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Mr Tim Hockney
London First

Dear Tim

London First Roadworks Count: Draft Statement of First Principles Consultation

I am pleased to be able to respond to your Roadworks Count: Draft Statement of First Principles Consultation on behalf of the National Joint Utilities Group Ltd (NJUG), the only UK trade association representing utilities and their contractors on street works issues¹.

As you will know from our previous engagement with you, NJUG is a constructive organisation committed to working with Government, local authorities, and other key stakeholders like London First to reduce the unfortunate disruption sometimes caused by essential street works. Therefore, whilst we have provided detailed comments overleaf we would wish to place on record our support for the concept of the 10 principles and the majority of those proposed, subject to our comments and suggestions on wording.

Many of the comments we have made (see Appendix A) mirror those that we provided informally to you at the end of February. In addition, we have taken the opportunity to comment on the associated London First commissioned research culminating in the Road Works Count! Report produced by Colin Buchanan & Partners, which sets out further options for potentially reducing the unfortunate disruption that result from essential utility and highway authority works (see Appendix B).

Utilities are investing billions of pounds each year in delivering safe and secure electricity, gas, water and communications services. This includes major gas and water mains replacement programmes required by the Health and Safety Executive (HSE) and the Environment Agency respectively; substantial electricity cable replacement programmes as they reach the end of their asset lives; and significant investment in the communications industry to deliver the Government's objective of Broadband Britain.

This coupled with the very substantial backlog of road maintenance and traffic management activities that highway authorities need to undertake, means that the volume of road and street works is going to remain constant for many years. Whilst we will see a reduction in water mains replacement works in London following the recent water industry regulatory settlement by Ofwat, we will also see increased works to tackle potholes and deliver

¹ NJUG's current members are the Energy Networks Association (representing electricity and gas), Water UK (representing all water and wastewater companies), National Grid, Openreach, and Virgin Media. Our associate members are Clancy Docwra, Skanska Utilities, Balfour Beatty, Morrison Utility Services, Morgan Est, Nacap UK, PJ Keary, First Intervention, Carillion, Enterprise, Laing O'Rourke, Amec, and Stanmore Quality Surfacing. Including members through trade associations, NJUG represents thirty-nine utility companies and thirteen utility contractors. NJUG is also the utility arm of the Highway Authorities and Utilities Committee UK – HAUC(UK).



Broadband Britain and constant gas and electricity replacement works. Therefore, it is NJUG's strong view that the greatest reduction in disruption will result from both utility service providers and highway authorities working together better, through improved co-ordination, communication and co-operation.

The myriad of existing legislation provides a range of provisions to manage and co-ordinate works, with recent improvements and the new permit schemes yet to bed in or be measured in terms of their effectiveness.

Therefore, it is vital that in considering any further measures for the management of works in the street, policy makers recognise the need to drive the right behaviours; to focus on those roads where congestion is greatest and those works which cause the most disruption; and that any proposals apply equally to both utility service providers and highway authorities, and are balanced and workable without placing unnecessary administrative or financial burden on all parties and their customers.

We therefore welcome and support the recognition of these key factors within London First's Statement of Principles and look forward to continuing to work with London First on the development of these and on other key initiatives to ensure that disruption from road and street works is reduced as much as possible, whilst London's businesses and residents continue to enjoy the secure and reliable utility services on which they all rely.

Finally, we hope that our comments are helpful and can be accommodated into the final version. We would very much welcome an early opportunity to discuss the Principles further with you, ideally with our Highway Authority colleagues through HAUC(UK), with a view to reaching agreement in order that the Principles have the collective support of the road and street works industry.

In the meantime, if you have any specific questions regarding our response within Appendices A and B, then please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Les Guest", is displayed on a light green rectangular background.

Les Guest
CEO
National Joint Utilities Group Ltd

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Appendix A

London First's Proposed Roadworks Count: Statement of Principles Consultation The National Joint Utilities Group Ltd Response – April 2010

Introduction

The National Joint Utilities Group is the only UK trade association representing utilities and their contractors on street works matters. NJUG's primary focus over the past few years has been to drive up the quality of street works by our fifty two members / associate members. Much progress has been made, with significant steps made to turn the ***NJUG Vision for Street Works***² into reality, and in particular to continue the impetus to improve. For example, following the success of Mayor of London Boris Johnson's London Code of Conduct, we are launching an NJUG National Code of Conduct in conjunction with the Mayor. This builds on the principles of the London Code and focuses on minimising occupation of the street when undertaking essential street works, whilst ensuring works are undertaken safely and to the right quality.

We welcome the opportunity to again comment on the London First Roadworks Count: Statement of Principles. As previously confirmed, we support the concept of the proposed 10 principles, and indeed many of the actual principles themselves, subject to our comments provided below.

Indeed, we would welcome the opportunity to work with London First, along with our highway authority colleagues through HAUC(UK), to provide further clarity through refining of some of the key phrases, in order that the 10 Principles then can enjoy the support of the collective road and street works industry.

