should also be noted that it is likely that organisations, including SCC's own highways contractors, will incur additional costs to work within the lane rental scheme and for any mitigation measures for instance to work overnight or increase resources.
30. As detailed above, the administration of the scheme will be recovered from the surplus income received from these charges, which an annual evaluation will be used to justify.
31. It should be noted that a permit fee cannot be charged against works which incur lane rental charges but permit fees can be adjusted to ensure the permit scheme remains cost neutral year-on-year as required by legislation.

32. Analysis by Open Road Associates utilising models prepared for the DfT to undertake national evaluation of legislation, estimates an impact of £64m to society as a result of traffic disruption from works on the proposed Surrey lane rental network. This analysis also shows that the Surrey permit scheme has already reduced impacts to society of traffic disruption by one third. The introduction of a lane rental scheme has the potential to reduce this impact by up to another third.

#### CONSULTATION:

33. The DfT's Guidance sets out a formal consultation that must be undertaken by a local highway authority prior to making an application to the Secretary of State to run a lane rental scheme. This consultation is planned for a period of 3 months, between July and September 2020. The stakeholders to be consulted include;

- Those organisations who undertake works on the highway,
- Secretary of State
- Department for Transport
- relevant regulatory authorities, including Ofgem, Ofwat, Ofcom and the Health and Safety Executive
- Passenger transport providers; and
- Emergency services

#### RISK MANAGEMENT AND IMPLICATIONS:

34. The key risks in this decision are outlined below in table 2:

**Table 2: Key Risks**

Risk	Mitigation
<p>The Secretary of State does not approve the submission to introduce a lane rental scheme in Surrey.</p> <p>Surrey would not realise the benefits of the scheme and Council resources applied to the pre-scheme work would be wasted.</p>	<p>This risk is being mitigated through early engagement with the Department for Transport by Council officers to ensure due process is undertaken in the pre-submission stages and to ensure the submission is fit-for-purpose.</p>
<p>The timescales to implement the scheme are impacted by due process and/or external events, such as COVID19.</p> <p>This could result in a delay for the Council to realise the benefits of the scheme. In addition, the Council may require increased resource, at cost, to undertake additional work as a result of this risk.</p>	<p>This risk is being mitigated through early engagement with the Department for Transport by Council Officers.</p> <p>Council Officers are ensuring the pre-scheme activities provide the necessary regulatory requirements to avoid any delays, such as the need to reconsult.</p>
<p>Regulatory changes, or political change, results in the withdrawal or amendment to lane rental schemes.</p> <p>Surrey County Council cannot proceed with the introduction of a lane rental scheme.</p>	<p>Mitigation measures for this risk are clearly limited; however the likelihood of this occurring is deemed very low.</p> <p>Current lane rental schemes in London and Kent demonstrate clear benefits, therefore support the continuation of the regulations.</p>

#### FINANCIAL AND VALUE FOR MONEY IMPLICATIONS

35. The direct cost borne by the Council to operate the scheme if the recommendations above are agreed is seven additional staff as set out above. However, whilst the

scheme is not designed specifically to generate an income stream, analysis and experience of existing schemes do suggest that sufficient income will be generated to cover these additional staff costs. As such, the costs of operating the scheme will be covered by scheme income and will not cause budgetary pressures.

36. As set out in paragraphs 28 and 29 of this report, lane rental fees and costs of mitigation measures will be incurred on SCC's own works, and these costs will need to be managed within the existing revenue and capital works budgets.

#### **SECTION 151 OFFICER COMMENTARY**

37. Although significant progress has been made over the last twelve months to improve the Council's financial position, the medium-term financial outlook is uncertain as it is heavily dependent on decisions made by Central Government. With no clarity on these beyond 2020/21, our working assumption is that financial resources will continue to be constrained, as they have been for the majority of the past decade. This places an onus on the Council to continue to consider issues of financial sustainability as a priority in order to ensure stable provision of services in the medium term.
38. The primary purpose of a lane rental scheme is to reduce traffic congestion, with associated benefits to the Surrey economy. The financial implications for SCC, including the cost of operating the scheme and additional costs of undertaking works on the highways, are detailed in paragraphs 35 and 36.
39. Any surplus income resulting from the scheme after meeting operating costs must be used to reduce disruption and other adverse effects of street works, for which a governance process will be established.

