

Annex A
Nottingham Scheme Order

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Web Site: www.dft.gov.uk
Yr ref PJA/vh/WPL Order

31 July 2009

Dear Sir

The City of Nottingham Workplace Parking Levy Order 2008

1. I am directed by the Secretary of State for Transport to write to Nottingham City Council (“the Council”) in response to the Council’s letter of 15 July 2008, enclosing the City of Nottingham Workplace Parking Levy Order made by the Council on 15 May 2008. The Scheme Order has been considered in conjunction with the responses to the Department’s recent consultation on draft regulations for workplace parking levy (“WPL”) schemes, and the resulting regulations made on 28 July 2009 as well as with reference to other relevant statutory provisions (and taking account of amendments to the Transport Act 2000 that have been made by the Local Transport Act 2008). The Secretary of State confirms the City of Nottingham Workplace Parking Levy Order 2008 with the modifications set out in the Annex to this letter, for the reasons explained below:

Role of the Secretary of State in confirming a/the Scheme Order

2. As the Council pointed out in its letter of application, the Secretary of State for Transport is the appropriate national authority, by virtue of section 198(1)(a) of the Transport Act 2000, for confirming orders for licensing schemes made by local traffic authorities in England under section 183 of that Act and submitted for confirmation under section 184(1). It therefore falls to the Secretary of State to consider whether to confirm the scheme order submitted by the Council on 15 July 2008, with or without modifications, under section 184 of the Transport Act 2000, or whether to exercise the powers conferred by section 185(3) and (4) of the Act to carry out further consultation (or require the Council to carry out further consultation) or to cause an inquiry to be held.

Issues taken into consideration in deciding whether to exercise powers under section 185(3) and (4):

Relevant statutory requirements concerning consultation and representations

3. The Transport Act 2000 does not specify procedures for publishing WPL scheme orders or for the making and consideration of objections to such proposals. Section 183(3) provides that the national authority may make regulations about such procedures but no such regulations were in place when the Council prepared its scheme order and no procedures for these purposes have been specified in the national regulations made on 28 July 2009.

4. There are no specific requirements in the Transport Act 2000 for public consultation on WPL schemes. Nevertheless, the Secretary of State has had regard to the requirements of Section 138 of the Local Government and Public Involvement in Health Act 2007 (LGPIH), which applies to the exercise of functions by local authorities generally, and which imposes a duty on local authorities from 1 April 2009 to involve representatives of local persons in the exercise of any of their functions as the local authority considers appropriate. The term "local persons" refers to anyone (including individuals, businesses, etc) who is likely to be affected by, or interested in, the making of a scheme - not just those who happen to live within the bounds of the scheme.

5. The consultation on the Council's scheme was carried out before the scheme order was submitted for confirmation and before the LGPIH duty came into force. The Secretary of State is, however, satisfied that the arrangements made by the Council for consulting on their scheme and the arrangements proposed for continuing to engage with stakeholders during the implementation of the scheme comply with the principles and statutory requirements of LGPIH.

6. The Secretary of State has noted the arrangements that were made by the Council, and described in paragraphs 2-25 of the Council's 15 July letter, for carrying out public consultation on both the principle and the detailed content of the Council's WPL scheme. In particular the Secretary of State has taken account of the report of the Inspector who chaired the Public Examination of the proposals in October 2007, and the Council's response to the recommendations made by the Inspector.

7. The Secretary of State has also taken into account the representations received directly and those forwarded by the Council about the scheme, and the response published by the Council in respect of the points made in the representations received by the Council. This includes the representation that the terms of reference for the Public Examination were too limited to allow a proper examination of the WPL proposals and that a Public Inquiry is needed to examine their wider impacts. Also the request that the Secretary of State should require the holding of a referendum on the scheme by all councils in

Nottinghamshire, and in which businesses and the Chamber of Commerce would be able to vote as well as residents.

8. There is no statutory requirement to hold a referendum, nor does the Secretary of State have a power under the Transport Act 2000 to hold a binding referendum or to require that a local referendum or vote be held by the authority making the scheme or by authorities in other areas affected by the scheme. But the Secretary of State has considered the extent to which the Council has taken account of the impacts of its scheme on people living outside (as well as inside) the Council's area. The Secretary of State does not believe that a Public Inquiry would be justified or that it would add significantly to the arguments for or against the introduction of a WPL scheme.

9. Having taken into account all the representations made to the Council after the notice of making the WPL Order was published, and to the Secretary of State, the Secretary of State agrees with the Council that no new issues have been raised that require further consultation or inquiry.

10. The terms of reference (ToR) for the Public Examination stated that the Examiner was to assess whether the WPL scheme could achieve its stated objectives, identify any risks and weaknesses associated with the scheme and make recommendations accordingly.

11. The Public Examiner's ToR were specifically framed to enable a conclusion to be reached on the ability of WPL to deliver its intended benefits within the timescale laid out for delivering the proposed tramway extensions, NET Phase 2. But none of the participants was in any way prohibited from putting forward comments which were not within the ToR. The Examiner on his part addressed all of the issues raised, which included for example the consideration of alternative options for generating the revenue required for implementing the public transport measures.

12. In addition, the Examiner was to make recommendations resulting from any identified risks and weaknesses relating to the scheme. These recommendations were considered by the Council, and the large majority of them have been incorporated within the Council's plans and / or subsequent amendments to the WPL Order.

13. The Secretary of State has concluded that the Council has responded adequately to the recommendations in the Inspector's report.

Issues taken into consideration in deciding whether to confirm order as made or with modifications:

Compliance with legislation and general law

Primary legislation

14. The relevant primary legislation is principally Part III and Schedule 12 of the Transport Act 2000 (as amended by the Local Transport Act 2008) which specify that

a local licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of the licensing authority's local transport policies [*amended from "local transport plan"*] (section 179(2));

a scheme is made by order, which must cover certain matters (area covered by scheme, days on which, and hours during which, licences are required, level of charges payable on licences (expressed as a specified sum of money for each licensed unit), duration of scheme, if not specified to remain in force indefinitely); and a scheme may cover other matters (different charges for different cases, provision in connection with the making of an application for a licence, the grant of a licence, the issue of a licence, the variation or revocation of a licence);

a scheme must include a general plan relating to, and detailed plan for, the application of net proceeds during the opening five year period of the scheme

A local licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of the licensing authority's local transport policies

15. The Secretary of State takes the view that it is primarily for the authority making the licensing scheme to decide whether it appears desirable for the purpose of directly or indirectly facilitating the achievement of the authority's local transport policies. It is for the Secretary of State to decide whether he agrees that the scheme appears desirable and whether the local authority has acted reasonably and proportionately in developing a WPL licensing scheme to achieve them.

16. The Business Case submitted with the Council's application sets out (on pages 18-26) how the WPL licensing scheme will contribute to the achievement of the Council's local transport plan and policies, and explains (on pages 76-85) the reasons for developing a WPL scheme rather than alternative options. The Secretary of State agrees that this is a reasonable approach and does not believe that he would be justified in arriving at a different conclusion. The Secretary of State concurs with the reasons put forward by the Council for proceeding with a Workplace Parking Levy Scheme rather than other options, (for example a Road User Charging Scheme or supplementary business rate), to fund a local contribution to the proposed tramway extensions.