Key Comments on the 10 Principles

NJUG's comments are provided on each Principle in turn using the numbering of the London First Statement, with each Principle included in italics:

- 1) As Highway Authority and Utility Company works both significantly contribute to congestion, both should be subject to similar principles in a charging regime.***

NJUG's comments:

NJUG would suggest the phrase "on key routes in London" is added to this principle after the phrase ".....contribute to congestion". This is because NJUG agrees with the statement that utility and highway authority works do 'significantly' contribute to congestion within London – this has been identified within the recent six month review of the London Code of Conduct agreed between the Mayor of London Boris Johnson and the five major utilities operating in London, and which showed that by duration utility works caused 19% of congestion within London and Highway Authority works caused 17% for the period 2008-9. Interestingly accidents and breakdown accounted for a further 39%.

However, outside London, the amount of disruption due to street and road works is considerably less and generally recognised to be around 10% of total disruption, split roughly equally between utilities and highway authorities (i.e. each responsible for around 5% of total congestion).

Therefore, we suggest that the Principle either includes the words "on key routes in London" to qualify the use of the word "significantly" – or alternatively to remove the word "significantly" – as below:

² http://www.njug.org.uk/uploads/0912_NJUG_Vision_for_Street_Works.pdf

“As Highway Authority and Utility Company works both [significantly] contribute to congestion [on key routes in London], both must be subject to similar principles in a charging regime”

We would also like to stress that any charging regime should be legitimised through statute and agreed with the economic and health and safety regulators. This point is recognised in the Buchanan Report, which indicates that any new charging regime is likely to require new legislation, albeit this is likely to be able to be achieved through new regulations in respect of a lane rental scheme.

Subject to the above comments, we support the Principle, and strongly believe that only by applying any new or existing charging regime equally to both utility service providers and highway works will all parties be incentivised to work together better to minimise disruption.

2) *The charging regime should provide incentives to improve operational efficiencies and penalties to discourage inefficient operation.*

NJUG comments:

NJUG agrees with the principle that any charging regime should provide incentives to improve operational efficiencies and that inefficient operation should be discouraged. However we would:

- Highlight the significant improvements already achieved and recognised as having been achieved, by both the implementation of NJUG’s *Vision for Street Works*³ and the Mayor’s London Code of Conduct, which has been so successful that NJUG is now launching a National Code of Conduct in 2010.
- Highlight that utilities are already heavily incentivised to undertake street works efficiently, through existing legislation, economic regulation and commercial / market mechanisms. Every incursion into the street costs utilities money. It is also not in a utility’s interest to unnecessarily prolong works, either from a reputational or financial perspective:
 - **Existing legislation** – Both the New Roads and Street Works Act 1991 (NRSWA 1991), which required highway authorities to co-ordinate works, and the Traffic Management Act 2004 (TMA), which introduced a more positive requirement for highway authorities to co-ordinate works, provide a range of mechanisms to both incentivise utilities to operate efficiently and local authorities to co-ordinate works effectively – much of which has only recently been enhanced or introduced. These include S74 overstay charges, which are widely recognised as instigating a step-change in the reduction of durations of works and has recently seen a further increase (May 2009); Network Management Duty – which requires local authorities to proactively manage and co-ordinate all activities on their road network to ensure the expeditious movement of traffic; Permit schemes – which can be implemented in differing ways, and can focus on major works on the busiest streets (such as the Kent Permit Scheme) or applied on a blanket basis (as per the London Common Permit Scheme) (introduced only in January 2010); An improved Noticing Regime (April 2008); and Fixed Penalties (May 2008).
 - **Further Proposed Improvements** – Government is also currently consulting on a ten-fold increase of S74 Overstay charges up to a maximum of £25,000 per day, as well as considering a possible daily charge ‘lane rental’ scheme, but only for utility works, with no penalties for overrunning highway authority works.
 - **Economic Regulation** – gas, water and electricity utilities are continually required to improve the efficiency of all their activities through the RPI-X regulatory mechanism and five yearly settlements, whereby companies are set the levels of investment and operational costs (OPEX) they can incur, with a required year on year OPEX reduction. Many companies have entered into long-term partnerships or ‘Alliances’

³ http://www.njug.org.uk/uploads/0912_NJUG_Vision_for_Street_Works.pdf

- with their contractors to implement enhanced working procedures to reduce the durations of works whilst at the same time increasing the volume of works to meet economic, safety or environmental regulator requirements.
- **Commercial / Market pressures** – in addition, competition for the provision of services to customers in all sectors, but particularly in the communications market, means that companies must always look to continually reduce costs.
 - Therefore, we suggest that the word “further” is inserted prior to the phrase “...improve operational efficiencies.”
 - We also wish to highlight that the use of the word “penalties” has a specific meaning in transport legislation and is therefore unnecessarily prescriptive.
 - We therefore suggest that a more generic term is used, such as “financial mechanisms” to allow the flexibility to consider penalties, charges, bonuses or any other method of encouraging further efficiencies, as may be appropriate. In particular it is worth noting that if some form of focused and incentivised lane rental scheme were introduced it would be based on a “daily charge” not a penalty, and so to be legally correct we would advocate use of a generic term.
 - We also suggest the inclusion of the word “proportionate” prior to “financial mechanism” - As discussed, any efficiently incurred additional costs will ultimately be borne by London businesses and domestic consumers, therefore in setting any charge / penalty, which will sit alongside all the other existing financial mechanisms available under NRSWA 1991 and / or the TMA, policy makers must recognise that a) much improvement in efficiency has already taken place as a result in particular of S74 overstay charges, the RPI – X regulation applied to gas, water and electricity companies, the commercial pressures of a competitive communications market and the London Code of Conduct and b) given the rate of return that utility companies currently receive within the UK, there is a real risk that additional regulatory burden will simply dissuade them from investing in the UK, particularly when the range of measures only recently introduced have yet to be assessed and costs / benefits identified.