#### **LEGAL IMPLICATIONS – MONITORING OFFICER**

40. Section 74A of the New Roads and Street Works Act 1991 ("NRSWA") enables highway authorities to charge street works undertakers a daily charge for each day during which their works occupy the highway. This is commonly referred to as "lane rental".
41. The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012 made by the Secretary of State for Transport under sections 74A and 104 of NRSWA provide for the payment of charges, by reference to the duration of works, by an undertaker to an approved local highway authority ("an Approved Authority") when executing certain street works.
42. The power for local highway authorities to implement and operate a lane rental scheme in England is subject to the approval of the Secretary of State.
43. Any local highway authority making an application to the Secretary of State to run a lane rental scheme will need to have carried out a full consultation amongst a wide variety of stakeholders on the draft scheme including the authority's cost-benefit analysis, proposed charging regime and detailed evaluation scheme.
44. Once a scheme has been submitted to the Department for Transport the Secretary of State can approve it, with or without modifications or reject it.



45. The Department for Transport will assess an application and let authorities know the outcome within 30 days of receipt. If the application is successful, it will take approximately three months to prepare and finalise the Order which will be a Statutory Instrument and for it to come into effect.

## EQUALITIES AND DIVERSITY

46. Table 3 shows protected characteristic groups, with a potential impact and the nature of any impact to that group from the introduction of a lane rental scheme.

**Table 3: Impact on protected characteristic groups**

Protected Characteristic Group	Potential for Impact	Positive or Negative Impact
Disability	Yes	Positive
Gender reassignment	No	Not Applicable
Marriage or civil partnership	No	Not Applicable
Pregnancy and maternity	No	Not Applicable
Race	No	Not Applicable
Religion or belief	No	Not Applicable
Sexual orientation	No	Not Applicable
Sex (gender)	No	Not Applicable
Age	No	Not Applicable

47. A full Equalities Impact Assessment is not required as there is no significant change to the way works on the highway are undertaken other than an anticipated improvement in both the planning of works and timeliness of execution of works, both of which may have a positive impact for the 'Disability' Protected group. No further changes to any protected groups are anticipated.

48. The DfT's Guidance states "representative bodies for road users, including representatives of disabled people," must be included within the formal consultation process.

## PUBLIC HEALTH IMPLICATIONS

49. A lane rental scheme should have a positive effect on traffic flow, in mitigating traffic queues across the County, and therefore have an associated positive impact to reducing CO2 emissions and therefore air quality.

## WHAT HAPPENS NEXT:

50. The following milestones are from the current project implementation plan. It should be noted that many of the timescales are based on estimates set out by the Department for Transport, such as the time required for the Secretary of State to prepare the legal Order for the Council once a scheme has been agreed:

- Undertake formal consultation with various stakeholders (July 2020 to September 2020)
  - Submit an application to introduce a lane rental scheme to the Secretary of State (October 2020)
  - Obtain approval from the Secretary of State to introduce a lane rental scheme (November 2020)
  - Obtain approval to proceed from the delegated Cabinet Member (November 2020)
  - Undertake the necessary changes, including recruitment, to operate a lane rental scheme (complete by January 2021)
  - Commence a lane rental scheme trial (January 2021)
  - Develop governance arrangements for lane rental surplus (complete by March 2021)
  - Bring a lane rental scheme into legal effect (March 2021)
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**Consulted:**

A full formal 3-month consultation will be undertaken following SCC Cabinet approval to progress a proposed Lane Rental Scheme through to submission to the Secretary of State. SCC Officers and Cabinet Members have been kept advised on scheme development progress and principles of scheme proposals.

**Annexes:**

None.

**Sources/background papers:**

- The Street Works (Charges for Occupation of the Highway) (England) Regulations 2012
    - <http://www.legislation.gov.uk/ukxi/2012/425/contents/made>
  - Lane Rental Scheme. Guidance for English Local Highway Authorities, published by the Department for Transport (July 2019)
    - <https://www.gov.uk/government/publications/street-works-lane-rental>
  - Street Works Lane Rental Evaluation. A report to the Department for Transport. December 2015
    - <https://www.gov.uk/government/publications/street-works-lane-rental-evaluation>
  - Transport for London Lane Rental Scheme. Monitoring Report – 1 April 2018 to 31 March 2019.
    - <https://tfl.gov.uk/info-for/urban-planning-and-construction/our-land-and-infrastructure/lane-rental-scheme>
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