17. The Secretary of State's assessment largely supports the Council's conclusions – the key findings from the Secretary of State's assessment are:

The planned revenue and overall scheme costs look reasonable. The scheme is expected to generate a surplus of £91.7 million (financial net present value, NPV) over 22 years. This falls to £84.5 million if the scheme (costs and revenue) started two years later with 2012 levy prices. The financial revenues have been tested against a range of sensitivities all of which, including a two year delay, leave the financial NPV above £80 million. There would need to be a cut of 31% of the total eligible parking spaces – more than 11,000 parking spaces – before the Council would be unable to meet its contribution to NET2 from the WPL (this is assuming that 10% of levies would still be uncollectable).

The decongestion impact of the WPL is expected to be small but positive, although the impact would depend on the number of car-driving employees who shift to other forms of transport as a result of workplace travel plans associated with the levy.

Businesses and employers will naturally be affected by the cost of the levy. However, the levy is estimated to be less than 1.5% of salary costs for an employee commuting by car. This would, however, be lower when all labour costs are taken into account (pensions, NI contributions etc) and lower still when it is considered as part of the overall costs of the firm. With fewer than half of Nottingham employees travelling to work by car, the levy is likely to be less than 0.4% of total costs to an average firm. Therefore, it is not expected to have a significant impact on activity or location decisions.

The administrative burden of the levy is also expected to be very small – the smallest of businesses (with fewer than 50 parking spaces) will only pay £200 per annum in direct levy administration costs.

Firms with 10 or fewer parking spaces will be eligible for a 100% discount on the annual WPL charge, so most small businesses will be unaffected by the cost of the levy. Overall, only 15% of businesses in Nottingham will be paying the levy, and they will have the option of reducing the number of parking spaces they provide.

The Council has provided a theoretical VfM analysis of the WPL in isolation (using a model designed for the package as a whole), with a positive NPV of £28 million. In general, revenue-generating schemes are not usually expected to offer a positive vfm as there are costs to raising public funds. Therefore the fact there is a small positive NPV makes the WPL promising.

More significantly the WPL is a key funding element within the Council's local transport package, with NET2 tram extension and the Hub and Link buses. The BCR of the package is estimated to be 2.67, which is high value for money. Without the WPL, the package, and particularly the new tram, could not proceed as planned.

The business community will benefit as a whole from the wider package. They are forecast to receive net benefits of £358 million (2002 prices and values) over the 60 year life of NET2 even after the costs of WPL are taken into account. These benefits mainly arise from the decongestion impacts of the tram.

These benefits will not be spread evenly among the business community and it may be the case that in some instances these will be insufficient to offset the increased costs introduced by the scheme. However, even if some businesses get no benefit from enhanced public transports the costs of the levy will be fairly small (see above).

A scheme is made by order, which must cover certain matters and may cover certain others

18. Provision has been made in The City of Nottingham Workplace Parking Levy Order 2008 to cover the items specified in section 186(1) of the Transport Act 2000 as follows:

a) Paragraph 2 of the Schedule (introduced by Article 2(1)) designates the City of Nottingham as the area to which the Scheme applies. (Section 179(1) of the Transport Act 2000 provides that a licensing scheme may cover the whole or any part of the area of the licensing authority, while section 186(2) provides that the boundaries of the licensing area shall be such as the licensing authority determines – unless modified by the Secretary of State under section 184.)

b) Paragraph 3(1) of the Schedule specifies that a licence is required for each licensing day (as defined in paragraph 1 of the Schedule) on which a workplace parking place is provided.

c) Paragraphs 1(2) and 4 of the Schedule specify the amount of charge for each licensed unit.

d) Paragraph 12 of the Schedule specifies that the Scheme shall remain in force indefinitely.

19. As regards the provisions that may be included by virtue of section 186 of the Transport Act 2000, paragraph 4 of the Schedule specifies how charges are to be applied for different types of premises. Paragraph 5 of the Schedule specifies provisions in connection with applications for licences and paragraph 6 deals with the grant of licences. Paragraph 7 deals with variation of licences.

20. The Secretary of State is satisfied that the requirements of primary legislation as described above have been met. But he considers that some modifications of the Council's Order are needed for the following reasons:

21. The Council's Order includes a definition of "occupier" which has not been included in the primary legislation – the Transport Act 2000 - nor in the regulations made under section 178 of that Act. The Secretary of State does not consider it appropriate to include a definition in the Order; it will ultimately be for a court to determine who is the occupier for the purposes of a particular case.

22. The definition of "charge payer" in paragraph 1(1),(3) and (4) of the Schedule is not compatible with the Transport Act 2000 or the regulations that have been made under section 178(2)(b), so the Secretary of State has modified the Order to bring it into line with the relevant legislation.

A scheme must include a general plan relating to, and detailed plan for, the application of net proceeds

23. Annex 1 to the Scheme Order sets out the Council's general plan for the opening ten years, while Annex 2 sets out the detailed programme.

Secondary legislation

24. Apart from the definitions of occupier and charge payer dealt with above the provisions of the Council's Scheme Order comply with the regulations made on 28 July 2009.

General law

25. Compliance with the general law is essential. The Secretary of State could not confirm a scheme which was held to be unfair or arbitrary in its application to a particular sector for example. The Secretary of State has modified paragraph 4(3)(c) of the Schedule to the Order so that the exemption from charging for workplace parking places provided at fire and rescue service premises, police force premises and qualifying NHS premises applies only where the charge payer is the fire and rescue service, the police force or the NHS and not to parking places provided for employees of other organisations located within the premises.

Other modifications

26. The Secretary of State has considered the representations put forward both in response to the Council's Scheme Order and to the consultation on national regulations that the implementation of a Workplace Parking Levy charge in Nottingham in 2010 will impose additional burdens on businesses in times of particular economic difficulty. The Secretary of State has decided, firstly, that the date of the Order's coming into force should be deferred for at least a year, until April 2011, and secondly that collection of the charge should not begin before 1 April 2012. This phased implementation will give businesses, as well as the Council, more time to plan for the introduction of the licensing scheme and charges. The rates of charge from 1 April 2012

onwards will, however, be the same as if the date of the Order's coming into effect had not been deferred.

27. Other modifications have been made, at the Council's request:

to paragraph 1(6)(b) of the Schedule, to clarify the definition of persons who are "associated" (for the purposes of the exemption specified in paragraph 4(7)) in circumstances where the legal structure of the organisation is otherwise than as a company (eg unincorporated bodies);

to paragraph 5(4) of the Schedule to the Order to specify that where the Council provides for payment of the licence charge to be made by instalments the only permitted method of payment shall be direct debit; and

to paragraph 7 of the Schedule to clarify the amount of charge payable if the maximum number of workplaces to be covered by a licence rises above 10 (so that a charge becomes payable) or falls below 11 (and becomes eligible for a discount).