We therefore propose the following amendments to the wording as follows:

“The charging regime should provide incentives to further improve operational efficiencies and proportionate / appropriate financial mechanisms to discourage inefficient operation”

Subject to the above comments, NJUG supports this Principle.

3) Charges for any new scheme (e.g. Lane Rental) should only be applied at congested locations i.e. major roads at busy times.

NJUG comments:

NJUG agrees strongly with this Principle – a focused scheme which concentrates on London’s **key** strategic routes and incentivises utilities to consider working outside normal hours where possible, will be the most effective e.g. zero charges if works take place outside sensitive times and the road is temporarily restored for full use during sensitive times. This will allow utilities to focus on and treat works on these routes as a priority (with potential additional planning, resources and possibly extended working or use of appropriate methods to minimise non-availability of the highway such as plating), but, given that utilities do not have unlimited resources NJUG would wish to agree the principle of a flexible approach from local authorities when considering works on other routes.

We therefore suggest the insertion of the word “identified” prior to “congested locations” and the word “strategic” before “major roads at busy times.” This will focus both utilities and local authorities on those locations and those works that cause the most disruption to ensure effective planning and delivery to minimise occupation and therefore disruption.

We would also strongly suggest that a trial takes place to iron out any interpretations, working practices, safety and environmental considerations before the scheme is implemented, thereby avoiding the teething troubles experienced during the introduction of previous legislation.

We therefore suggest the following wording:

“Charges for any new scheme (e.g. Lane Rental) should only be applied at identified congested locations i.e. key strategic roads at busy times.”

4) Charges should reflect the costs of congestion.

NJUG comments:

Given the very high levels of congestion in London and given that utilities and highway authorities are only responsible for a proportion of that congestion, in London and across the UK, NJUG believes that this statement should be quantified far more specifically.

Rather than a direct link to the costs of congestion, figures for which vary significantly depending on which report is read, NJUG would suggest the wording is changed to:

“Charges should take account of the proportion of congestion caused by Utilities and Highway Authorities and be set at a level to incentivise all parties to further reduce the level of disruption caused.”

The same people that are frustrated by congestion also rely on secure reliable essential utility services, and whilst much is being done to reduce unfortunate disruption from street works, more still needs to be done

However, given the rate of return that utility companies currently receive within the UK, setting charges at a disproportionately high level runs the real risk that such an additional regulatory burden will simply dissuade them from investing in the UK, particularly when the range of measures only recently introduced have yet to be assessed and costs / benefits identified.

Therefore, setting of charges has to balance the need to incentivise all parties to reduce disruption from road and street works, with the requirement to retain substantial investment in the capital and the nation’s essential infrastructure and services.

5) Any scheme should be designed to minimise administrative costs.

NJUG comments

NJUG supports and welcomes this Principle without the need for further comment.

6) With respect to Utility Companies, some proportion of the costs for delivering a service, with efficient operation, will need to be passed on to the consumer. This will require some change to the regulatory regime.

NJUG comments:

NJUG welcomes the recognition that efficiently incurred costs will ultimately be borne by the consumer. However, we are unsure what is meant by “delivering a service”. Is it “delivering a

utility service” which has a specific meaning within the utility sector in terms of a connection, or is it meant to cover a more generic meaning of the total provision of utility services?

The regulatory regime which governs gas, water and electricity has delivered significant benefits for customers, and is based on the principle of allowing the pass-through of additional costs arising from new legislation / regulation, minus a percentage reduction to incentivise further efficiencies.

To provide greater clarity NJUG therefore suggests the following:

“With respect to Utility Companies, a significant proportion of any efficiently incurred additional costs as a result of a charging regime will need to be passed on to the consumer.”

- 7) *With respect to Highway Authorities, the necessary incentives could be created through an internal market (internal charging), with the potential for use of a league table of performance against agreed measures.***

NJUG comments:

We support this Principle but advocate that it is strengthened further to include the words “on an equal financial basis” after “an internal market (Internal charging)”. This will ensure that the Government’s commitment to a “level playing field” in the implementation of the TMA is realised. There are existing precedents for internal charging within local authorities, including the payment of parking tickets.

We therefore suggest the following wording:

“With respect to Highway Authorities, the necessary incentives could be created through an internal market (internal charging) on an equal financial basis, with the potential for use of a league table of performance against agreed measures.”

- 8) *The objective of any scheme should be to minimise any monies raised through charging, as this would indicate maximum compliance. However an element of any surplus created should be used on measures to develop mitigation measures (e.g. plating), innovative equipment, training and sharing of best practice, and other techniques and projects that help to minimise congestion.***

NJUG comments:

NJUG agrees that the objective should be to minimise any funds arising from a new charging scheme, however a proportion of those arising should be spent on developing mitigation measures, innovative equipment, training and sharing of best practice, and other techniques and projects that help to minimise congestion. It is important however that the decision-making on how monies are spent is both robust and transparent, and we suggest that DfT should use the relevant HAUC(UK) Working Groups to produce robust proposals for programmes of work / projects in these areas.