Yours faithfully

Jeremy Rolstone

Head of Road Demand Management Strategy Division

Authorised by the Secretary of State for Transport to sign in that behalf

TRANSPORT ACT 2000

In exercise of the powers conferred by section 184(1) and (4) of the Transport Act 2000, the Secretary of State confirms the City of Nottingham Workplace Parking Levy Order 2008 of 15th May 2008 (“the Order”) subject to the following modifications—

THE ORDER**Workplace Parking Levy Scheme**

1. In article 2 after paragraph (2) insert—

“(2A) The day appointed in relation to the paragraphs of the Scheme mentioned in paragraph (2)(a) may not be earlier than 1 April 2011.”

THE SCHEDULE**Interpretation**

2.—(1) In paragraph 1(1)—

(a) after “sub-paragraphs (3) and (4)” insert “and shall include a person who would have been liable to pay a licence charge but for paragraph 4(3)”;

(b) omit the definition of the expression “occupier”.

(2) For paragraph 1(2) substitute—

“(2) In this Scheme “the annual charge” means, in relation to each of the licensing years mentioned in the following table, the amount arrived at by increasing the charge listed in the right hand column of the table opposite that year by the same percentage as the percentage increase between the retail prices index for November 2007 and the retail prices index for the November immediately preceding the commencement of that year, and rounding the resulting figure to the nearest one pound.

<i>Licensing Year</i>	<i>Annual Charge (at April 2008 prices)</i>
The licensing year commencing 1 April 2011	£0
The licensing year commencing 1 April 2012	£253
The licensing year commencing 1 April 2013	£285
The licensing year commencing 1 April 2014	£301
The licensing year commencing 1 April 2015 and any subsequent licensing year	£306

”.

(3) In paragraph 1(3)—

(a) omit sub-paragraphs (3)(a) and (3)(b); and

(b) after “shall be” insert “the occupier for the time being responsible for providing the workplace parking place”.

(4) For paragraph 1(4) substitute—

“(4) Where the occupier of any premises has—

(a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P’s own use); and

(b) provided the licensing authority with such evidence of those arrangements as the authority may reasonably require,

the charge payer shall be P.”.

(5) Omit paragraph 1(5).

(6) For paragraph 1(6)(b) substitute—

“(b) except as is provided for in paragraph 3(4A), any two persons are associated if—

(i) one is directly or indirectly controlled by the other; or

(ii) both are directly or indirectly controlled by a third person.”.

Licences for workplace parking places

3.—(1) For paragraph 3(2) substitute—

“(2) The obligation to have a licence for each licensing day on which a workplace parking place is provided at any premises within the licensing area lies with the charge payer, and a separate licence is required—

(a) in respect of any premises, for each charge payer occupying those premises; and

(b) in respect of any one charge payer, for each premises within the licensing area at which a workplace parking place is provided by the charge payer.”.

(2) After paragraph 3(4) insert—

“(4A) For the purposes of sub-paragraph (4)(c) any two persons are associated if and only if—

(a) one is a company of which the other (directly or indirectly) has control; or

(b) both are companies of which a third person (directly or indirectly) has control.”.

Charges for licences

4.—(1) For paragraph 4(3) substitute—

“(3) No licence charge shall be payable in respect of any workplace parking place where the Council is satisfied on the information available to it that—

(a) the workplace parking place is provided at fire and rescue service premises, police premises, Serious Organised Crime Agency premises or qualifying NHS premises; and

(b) the charge payer in respect of the workplace parking place is a fire and rescue service, a police force, the Serious Organised Crime Agency or an NHS

body within the meaning of the National Health Service Act 2006(a), as the case may be,

but this sub-paragraph shall not apply to a workplace parking place provided at fire and rescue service premises, police premises, Serious Organised Crime Agency premises or qualifying NHS premises in respect of which the fire and rescue service, the police force, the Serious Organised Crime Agency or the NHS body (as the case may be) has entered into arrangements with another person (P) for the provision by P of that workplace parking place at those premises (whether or not for P's own use).".

(2) In paragraph 4(4)—

(a) for "sub-paragraph (3)(b)" substitute "sub-paragraph (3)(a)";

(b) in sub-paragraph (4)(c) after "premises that are" omit "primarily".

Applications for licences

5.—(1) For paragraph 5(2) substitute—

"(2) The application shall be made by completing the form specified by the Council for the purpose and in doing so the charge payer shall—

(a) for each premises within the licensing area at which a workplace parking place is provided by the charge payer, give details of—

(i) the maximum number of workplace parking places the charge payer wishes to provide at the premises at any one time during the period of the licence;

(ii) the location and nature of those workplace parking places;

(iii) the commencement date for the licence for the premises, which may be a date earlier than the date on which the licence is applied for; and

(iv) such other information and supporting details as the Council may require; and

(b) give such information and supporting details as the Council may require about persons associated with the charge payer who are providing workplace parking places within the licensing area.".

(2) In paragraph 5(3) after "by agreement with the Council and" insert "subject to sub-paragraph (4A)".

(3) In paragraph 5(3)—

(a) in paragraph (a) for "the licence charge" substitute "any licence charge payable"; and

(b) in paragraph (b) for the first reference to "the licence charge" substitute "any licence charge payable".

(4) In paragraph 5(4) —

(a) in paragraph (a) after “by a cheque in payment of that charge” insert a comma;

(b) for paragraph (d) substitute—

“(d) an application is submitted in any other manner by agreement with the Council if it is submitted, and enables payment of any charge required to be paid by sub-paragraph (3), by such means as the charge payer and the Council may agree between them;”.

(c) in paragraph (e)—

(i) for “the licence charge” substitute “any licence charge payable”;

(ii) after “determined by the Council” omit the comma; and

(iii) after “by direct debit” omit “or standing order”.

(5) After paragraph 5(4) insert—

“(4A) Where the Council permits all or part of the licence charge to be paid after the application is submitted, payment of the outstanding sum must be made by the date and in the manner specified in an invoice provided by the Council.”.

Grant of licences

6.—(1) In paragraph 6(1) after “validly made” omit “and the licence charge payable, or any instalment of it (as the case may be), has been paid”.

(2) In paragraph 6(2)(e) for “the licence charge” substitute “any licence charge payable”.

(3) In paragraph 6(3) for “paragraph 5(2)(c)” substitute “paragraph 5(2)(a)(iii)”.

(4) For paragraph 6(5) substitute—

“(5) Where the Council grants a licence in respect of which payment due is not subsequently received in the time and in the manner required by the Council, the licence may be treated by the Council as void.”.

Variation of licences

7.—(1) In paragraph 7(3) —

(a) after “sub-paragraph (8)” omit the comma; and

(b) after “the application must” insert “, subject to sub-paragraph (4A),”.

(2) After paragraph 7(4) insert—

“(4A) Where the Council permits all or part of the additional charge to be paid after the application under sub-paragraph (1) is submitted, payment of the outstanding sum must be made by the date and in the manner specified in an invoice provided by the Council.”.

(3) In paragraph 7(5) after “validly made” omit “and any additional charge payable under sub-paragraph (8) has been paid”.

(4) For paragraph 7(7) substitute—

“(7) Where the Council grants a licence variation under sub-paragraph (5) in respect of which payment due is not subsequently received in the time and in the manner required by the Council, the licence may be treated by the Council as not having been varied.”.