We therefore support the wording of this principle as drafted.

- 9) *A premium charge should be applied for emergency works at a very limited number of key strategic locations (e.g. Blackwall Tunnel approaches). The objective of this premium charge would be to incentivise good long-term maintenance practice at these key locations.***

NJUG comments:

NJUG does not support a premium charge for any emergency works, even on a very limited number of key strategic locations, such as the Blackwall Tunnel approaches, for the following reasons:

- Emergency works are always essential for either safety or security of supply reasons.
- Additionally, utilities install pipes, cables, ducts etc. which once installed, have a definitive asset life unless damaged by a third party – therefore apparatus is not generally maintained as such.
- There may be periodic inspections e.g. communications companies lift up covers to check apparatus is not damaged, but the companies all install their apparatus with the intention that once installed it will not require invasive “maintenance” unless damaged or until it requires replacing at the end of its asset life.
- Any time works take place utilities incur a cost and so they always aim to avoid further visits to apparatus unless required.
- However, emergency works may arise for a variety of reasons e.g. third party damage or changes in weather temperatures which could for instance result in gas or water escapes arising through ground movement. In those cases, apart from the fact that utilities will anyway automatically effect emergency repairs on such strategic locations as expediently as possible because of the likely impact on their reputations, permit schemes or S56 or S74 of NRSWA 1991 provide the ability for the relevant authority (TfL or London Borough) to limit the number of hours / days allowed for repair. Additionally, permits also allow a local authority to dictate what time of day or night the works take place in order to minimise disruption as much as possible, except where there is a threat to life or security of supply
- Finally, the key issue should really be about defective reinstatements following the installation of apparatus within these strategic locations, and the existing S71 provisions require utilities to reinstate to the required standard. The provisions also provide suitable incentives to discourage such defective workmanship.

We therefore strongly advocate that this principle be removed or at the very least amended to focus on defective reinstatement only, as emergencies are recognised as being essential to provide safe and secure supplies and cannot be anticipated and planned and should not be penalised. Equally, imposing a premium on emergency works will divert monies from the planned replacement activities, the greater the volume of which directly correlate to a reduction in emergencies

10) There should be measures of impact of any scheme introduced – a measure of success. (e.g. Journey time reliability, hours of disruption to network, and some indication of what these would have been without a charging scheme).

NJUG comments:

NJUG strongly supports the principle of measuring the effectiveness of any scheme introduced, in terms of benefits, costs and impact.

However, given that London First’s own figures talk about a rise in congestion by a further 17% by 2031, with a proportionate increase in vehicular numbers, and given that journey time reliability is subject to so many other factors such as accidents, incidents, planned events on the road network etc. we believe that “journey time reliability” is not a valid measure.

Equally, in order to measure any benefits such a charging scheme might bring, it is necessary to establish a baseline before it is implemented, and to evaluate whether any improvements

are as a result of the newly introduced improved Noticing regime, Increased S74 charges, Fixed Penalties or permit schemes, or resulting from an additional charging scheme.

HAUC(UK) – the national Highway Authorities and Utility Committee is developing a national set of performance measures, and we advocate that these are used or enhanced to measure the effectiveness all of the regulatory measures. In the meantime, other examples could include average durations of different types of work before and after implementation e.g. connections; numbers of co-ordinated works and therefore reduction in the number of days etc.

Additionally, evaluation of collaborative works should include both the ‘Heineken’ concept of two or more utilities working at the same time in the same street / excavation, and the alternative of utilities working concurrently without a break between works – see Appendix B for more detail.

We therefore suggest the following wording:

“There should be an agreed measurement of the impact of any scheme introduced – to determine a measure of success. (e.g. hours of disruption to network, number of days worked and some indication of what these would have been without the charging scheme i.e. number of hours / days saved).”

Summary

NJUG supports the establishment of London First’s Proposed Roadworks Count: Statement of Principles Consultation, and indeed the majority of the individual Principles, subject to our detailed comments.

We would welcome the opportunity to work with London First and Highway colleagues through HAUC(UK) to further refine the 10 Principles with a view to securing the collective support of the road and street works industry.



Appendix B

NJUG Comments on Road Works Count Final Report by Colin Buchanan and Partners (April 2010)

Introduction

NJUG welcomes the commissioning of this independent report Road Works Count produced by Colin Buchanan and Partners and published in March 2010, as a useful contribution to the debate on how best to minimise disruption from road and street works whilst continuing to deliver the essential services and road network on which we all rely.

We also welcome many of the points made within the Report which recognise, amongst other things, the large volume of utility and highway works undertaken within London, on an approximately 50% each basis.

However, there are a number of areas where we believe greater clarity is needed, and would welcome the opportunity to meet with Colin Buchanan and Partners and representatives of London First to better understand their thinking / assumptions.

Key NJUG Comments

NJUG's comments follow the format of the Final Report.

Summary

Background

The Report starts by stating that there are some 600,000 works in the street in London each year averaging 3 to 4 days each. We would welcome clarification as to whether this includes the ongoing gas and water mains replacement programmes being undertaken by Thames Water, National Grid and Southern Gas Networks. We would also make the point that the number of Notices does not necessarily correlate with the level of activity, where a job of 500m lasting several weeks may well require the same number of Notices as a small 3 day job connecting a utility service.

We welcome the recognition that utilities and highway authorities undertake approximately half of the total works each. However, the next sentence highlights the pressures on "London's main road network". We would welcome clarification on whether this refers to Transport for London's Strategic Road Network which we would recognise as London's main road network or whether another definition was used, such as "Traffic Sensitive Streets".

The report then goes to explain how TfL evaluated the costs of congestion including a top-down approach resulting in an estimated £750 million of delays a year attributable to road and street works, and a bottom-up approach which could equate to as high as £3.75 billion. It then states that in the author's view the answer is probably closer to the higher figure than the lower figure, but does not justify that statement. We would welcome sight of analysis which leads Colin Buchanan & Partners to make such an assumption.

Current Management System

The Report states that the Noticing regime provides some ability to co-ordinate works, but such co-ordination was "severely undermined by the high proportion of works undertaken with little or no notice and by the extremely low penalties that could be placed on utilities for failing to perform". NJUG wishes to alert the author and London First to the fact that this statement is factually incorrect as utilities have been noticing all registerable works since 1993 as required by NRSWA. The short advance notice period for many works was removed in April

2008 allowing highway authorities more time to co-ordinate works, although the effect of the increased noticing periods has never been measured by the Government. Also it is worth noting the significant proportion of works that are planned major works, such as the gas and water mains and electricity cable replacement programmes, the details of which have been provided for inputting to TfL's London Works up to two years in advance. Increased and much better use of London Works both by TfL and London Boroughs to identify opportunities for co-ordination would be a cost-effective and relatively quick solution that could be implemented by all authorities agreeing to input their own works data into London Works and by using that, and the utilities' data already provided, to plan and deliver a much greater proportion of co-ordinated works.

It is important to recognise that major utility works such as water and gas mains and electricity cable replacements often run for weeks at a time and therefore co-ordinating these works can result in a measurable reduction in disruption. That is why NJUG set up the voluntary London Advance Planning Pilot which in its first year managed to co-ordinate some 5km of works. Additionally, TfL's very successful Workathons which bring together numerous different parties to take advantage of planned road closures and undertake a range of small works, have delivered real benefits in terms of reduced disruption.

However, it is also worth noting that co-ordination of works can take differing forms, all of which will still reduce disruption and deliver real benefits. Emphasis naturally seems to focus on the "Heineken" concept with two or more utilities working in the same street / excavation at the same time. However, benefits can also arise from sequential working where one utility follows another immediately after the first has completed their works, and excavation and reinstatement of the road takes place only once. Ideally, dovetailing reinstatement to coincide with the Highway Authority resurfacing programme would reduce works still further. Utilities can contribute a total equivalent to the proportion of the cost of what the reinstatement would have been, giving the Highway Authority a reduced cost of resurfacing, and the total duration of works would be reduced by eliminating both the times for excavation and reinstatements of all but the first excavation and the final resurfacing / reinstatement. Such an approach in Kinver, Staffordshire reduced one set of works alone from a planned 20 weeks duration to just 7 weeks and so collaborative working in all forms should be encouraged.

NJUG remains keen to work with TfL and the London Boroughs to help them fulfil their statutory duty to more routinely co-ordinate planned works, particularly those on the busiest streets where congestion is greatest.

One option, previously considered but not acted upon was Local Authorities' providing an early warning system of prospective new housing or commercial developments / changes of use of property, through their local planning system (for developments under the Town and Country Planning Act). Currently, utilities often only get around 21 days notice of a requirement for new gas, water, electricity or communications connections, which leaves little time for co-ordination. Providing information much earlier in the process would enable both the Highway Authority and utilities to actively consider co-ordinating the provision of utility services and any changes to the road / traffic management systems that might be needed.

However, it is also worth stressing that despite NJUG's many voluntary activities, **it is the duty of local authorities to co-ordinate works, and we suggest that a review is undertaken to identify best practice and assess compliance with this element of the Network Management Duty.**

Secondly, the Report refers to the "extremely low penalties that could be placed on utilities for failing to perform." NJUG would like to draw the author's and London First's attention to the myriad of measures available to local authorities if utilities 'fail to perform', the cumulative burden of which is considerable – S74 overstay charges are up to £2,500 per day currently, with Government currently consulting to increase it up to £25,000 per each day over the agreed time; fixed penalties which can be given for a range of Noticing offences, including late or inaccurate notices at £120 per occasion; permit fees, which in London, are required to

be paid for every application to work in the street, ranging in cost from £30 to £345, with further fees for varying a permit. Whilst the individual fees / charges / penalties do not seem to be large, taken together and given the volume of works and that permits are payable regardless of any efficiencies, even a small failure rate can result in very substantial payments. Please note, that utilities are paying out tens of thousands of pounds each week in fees for permits under the London Common Permit Scheme e.g. Virgin Media (30k per week); Thames Water (£70k per week); and National Grid (£6k per week). These fees will not generally reduce substantially regardless of the number of days taken because the fees do not differentiate much between the differing duration and types of works and these works are all necessary.