(5) In paragraph 7(8) for paragraph (a) substitute—

“(a) multiplying the annual charge by—

(i) the additional number of workplace parking places that may be provided at the premises at any one time during the period of the licence; or

(ii) the revised total number of workplace parking places that may be provided at the premises at any one time during the period of the licence, where the result of the application made under sub-paragraph (1)(a) is that paragraph 4(7) no longer applies to the charge payer; and”.

(6) In paragraph 7(10)—

(a) in paragraphs (a) and (b) after “licence charge” insert “(and any previous additional charge)”;

(b) in paragraph (b) after “sub-paragraph (12)” insert “; or”; and

(c) after paragraph (b) insert—

“(c) where the licence charge (and any previous additional charge) is being paid by instalments, and the result of the application made under sub-paragraph (1)(b) is that paragraph 4(7) now applies to the charge payer, cancel payment of any instalments due after the date of commencement of the variation and issue to the charge payer a refund (if any) of the amount specified in sub-paragraph (12A).”.

(7) For paragraph 7(11) substitute—

“(11) The amount referred to in sub-paragraph (10)(a) shall be calculated by—

“(a) multiplying the annual charge by—

(i) the number of workplace parking places removed from the scope of the licence on its variation; or

(ii) the total number of workplace parking places covered by the licence prior to the application under sub-paragraph (1)(b), where the result of the application made under sub-paragraph (1)(b) is that paragraph 4(7) now applies to the charge payer; and

(b) reducing the amount arrived at in accordance with paragraph (a) by a percentage, which is the same as the percentage of the original period of validity of the licence that has expired at the date of commencement of the variation.”.

(8) In paragraph 7(12)—

(a) after paragraph (a) insert—

“(ab) such proportion of any previous additional charge payable at the date of commencement of such variation;”;

(b) for paragraph (b) substitute—

“(b) the amount calculated by—

(i) multiplying the annual charge by the revised number of workplace parking places that may be provided at any one time during the period of the licence on its variation; and

(ii) reducing the amount arrived at in accordance with sub-paragraph (i) by a percentage, which is the same as the percentage of the original period of validity of the licence that has expired at the date of commencement of the variation; and”;

(c) after “less such proportion of the licence charge” insert “and any previous additional charge”.

(9) After paragraph 7(12) insert—

“(12A) The amount referred to in sub-paragraph (10)(c) shall be such proportion of the licence charge and any previous additional charge that has already been paid at the date of commencement of the variation less—

(a) the licence charge, reduced by a percentage, which is the same as the percentage of the period of validity of the licence that remains at the date of commencement of the variation;

(b) such proportion of any previous additional charge payable at the date of commencement of the variation; and

(c) the administration charge.”.

ANNEX 1 TO THE SCHEME

8.—(1) In paragraph 1—

(a) for “April 2010” substitute “October 2011, with charging commencing in April 2012”;

(b) for “may only have been operating for one year, or may” substitute “will”;

(c) for the words from “Assuming” to “March 2016” substitute “The third LTP (“LTP3”) will begin in April 2011 and run to March 2016”;

(d) omit “LTP3 will have to be submitted to the Secretary of State for Transport for approval in summer 2010 and that”; and

(e) after “Government objectives” insert “for LTP3”.

(2) In paragraph 2 after “towards” for the colon substitute a dash.

ANNEX 2 TO THE SCHEME

9.—(1) In the heading to the Annex, for “EXISTING LOCAL TRANSPORT PLAN” substitute “OPENING FIVE YEAR”.

(2) For paragraphs 1 to 4 substitute—

“1. It is proposed that the Scheme will start in October 2011, with charging commencing in April 2012. During the opening five year period referred to in paragraph 10(1)(b) of Schedule 12 to the Transport Act 2000, the expenditure plans for workplace parking levy receipts will complement the Local Transport Plan programme. The third Local Transport Plan (“LTP3”) will begin in April 2011 and run to March 2016. Therefore the opening five year period of the scheme will include the period covered by LTP3.

2. It is expected that both Local Transport Plan and Government objectives for LTP3 will remain broadly similar to those currently in use for the current Local Transport Plan (“LTP2”). It is likely that LTP3 will maintain progress on maintenance and integrated transport measures in LTP2 but also support initiatives to accommodate future growth in the conurbation, including the Housing Growth Point proposals and the development required by the emerging Regional Spatial Strategy. During the period of LTP3 it is expected that a number of the workplace parking levy- funded schemes will become operable. Priorities for the workplace parking levy revenue expenditure in the opening five year period of the scheme are—

(a) **Nottingham Express Transit (“NET”) Phase Two** — a local contribution to the financial package to develop and build network extensions to Chilwell/Beeston and Clifton as authorised by The Nottingham Express Transit System Order 2009, including interchanges and joint ticketing, and development costs for further lines;

(b) **‘Link’ buses** — to pump-prime, enhance and provide continued support to the network of ‘Link’ bus services and routes serving major out-of-town employment sites, education sites, health and retail facilities and network of local neighbourhood services to enhance local accessibility through connecting areas into the main bus network;

(c) **Integrated major schemes** — contribution to enhancements to Nottingham Station to provide a 21st century facility worthy of a major European city, including enhancing local interchange, improving passenger facilities and driving regeneration in the surrounding Southside development area; and

(d) **Smarter choices and travel plans** — to provide enhanced assistance in developing ‘smarter travel choices’, company travel plans and on and off-street parking management schemes.

3. The expenditure plans for workplace parking levy receipts during the opening five year period of the scheme will contribute towards meeting the following Local Transport Plan and Government objectives—

- (a) better manage and where possible reduce the problems of congestion;
- (b) improve accessibility and social inclusion (by increasing rail, bus and tram use and improving interchange between modes);
- (c) improve road safety;
- (d) better air quality and protection of the environment;
- (e) support regeneration and neighbourhood renewal; and
- (f) enhance people's quality of life.

4. The programme for the LTP2 period (2006/7–2010/11), which is likely to inform the programme for the LTP3 period includes the following elements—

- (a) **Maintenance** — of carriageways, bridges and footways, with an emphasis on maximising the life of key highway assets;
- (b) **Integrated Transport Measures** — including bus service development and priority measures, information, ticketing, fares and interchanges; walking and cycling improvements; Park and Ride and other elements of the City's parking strategy; road safety and traffic management schemes; transport demand management; marketing and monitoring; and
- (c) **Integrated Transport Major Schemes** — including NET Phase Two and the Ring Road Major Scheme. Schemes will be subject to the necessary Government approvals. Other proposals may emerge to accommodate future growth, linked in with wider development proposals with regeneration areas and new Growth Point Commitments.”

Annex B
Transport Act 2000

PART III
CHAPTER II

CHAPTER II

WORKPLACE PARKING LEVY

Licensing schemes

Preliminary.

178.—(1) In this Part “licensing scheme” means a scheme for imposing charges in respect of the provision of workplace parking places at premises in the area covered by the scheme to be paid on licences covering the provision of a maximum number of such parking places at the premises.

(2) Charges imposed in respect of any premises by a licensing scheme under this Part shall be paid—

- (a) by the occupier of the premises, or
- (b) in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

(3) In this Part “licence” means a licence under a licensing scheme under this Part.

(4) A licence relating to premises must cover the provision at the premises of the number of workplace parking places requested by the applicant for the licence; and in this Part “licensed unit”, in relation to a licence relating to premises, means each unit comprised in the maximum number of workplace parking places which may be provided at the premises under the cover of the licence.

(5) A licensing scheme may be made—

- (a) by a non-metropolitan local traffic authority (“a local licensing scheme”),
- (b) jointly by more than one non-metropolitan local traffic authority (“a joint local licensing scheme”), or
- (c) jointly by one or more non-metropolitan local traffic authorities and one or more London traffic authorities (“a joint local-London licensing scheme”).

(6) In this Part—

- (a) “the licensing authority”, in relation to a licensing scheme under this Part made or proposed to be made by one authority, means the authority by which the licensing scheme is or is proposed to be made, and
- (b) “the licensing authorities”, in relation to a licensing scheme under this Part made or proposed to be made jointly by more than one authority, means the authorities by which the licensing scheme is or is proposed to be made.

1999 c. 29.

(7) The power to make joint local-London licensing schemes conferred by this Part does not limit any of the powers in Schedule 24 to the Greater London Authority Act 1999 (workplace parking levy in Greater London).

Local licensing schemes.

179.—(1) A local licensing scheme may cover the whole or any part of the area of the licensing authority.

(2) A local licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies in the licensing authority’s local transport plan.

PART III
CHAPTER II

180.—(1) A joint local licensing scheme may cover the whole or any part of the combined area of the licensing authorities.

Joint local
licensing schemes.

(2) A joint local licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of policies in the licensing authorities' local transport plans.

181.—(1) A joint local-London licensing scheme may cover—

Joint local-
London licensing
schemes.

(a) the whole or any part of the area of the non-metropolitan local traffic authority, or combined area of the non-metropolitan local traffic authorities, by which it is made, and

(b) the whole or any part of any area to which a scheme under Schedule 24 to the Greater London Authority Act 1999 made by the London traffic authority, or any of the London traffic authorities, by which it is made could apply.

1999 c. 29.

(2) A joint local-London licensing scheme may only be made if it appears desirable for the purpose of directly or indirectly facilitating the achievement of—

(a) policies in the local transport plan of the non-metropolitan local traffic authority, or the local transport plans of the non-metropolitan local traffic authorities, by which it is made, and

(b) policies and proposals set out in the transport strategy prepared and published by the Mayor of London under section 142 of the Greater London Authority Act 1999.

182.—(1) For the purposes of this Part a workplace parking place is provided at any premises at any time if a parking place provided at the premises is at that time occupied by a motor vehicle (other than an exempt vehicle) used—

Workplace
parking places.

(a) by a relevant person,

(b) by an employee, agent, supplier, business customer or business visitor of a relevant person,

(c) by a pupil or student attending a course of education or training provided by a relevant person, or

(d) where a body whose affairs are controlled by its members is a relevant person, by a member of the body engaged in the carrying on of any business of the body,

for attending a place at which the relevant person carries on business at or in the vicinity of the premises.

(2) In this section “relevant person” means—

(a) the person who provides the parking place in question (“the provider”),

(b) any person with whom the provider has entered into arrangements to provide the parking place (whether or not for that person's own use), or

(c) any person who is associated with the provider or a person within paragraph (b).

(3) For the purposes of subsection (2)(c) any two persons are associated if and only if—

- (a) one is a company of which the other (directly or indirectly) has control, or
 - (b) both are companies of which a third person (directly or indirectly) has control.
- (4) For the purposes of this section—
- “business” includes—
- (a) any trade, profession, vocation or undertaking,
 - (b) the functions of any office holder,
 - (c) the provision of any course of education or training,
- and
- (d) the functions of, or any activities carried on by, a government department or a local authority or other statutory body,
- “business customer”, in relation to a relevant person, means a client or customer of the relevant person who is attending at any premises occupied by the relevant person for the purposes of a business carried on by that client or customer,
- “business visitor”, in relation to a relevant person, means an individual who—
- (a) in the course of his employment, or
 - (b) in the course of carrying on a business or for the purposes of a business carried on by him,
- is visiting the relevant person or any premises occupied by the relevant person,
- “employee” means a person employed under a contract of service or apprenticeship, whether express or implied, and (if express) whether oral or in writing, and
- “supplier”, in relation to a relevant person, means—
- (a) a person supplying, or seeking to supply, goods or services to the relevant person for the purposes of a business carried on by the relevant person, or
 - (b) any agent or sub-contractor of such a person.
- (5) The appropriate national authority may make regulations amending the preceding provisions of this section for the purpose of adding, removing or varying cases where, for the purposes of this Part, a workplace parking place is provided.

Making of licensing schemes

Licensing schemes to be made by order.

183.—(1) A licensing scheme under this Part is made by order of the licensing authority or of the licensing authorities (acting jointly).

(2) The licensing authority or the licensing authorities (acting jointly) may by order vary a licensing scheme under this Part and the licensing authority or any of the licensing authorities may by order revoke such a scheme.

(3) The appropriate national authority may make regulations about orders making, varying or revoking licensing schemes under this Part, including (in particular)—

- (a) provision specifying the form of orders,

- (b) provision about the publication of proposals for orders making or varying such licensing schemes and the making and consideration of objections to such proposals, and
- (c) provision about the publication of notice of orders and of their effect.

(4) Before making regulations under subsection (3) which relate to joint local-London licensing schemes the Secretary of State shall consult the Greater London Authority about the regulations so far as they so relate.

184.—(1) A licensing scheme under this Part shall not come into force unless the order making it has been submitted to and confirmed by the appropriate national authority; and a variation of such a licensing scheme shall not take effect until the order making the variation has been so submitted and confirmed.

Confirmation of licensing schemes.

(2) Subsection (1) does not apply in such circumstances as may be specified in or determined in accordance with regulations made by the appropriate national authority.

(3) A joint local-London licensing scheme shall not come into force unless the order making it has been submitted to and confirmed by the Greater London Authority; and a variation or revocation of such a licensing scheme shall not take effect until the order making the variation or revocation has been so submitted and confirmed.

(4) Where confirmation of an order is required by this section, the order may be confirmed with or without modifications.

(5) Where confirmation by both the Secretary of State and the Greater London Authority of an order making a joint local-London licensing scheme, or a variation of such a licensing scheme, is required by this section—

- (a) the order shall not be submitted to the Secretary of State until it has been confirmed by the Greater London Authority,
- (b) if the order has been confirmed by the Greater London Authority with modifications it is the modified order that must be submitted to the Secretary of State, and
- (c) the order may not be confirmed with modifications by the Secretary of State until the modifications have been confirmed by the Greater London Authority.

185.—(1) The licensing authority or the licensing authorities (acting jointly) may at any time before an order making, varying or revoking a licensing scheme under this Part is made, consult other persons about the licensing scheme, variation or revocation.

Licensing schemes: consultation and inquiries.

(2) The licensing authority or the licensing authorities (acting jointly)—

- (a) may cause an inquiry to be held in relation to a licensing scheme under this Part, or the variation or revocation of such a scheme, and
- (b) may appoint the person or persons by whom such an inquiry is to be held.