Thirdly, whilst NJUG actively encourages co-ordination of works and following the London pilot has introduced Advance Planning schemes around the country, there are occasions when undertaking different sets of work at the same time may not be appropriate – for safety or operational reasons or because dual working may actually take up more of the road and result in an avoidable lane closure or the use of temporary traffic lights, resulting in more congestion. Therefore, TfL or a London Borough will need to work with utilities to assess co-ordination opportunities and deliver the best solution for Londoners.

In terms of permits the Report highlights a number of key points, which are worth setting in context:

- **The scheme will significantly increase administration costs for utilities, local authorities and TfL, with more paperwork having to be processed for each individual work** – Agreed, however by applying permits to all works on all streets the London Common Permit Scheme chooses to significantly increase both administration costs and paperwork, in contrast to the Kent Permit Scheme which focuses on those works on the busiest streets, with the result being significantly less administration and costs.
- **The revenues arising from permit charges [fees] will not even cover the administration costs. TfL estimate that the public sector costs associated with the scheme will be £37m a year with a permit income of only £11m** – Agreed, Government confirmed during the passage of the Traffic Management Act through Parliament that local authorities were only allowed to recover the costs of administering utility works, but if they choose to implement a permit scheme they must apply the same terms and conditions to their own works, and therefore incur administrative costs to permit and manage their own works. However, in choosing whether to implement a permit scheme local authorities would be expected to include in their evaluation of the benefits, the likely improvement of efficiency in their own works. This does not appear to be mentioned in the Report's assessment cost and congestion savings.
- **The permit costs bear little relationship to the duration of the works or the congestion costs that they impose on road users** – DfT provides guidance to potential permit scheme operators and it is for each local authority (or group of local authorities) to work through the costs of administering the utility element of their proposed scheme and set their fees accordingly. These will differ depending on the type of scheme (all roads and all works or certain works on certain types of street) and other factors such as cost of living in different parts of the country i.e. London wages are generally higher than elsewhere etc. The permit fees are:
 - Supposed to be based on the level of activity necessary to assess each application i.e. the level of activity to assess a minor repair compared with a major water mains replacement job would be completely different and the fees adjusted accordingly.
 - Supposed to cover the resources necessary to review all utility permit applications. Within London currently only around 60% of permit applications are being assessed and permits therefore formally granted, with around 20% being “deemed” or allowed without active assessment. The Boroughs and TfL have an aspiration to raise the figure of active assessment to 100% but even a move to 95% review of permit applications would bring about significant opportunities for improved co-ordination.

As previously commented in respect of Principle 4, given the very high levels of congestion in London and given that utilities and highway authorities are only responsible for a proportion of that congestion, NJUG believes that rather than a direct link to the costs of congestion, figures for which vary significantly depending on which report is read, charges should take account of the proportion of congestion caused by Utilities and Highway Authorities and be set at a level to incentivise all parties to further reduce the level of disruption caused.”

Given the rate of return that utility companies currently receive within the UK, setting charges at a disproportionately high level runs the real risk that such an additional regulatory burden will simply dissuade them from investing in the UK, particularly when the range of measures only recently introduced have yet to be assessed and costs / benefits identified.

Therefore, setting of charges has to balance the need to incentivise all parties to reduce disruption from road and street works, with the requirement to retain substantial investment in the capital and the nation’s essential infrastructure and services.

Finally, the author makes the comment that “our view is that whilst a permit system will substantially improve co-ordination between road works, it will have little effect on traffic congestion caused by road works and will be costly to administer. Our preference is for a charging system.....”

However, this statement is not substantiated, and whilst we would not necessarily disagree with it, we would welcome clarification and sight of the analysis which led the author to this conclusion, particularly given that at the recent TfL Forum the Mayor’s Advisor Kulveer Ranger was proud to announce that 1000 out of 7000 permits had been rejected which demonstrated better coordination was taking place.

A charging system

The Report sets out three broad objectives for the design of a charging system:

Pricing – the price must be lower than the external costs imposed on road users and yet be high enough to bring about behavioural change on the part of utilities and highway authorities – Agreed but given the volumes of works and range of existing fees / charges / penalties already imposed, utilities and their customers should not be further penalised with a substantial blanket charge.

Differential Pricing - pricing needs to reflect variations in congestion and the importance of key locations by covering particular time periods, locations and / or road types – Agreed in principle – whilst congestion can vary at differing times and the level is dependent on many varying factors, NJUG supports the principle that if there is to be a further charging scheme for London it should focus on key strategic routes and incentivise utilities and local authorities to either work outside normal hours or treat works during the day as a priority, with additional planning, resources or use of extended working / techniques to reduce non-availability of the road as appropriate.

Administration Costs and Simplicity – The system should minimise administration costs and / or build on the administrative system in place for the permit scheme. Any increase in administrative costs needs to be offset against the benefits that such a scheme would bring – Agreed.