(3) The appropriate national authority may at any time—

- (a) before an order making or varying a licensing scheme under this Part is made, or
 - (b) (where such an order has to be confirmed) before it is confirmed, consult other persons, or require the licensing authority or authorities to consult other persons, about the licensing scheme or variation.
- (4) The appropriate national authority—
- (a) may cause an inquiry to be held in relation to a licensing scheme under this Part or the variation of such a scheme, and
 - (b) may appoint the person or persons by whom such an inquiry is to be held.
- (5) In the case of a joint local-London licensing scheme—
- (a) the Greater London Authority may, at any time before an order making, varying or revoking the licensing scheme is confirmed by that Authority, consult other persons, or require the licensing authorities to consult other persons, about the licensing scheme, variation or revocation, and
 - (b) the Secretary of State shall not cause an inquiry to be held in relation to the licensing scheme, or the variation of the licensing scheme, or appoint the person or persons by whom such an inquiry is to be held, without the consent of the Greater London Authority.
- 1972 c. 70. (6) Subsections (2) and (3) of section 250 of the Local Government Act 1972 (witnesses at local inquiries) apply in relation to any inquiry held by virtue of this section.
- (7) Where an inquiry is held by virtue of this section in relation to a licensing scheme or the variation or revocation of such a scheme—
- (a) the costs of the inquiry shall be paid by the licensing authority or authorities, and
 - (b) the parties at the inquiry shall bear their own costs.

Contents of licensing schemes and licences

Matters to be dealt with in licensing schemes.

- 186.**—(1) A licensing scheme under this Part must—
- (a) designate the area covered by the licensing scheme (“the licensing area”),
 - (b) state the days on which, and hours during which, a licence is required,
 - (c) specify the charges payable on licences (expressed as a specified sum of money for each licensed unit), and
 - (d) state whether or not the licensing scheme is to remain in force indefinitely and, if it is not to remain in force indefinitely, the period for which it is to remain in force.
- (2) Subject to sections 179 to 181 and to any modifications made by virtue of section 184, the designation by a licensing scheme under this Part of the boundaries of the licensing area shall be such as the licensing authority or authorities may determine.
- (3) The charges that may be imposed by a licensing scheme under this Part include different charges (which may be no charge) for different cases, including (in particular)—

- (a) different days,
- (b) different times of day,
- (c) different parts of the licensing area,
- (d) different classes of motor vehicles, and
- (e) different numbers of licensed units.

(4) In setting the charges imposed by a licensing scheme under this Part, regard may be had to the purposes for which any of the net proceeds of the licensing scheme may be applied (in accordance with Schedule 12).

(5) A licensing scheme may include provision for or in connection with—

- (a) the making of an application for a licence,
- (b) the grant of a licence,
- (c) the issue of a licence, and
- (d) the variation or revocation of a licence.

187.—(1) The appropriate national authority may make regulations requiring licensing schemes under this Part to contain provision for or in connection with—

Licensing schemes: exemptions etc.

- (a) exemptions from licensing,
- (b) the application of reduced rates of charges payable on licences, or
- (c) the imposition of limits on the charges payable on a licence.

(2) Subject to regulations under subsection (1) and to section 184(1) and (3), a licensing scheme under this Part may contain provision of any of the descriptions specified in that subsection.

(3) The same premises shall not be subject to more than one licensing scheme under this Part, or to such a licensing scheme and a scheme under Schedule 24 to the Greater London Authority Act 1999, at the same time. 1999 c. 29.

(4) In subsection (1) the reference to exemptions from licensing includes (as well as exemptions in respect of any description of premises, persons or motor vehicles) exemption of a specified number of parking places provided at any premises from being workplace parking places, either generally or in the case of any description of premises, persons or motor vehicles.

188.—(1) A licence must—

Licences.

- (a) state the name of the person to whom it is granted,
- (b) identify the premises to which it relates,
- (c) specify the maximum number of motor vehicles (not counting exempt vehicles) which may be parked at those premises at any one time, and
- (d) state the amount of the charge paid on the licence and set out the calculation of that amount.

(2) A licence may be granted subject to conditions.

(3) A licence may not be granted for a period of more than one year.

(4) A person commits an offence if he intentionally provides false or misleading information in or in connection with an application for a licence.

(5) A person guilty of an offence under subsection (4) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

Enforcement of licensing schemes

Penalty charges.

189.—(1) The appropriate national authority may by regulations make provision for or in connection with the imposition and payment of charges (“licensing scheme penalty charges”) in respect of acts, omissions, events or circumstances relating to or connected with licensing schemes under this Part.

(2) The regulations may include provision for or in connection with setting the rates of licensing scheme penalty charges (which may include provision for discounts or surcharges).

(3) Licensing scheme penalty charges in respect of any premises shall be paid—

- (a) by the occupier of the premises, or
- (b) in circumstances specified in regulations made by the appropriate national authority, by such person as is so specified.

(4) The Lord Chancellor may make regulations about the notification, adjudication and enforcement of licensing scheme penalty charges.

Rights of entry.

190.—(1) Where a person duly authorised in writing by the licensing authority, or any of the licensing authorities, in relation to a licensing scheme under this Part has reason to believe that workplace parking places are being provided at any premises in the licensing area, he may at any reasonable time enter the premises for ascertaining—

- (a) whether any workplace parking places are being provided at the premises without a licence or a licence covering all the workplace parking places being provided, or
- (b) whether there is or has been any contravention of the conditions of a licence in respect of the premises.

(2) A person duly authorised in writing by the licensing authority, or any of the licensing authorities, in relation to a licensing scheme under this Part may at any reasonable time enter any premises for the purpose of issuing notice of a licensing scheme penalty charge.

(3) A person authorised under subsection (1) or (2) to enter any premises shall, if so required, produce evidence of his authority before so entering.

(4) A person commits an offence if he intentionally obstructs a person exercising any power conferred on him by subsection (1) or (2).

(5) A person guilty of an offence under subsection (4) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

(6) Where any land is damaged in the exercise of a right of entry conferred under subsection (1) or (2), compensation in respect of that damage may be recovered by any person interested in the land from the authority on whose behalf the entry was effected.

(7) The provisions of section 118 of the Town and Country Planning Act 1990 shall apply in relation to compensation under subsection (6) as they apply in relation to compensation under Part IV of that Act. 1990 c. 8.

CHAPTER III

GENERAL AND SUPPLEMENTARY

191. Schedule 12 contains financial provisions about charging schemes and licensing schemes. Financial provisions about schemes.

192. The charging authority or licensing authority, or any of the charging authorities or licensing authorities, in relation to a charging scheme or licensing scheme under this Part may— Powers of authorities.

- (a) incur expenditure in or in connection with the establishment or operation of the charging scheme or licensing scheme, or
- (b) enter into arrangements (including arrangements for forming or participating in companies) with any person in respect of the operation of the charging scheme or licensing scheme or relating to the installation or operation of any equipment used for or in connection with the operation of the charging scheme or licensing scheme.

193.—(1) The appropriate national authority may issue guidance to non-metropolitan local traffic authorities and London traffic authorities in relation to the discharge of their functions with respect to charging schemes and licensing schemes under this Part; and such authorities shall, in exercising those functions, have regard to any such guidance. Guidance.

(2) Before issuing guidance under this section which relates to joint local-London charging schemes or joint local-London licensing schemes the Secretary of State shall consult the Greater London Authority about the guidance so far as it so relates.

(3) Guidance issued under this section shall be published in such manner as the appropriate national authority by which it is issued considers appropriate; and the appropriate national authority may at any time vary or revoke guidance issued by it under this section.

194.—(1) Information obtained by— Information.

- (a) any Minister of the Crown or government department,
- (b) the National Assembly for Wales, or
- (c) any local authority or other statutory body,

may be disclosed to the charging authority or licensing authority, or any of the charging authorities or licensing authorities, in relation to a charging scheme or licensing scheme under this Part for or in connection with the exercise of any of their functions with respect to the charging scheme or licensing scheme.

Annex C
WPL Regulation 2009

2009 No. 2085

ROAD TRAFFIC, ENGLAND

The Workplace Parking Levy (England) Regulations 2009

<i>Made</i> - - - -	<i>28th July 2009</i>
<i>Laid before Parliament</i>	<i>31st July 2009</i>
<i>Coming into force</i> - -	<i>1st October 2009</i>

The Secretary of State for Transport, in exercise of the powers conferred by sections 178(2), 184(2), 189(1) to (3) and 197(1) of the Transport Act 2000(a), and the Lord Chancellor, in exercise of the powers conferred on him by sections 189(4), 195(1) and 197(1) of that Act, together make the following Regulations:

PART 1
PRELIMINARY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Workplace Parking Levy (England) Regulations 2009 and come into force on 1st October 2009.

(2) These Regulations apply in England except Greater London.

Interpretation

2.—(1) In these Regulations—

“charge certificate” has the meaning given in regulation 13(1);

“chargee” has the meaning given in regulation 8(4);

“licence charge” means the charge for the grant of a licence;

“licensed premises”, in the case of any licence, means the premises in respect of which the licence is granted;

“notice of rejection” means a notice served under regulation 11(1);

“penalty charge” means a charge imposed under regulation 5;

“penalty charge notice” means a notice served under regulation 8.

(2) In these Regulations, where an arrangement has been made for any function under a joint local licensing scheme to be discharged by one of the licensing authorities, “licensing authority” means the authority on which the function has been conferred by the arrangement.

(a) 2000 c.38. By virtue of section 198(1) the Secretary of State is the appropriate national authority in relation to licensing schemes relating only to England.

PART 2

LICENSING SCHEMES AND LICENCE CHARGES

Exemption of licensing scheme orders from confirmation requirement

3.—(1) Section 184(1) of the Transport Act 2000 (confirmation of licensing schemes) does not apply to a licensing scheme order if—

- (a) the order varies a licensing scheme, and
- (b) its sole purpose is to provide for licence charges to be altered in line with alterations in the retail prices index.

(2) In this regulation “retail prices index” has the meaning given in section 21(4) of the Statistics and Registration Service Act 2007(a).

Liability to pay licence charge

4.—(1) This paragraph applies where the occupier of any premises has—

- (a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P’s own use), and
- (b) provided the licensing authority with such evidence of those arrangements as that authority may reasonably require.

(2) Where paragraph (1) applies, the licence charge imposed in respect of those premises by a licensing scheme must be paid by P.

PART 3

PENALTY CHARGES

Imposition of penalty charges

Imposition of penalty charges

5.—(1) A licensing scheme may provide for the imposition of a penalty charge in any of the following circumstances—

- (a) where a person is providing a workplace parking place at any premises in the area covered by a licensing scheme and there is no licence in force in respect of those premises;
- (b) where a person is providing a workplace parking place at licensed premises in circumstances where the number of vehicles (excluding exempt vehicles) occupying workplace parking places at those premises exceeds the maximum number of workplace parking places covered by the licence;
- (c) if a condition in a licence (other than a condition as to the number of vehicles which may occupy workplace parking places at licensed premises) has been contravened.

(2) Where a licensing scheme provides for the imposition of a penalty charge it must specify the period within which the charge must be paid and may specify different periods for different circumstances.

(3) A licensing scheme may not specify under paragraph (2) a period of less than 28 days beginning on the date on which the penalty charge notice is served.

(a) 2007 c.18.

Rates of penalty charges

6.—(1) A licensing scheme which provides for penalty charges must specify the amount of the penalty charge and may specify different amounts in different circumstances.

(2) A licensing scheme may provide for the amount of the penalty charge to be reduced if it is paid before the expiry of a specified period.

Liability to pay penalty charges

7.—(1) This paragraph applies where the occupier of any premises has—

- (a) entered into arrangements with another person (P) for the provision by P of a parking place at those premises (whether or not for P's own use), and
- (b) provided the licensing authority with such evidence of those arrangements as that authority may reasonably require.

(2) Where paragraph (1) applies, any penalty charge imposed in respect of those premises must be paid by P.

Enforcement of penalty charges

Penalty charge notices

8.—(1) Where a licensing authority believes that a penalty charge is payable under the terms of a licensing scheme, the authority may serve notice of that fact (“a penalty charge notice”).

(2) A penalty charge notice must be served on the person liable to pay the penalty charge.

(3) A penalty charge notice must state—

- (a) the amount of the penalty charge to which it relates;
- (b) all the circumstances in which a penalty charge is payable and the date and time at which each of those circumstances occurred;
- (c) the period specified in the licensing scheme within which the penalty charge must be paid;
- (d) the manner in which the penalty charge must be paid;
- (e) if the licensing scheme so provides, the amount of the reduced penalty charge if it is duly paid in the time specified in the notice;
- (f) the grounds on which the chargee may make representations under regulation 9;
- (g) the amount of the increased penalty charge if, before the end of the relevant period determined under regulation 13—
 - (i) the penalty charge is not paid, or
 - (ii) no representations are made under regulation 9, and
- (h) the address to which payment of the penalty charge must be sent.

(4) In this regulation and regulations 9 to 15 “chargee” means—

- (a) the person on whom the penalty charge notice is served; or
- (b) where it is alleged that the penalty charge notice was sent but never received, the person to whom the licensing authority sent that notice.

Representations against penalty charge notices

9.—(1) Where it appears that any of the grounds mentioned in paragraph (2) are satisfied, the chargee may make representations in writing to that effect to the licensing authority which served the penalty charge notice.

(2) The grounds are that—

- (a) the circumstances stated in the penalty charge notice—
 - (i) did not occur, or
 - (ii) did not occur at the date or time or in the manner specified in the notice;
 - (b) the penalty charge exceeded the amount applicable in the circumstances of the case.
- (3) The licensing authority may disregard any representations received after the end of the period of 28 days beginning with the date on which the penalty charge notice is served.
- (4) It is the duty of a licensing authority to which representations are duly made under this regulation—
- (a) to consider them and any supporting evidence which is provided with them, and
 - (b) to serve on the chargee notice of its decision as to whether or not it accepts that the ground in question has been established (and, if it accepts that it has, whether completely or partially).

Cancellation of penalty charge notices

- 10.**—(1) Where representations are made under regulation 9 and the licensing authority accepts that the ground in question has been established it shall—
- (a) cancel the penalty charge notice; and
 - (b) state in the notice served under regulation 9(4)(b) that the notice has been cancelled.
- (2) The cancellation of a penalty charge notice does not prevent the licensing authority from serving a fresh penalty charge notice on the chargee or another person.