The Report then goes on to outline three options for charging schemes along with their advantages and disadvantages:

An Adjusted Permit Scheme – which eliminates ‘charges’ [fees] on most roads and focuses only on main roads and revising the charges per road work so they reflect the duration of works rather than simply being a flat fee - The option of an adjusted permit

scheme whereby fees are only applied to certain roads or types of work is already available under the existing permit provisions. Indeed the Kent Permit Scheme, which NJUG actively supports, is based on this very principle of permits and fees for major works on major streets. However, as before, the fees must only be based on the costs of administering the utility element of the scheme, and therefore the differing levels of activity in assessing individual types of works. Obviously the larger more complex works will require more effort and therefore a higher fee. Each type of work should be evaluated and averaged in order to provide a fee level for each, which avoids a bureaucratic estimation each time a permit is applied for. The basis of the fees should be both robust and transparent.

This option provides a ready to implement solution which will provide an additional tool for local authorities to co-ordinate both road and street works, and requires no additional legislation or regulation.

Lane Rental Charges – which allows for a daily charge for the whole duration of all or any works within a lane rental scheme. The author's view is that lane rental should only be applied to main roads and that works which avoided peak periods, would pay no charge – NJUG's view is that if a lane rental scheme is to be implemented, then we concur with the view that it should only be applied to a few strategic routes and should incentivise utilities and local authorities to either treat works during the day as a priority, with additional planning, resources or use of extended working / techniques to reduce non-availability of the road as appropriate or undertake them outside normal working hours where safe to do so and where works will not cause inappropriate noise disturbance to surrounding residents.

We also strongly believe that a trial should be undertaken to iron out any practical issues and ensure consistent interpretation and application, and avoid the teething problems experienced during the recent introduction of the London Common Permit Scheme, so that once implemented the scheme could operate effectively and hopefully deliver additional benefits over and above the range of existing and newly introduced legislation.

Road Work Credits – with highway authorities and utilities being assigned budgets for their road work days and being rewarded if they came in under budget and penalised if they exceeded – NJUG is unsure how such a system might work for a number of reasons:

- The volume of both highway and utility works is not going to diminish for the foreseeable future under NRSWA, TMA or any other legislation, as only essential works are carried out. Whilst, the volume of works carried out by Thames Water will reduce for the next five years following the recent Water regulatory settlement, the increase in the number of potholes following the recent bad weather of the last two winters, and substantial traffic management works for the 2012 Olympics and diversionary works for Crossrail, as well as the ongoing gas mains and electricity cable replacement works and works necessary to deliver Broadband Britain, mean that volumes will stay roughly the same.
- How would the budget or road or street work days be calculated? Would local authorities take into account planned works and how would they assess the level of allowable contingencies for emergencies and unplanned incidents, particularly the likely variances (see below)
- What would be the mechanism for agreement / challenge?
- The number of urgent or emergency works can vary for a number of reasons e.g. extreme weather – either cold or hot – can result in ground movement increasing the number of gas and water leaks, or a major incident which results in one or several substantial related but unexpected works being necessary

- Setting an overarching arbitrary target or budget could drive the wrong behaviours, with utility, local authority or their contractor personnel potentially cutting corners to save a few days, which could have knock-on effects on safety and quality of works.
- Finally, unless London Works plans are used by TfL and the London Boroughs to co-ordinate works far more routinely and unless Government introduces anti-competition laws and restricts the choice of service for the public and industry, customer demand will continue to fluctuate with the economy and generally increase, and so volumes of services and therefore capacity required will be forever variable.

We would welcome clarity on the above points and therefore at this point do not believe that some form of credits system is the right solution for an additional charging system for London, or anywhere else.

Following the Table summarising the proposed options, the Report goes on to explore the barriers to changing behaviour:

Charging public sector authorities: The author's preferred approach is for 'authorities to be charged for their use of highways and then to have those charges redistributed amongst the highway authorities according to an agreed formula, although it does also identify other options such as internal charging mechanisms – NJUG is unsure how such an option would work in practice, as differing local authorities may have more or less highway works that are required to maintain their road networks and surely they should not be penalised for the volume of works, merely incentivised to undertake them in an efficient but safe manner. We would welcome further clarification on how such a scheme might work and what formula might be used to re-allocate funds, and on what basis.

Night working – The Report correctly identifies the challenge of night working in terms of noise, particularly in residential areas, but safety must be considered above all else.

Immediate Works – The Report indicates that 40% of works are classified as urgent or emergency with minimal notice. The author suggests that such works should be charged at a premium rate on the busiest most congested roads, in order to improve co-ordination and drive investment in maintenance to reduce future emergencies – NJUG does not support such an approach for several key reasons:

- Utilities are already investing billions of pounds each year in replacing, upgrading and extending their networks. They do not need further incentives to invest and any resulting increases in works would result in yet further disruption.
- Once installed in the ground, utilities do not generally 'maintain' their assets, although some utilities do routinely inspect their apparatus e.g. telecommunications companies lifting covers in the pathway.
- For gas and water the use of polyethylene pipes means that repairs will only be necessary if there is third party damage or very extreme weather damage, otherwise the pipes should have an asset life of 80 years or more; electricity cables, again once installed should not require further maintenance unless disturbed and generally have an asset life of over 60 years.
- There is a direct correlation between the asset replacement programmes and a reduction in emergencies. The more pipe and cable replaced, the fewer escapes, leaks or faults that will occur. Given that each emergency costs utilities money, apart from any reputational damage caused by any inconvenience to the surrounding community / travelling public, it is in utilities' interest to continue to deliver their ongoing investment programmes.

- Increasing charges on emergency works will merely reduce the amount of money available for investment and therefore reduce the level of asset replacement, which will conversely actually slow the reduction in emergencies.

Regulator endorsement – The Report helpfully recognises the need for economic regulator buy-in for any schemes that increase utility costs significantly and suggest that regulators need to be made aware of the congestion implications of street works – NJUG welcomes the recognition that any significant increase in costs would need economic regulator buy-in, however additionally, if an increase in costs in one type of works leads to a reduction in works such as the gas or water mains replacement programmes, then the HSE and the Environment Agency respectively would also need to be consulted about the safety and environmental implications.

Conclusions

The Report concludes that any of the proposed options would deliver a significant improvement on the existing regimes and the newly introduced permit scheme. It also states that any scheme implemented should apply to highway authorities and utilities.

The Report then analyses the various options and concludes that a lane rental charging scheme would be the preferable option for reasons of economic efficiency and ease of implementation.

The Report then goes on to suggest the real costs of supplying utility services, including the costs of maintaining their infrastructure and the external costs falling on others, should be charged to customers. The utility investment programmes and operational costs are allowable costs by the economic regulators (gas, water and electricity) and therefore do form part of the charges paid by each consumer. Equally, the charges made by communications companies include both direct and indirect costs, and profit. However, there remains considerable uncertainty about the levels and costs of congestion and the proportion attributable to utility and local authority works. Given the levels of investment necessary to maintain safe and secure essential utility services and other Government objectives such as addressing climate change, delivering Broadband Britain and improving water quality and reducing leakage, consumers are already facing increasing utility costs. Adding external costs of congestion will further increase utility bills, and will not reduce the level of works which are both necessary and will ultimately result in less emergencies.

The Report concludes that the benefits of a lane rental scheme could be further improved if:

- **Revenues raised from utilities were reinvested in congestion relief measures, and, at least in part, invested to develop improved maintenance techniques –** whilst NJUG supports such a ring fencing in principle, it must be noted that once installed underground utility networks are not generally 'maintained' and that instead investment should take place into innovative minimum-dig techniques and working practices which reduce occupation of the highway – both in terms of duration and size of works, as well as research into causes of, and solutions to preventing long-term damage to roads.
- **Significant discounts were provided when roads were made available during peak periods –** NJUG welcomes the suggestion that if utilities or local authorities use varying techniques such as flexible / extending working or plating to make the road available during peak hours, then a substantial discount from the daily charge should be given, and if works take place completely outside normal working hours then there should be no charge at all.
- **Emergency works at key locations were charged at a premium –** NJUG does not support this suggestion for all the reasons stated previously.

- **Flexibility over night time working could be increased through proactive mitigation of environmental constraints** – NJUG agrees with this suggestion in principle, but would welcome the author's views on how this might be achieved. Additionally, the issue of ensuring safety of both workers and the general public must be paramount.

NJUG certainly believes that either an adjusted permit scheme or a focused lane rental scheme that applies to key strategic routes only and incentivises utilities and local authorities to prioritise works undertaken during the day or to work outside normal hours, could potentially deliver benefits over and above those already arising from the improved Noticing, S74 overstay charges, fixed penalty notices and London Common Permit Scheme. However, justification would need to be provided through robust trials and clear cost / benefit analyses.

Policy makers must guard against the cumulative impact of regulation disincentivising investment in the UK's essential utility services, and in particular, must not impose a premium charge or penalty on emergency works, leading to a reducing in proactive investment in utility networks and thereby conversely slowing the rate of reduction of leaks, escapes or faults.

Measures of Success

The Report suggests that the direct measures would be the number of road work days used by utilities and highway authorities, and states that a price-based solution would be expected to deliver a significant drop in the usage or road space.

However, NJUG believes that because the volume of works is not going to drop, the number of days will not drop unless the existing and any future schemes incentivises much greater proactive co-ordination of works. Achieving utilities occupying the same hole either at the same time or concurrently resulting in a reduction in both the number of excavations and reinstatements. If this is then coupled with flexing Highway Authority resurfacing programmes to resurface roads immediately after major co-ordinated utility works this will deliver further reductions in days of road occupation. Only then will London see a reduction in the number of days occupying the street. Therefore, one of the key measures should be the number of co-ordinated and joint works, the number of days they would have taken if undertaken separately and the reduction in days that result from the joint working.

Equally, the establishment of a base-line is essential to enable accurate measurement of any additional benefits arising from any new charging scheme, over and above those resulting from the existing and recently introduced legislative initiatives. The London Code of Conduct's initial and second reports provide a useful basis on which to develop such a baseline.

In summary, NJUG welcomes the Road Works Count: the Final Report as a useful discussion paper on additional charging scheme mechanisms. We also recognise its overall conclusion, that if a lane rental scheme were to be implemented it should focus on those busiest roads and incentivise utilities and local authorities to prioritise works undertaken during the day or work outside normal working hours. However, we support a speedy move to an Adjusted Permit Scheme in London that focuses on the major works on the busiest streets, allowing both local authorities and utilities to work together on planning and delivering those major works in areas where congestion is greatest.