Rejection of representations against penalty charge notices

- 11.**—(1) Where representations are made under regulation 9 and the licensing authority decides that none of the grounds in regulation 9(2) has been established, the notice served under regulation 9(4)(b) must be a notice of rejection stating that—
- (a) a charge certificate may be served under regulation 13 unless—
 - (i) the penalty charge is paid, or
 - (ii) the chargee appeals against the licensing authority's decision, and
 - (b) the chargee has a right of appeal to a county court.
- (2) A notice of rejection may contain such other information as the licensing authority thinks appropriate.

Appeals

- 12.**—(1) Where a licensing authority has served a notice of rejection, the chargee may appeal to a county court against the licensing authority's decision.
- (2) An appeal under this regulation—
- (a) is a re-hearing of the licensing authority's decision to impose a charge, and
 - (b) may be determined having regard to matters of which the licensing authority was unaware.
- (3) On an appeal the court may either—
- (a) quash the notice of rejection and substitute such decision of its own as it thinks fit for the decision of the licensing authority under regulation 9(4), or
 - (b) dismiss the appeal.
- (4) If the court makes an order under paragraph (3)(a), the penalty charge notice to which the notice of rejection relates is cancelled but the cancellation does not prevent the licensing authority from serving a fresh penalty charge notice on the chargee or another person if that is consistent with the decision which the court has substituted.

Charge certificates

13.—(1) Where a chargee has not paid the penalty charge specified in a penalty charge notice before the end of the relevant period, the licensing authority may serve on the chargee a statement (a “charge certificate”) to the effect that the penalty charge is increased to such an amount as is provided in the licensing scheme.

(2) The licensing authority may—

- (a) cancel a charge certificate, and
- (b) if the authority thinks fit in such a case, serve a further charge certificate.

(3) For the purposes of paragraph (1), the relevant period in relation to a penalty charge notice is—

- (a) where no representations are made, the period specified in the licensing scheme within which the penalty charge must be paid;
- (b) where—
 - (i) representations are made,
 - (ii) a notice of rejection is served, and
 - (iii) no appeal against the notice of rejection is made,the period of 28 days beginning with the date on which the notice of rejection is served;
- (c) where an appeal against a notice of rejection is dismissed, the period of 28 days beginning with the date of service of the order dismissing the appeal; and
- (d) where an appeal against a notice of rejection is made but is withdrawn before a county court makes an order under regulation 12(3), the period of 14 days beginning with the date on which the appeal is withdrawn.

Payment of increased penalty charge

14. The chargee must pay the increased penalty charge specified in the charge certificate before the end of the period of 14 days beginning with the date on which the charge certificate is served.

Recovery of unpaid penalty charges

15. The licensing authority may, if a county court so orders, recover a penalty charge as if it were payable under a county court order—

- (a) in a case where the authority has served a charge certificate, if the chargee has not paid the increased penalty charge provided for in the charge certificate before the end of the period specified in regulation 14, or
- (b) in a case where the authority has not served a charge certificate, if the chargee has not paid the penalty charge specified in the penalty charge notice before the end of the relevant period specified in regulation 13(3).

Service of notices etc

16.—(1) Any penalty charge notice, charge certificate or other notice to be served by the licensing authority under these Regulations (“a relevant notice”) may be served—

- (a) by delivering it to that person or by leaving it at that person’s proper address,
- (b) by sending it by first class (but not second class) post to that person at that address, or
- (c) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) or (b) on the secretary, clerk or principal officer of that body,
- (d) if the person is a partnership, by serving it in accordance with sub-paragraph (a) or (b) on a partner or a person having the control or management of the partnership business, or

(e) by means of any form of electronic communication which is agreed with the person to whom it is to be sent.

(2) For the purposes of paragraph (1), and of section 7 of the Interpretation Act 1978(a) (service of documents by post) in its application to this regulation, the proper address of a person is—

- (a) in the case of an individual, that person's last known address,
- (b) in the case of the secretary, clerk or principal officer of a body corporate, the address of the registered office of the body or its principal office in the United Kingdom,
- (c) in the case of a partner in, or a person having the control or management of, a partnership, it is the address of the principal office of the partnership in the United Kingdom,

but subject to paragraph (3).

(3) If a person to be served with a relevant notice has notified the licensing authority of an address within the United Kingdom other than that person's proper address at which that person, or another acting on that person's behalf, will accept service of a relevant notice, that address is the person's proper address.

(4) Unless the contrary is proved, service of a relevant notice sent by a form of electronic communication shall, if sent to an agreed fax telephone number or electronic address, be taken to have been effected on the first working day after the day on which it was transmitted.

(5) In paragraph (4), "working day" means any day except—

- (a) a Saturday or a Sunday;
- (b) New Year's Day;
- (c) Good Friday;
- (d) Christmas Day; and
- (e) any other day which is a bank holiday in England under the Banking and Financial Dealings Act 1971(b).

Signed by authority of the Secretary of State for Transport

22nd July 2009

Paul Clark
Parliamentary Under Secretary of State,
Department for Transport

Signed by authority of the Lord Chancellor

28th July 2009

Claire M. Ward
Parliamentary Secretary,
Ministry of Justice

(a) 1978 c.30.
(b) 1971 c. 80.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to licensing schemes under Chapter 2 of Part 3 of the Transport Act 2000 (the workplace parking levy). Part 2 of the Regulations makes provision about general issues concerning schemes and charges and Part 3 makes specific provision about penalty charges for breach of licensing requirements.

Regulation 3 exempts local authorities from the requirement to have a scheme confirmed if its only purpose is to provide for licence charges to be altered in line with inflation.

Regulation 4 provides that where the occupier has made arrangements with another person for the provision of parking places at those premises a licence charge is not payable by the occupier of premises but by that other person.

Regulation 5 specifies when penalty charges may be imposed and *regulation 6* makes provision about rates of charge.

Regulation 7 provides that where the occupier has made arrangements with another person for the provision of parking places at those premises a penalty charge imposed under the licence is not payable by the occupier of premises but by that other person.

Regulation 8 prescribes the content and mode of service of penalty charge notices. *Regulations 9 to 11* provide for the making of representations to the licensing authority by a person on whom such a notice is served and for the subsequent cancellation or upholding of the notice.

Regulation 12 provides that appeals against the rejection of those representations must be to a county court.

Regulation 13 provides for the issue of a charge certificate where a penalty charge is not paid within the prescribed time and for the charge to be increased in such a case.

Regulations 14 and 15 provide for the payment of penalty charges and for their recovery by court order if necessary.

Regulation 16 provides for the service of notices.

An Explanatory Memorandum and an Impact Assessment, showing the effect this instrument will have on the costs of business and the voluntary and public sectors, have been produced. They are available from the Road Demand Management Division, Department for Transport, Zone 3/05 Great Minster House, 76 Marsham Street, London SW1P 4DR or may be accessed via the Office of Public Sector Information website at www.opsi.gov.uk. A copy has been placed in the library of each House of Parliament.

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STATUTORY INSTRUMENTS

2009 No. 2085

ROAD TRAFFIC, ENGLAND

The Workplace Parking Levy (England) Regulations 2009

£5.50

E4737 8/2009 194737T 19585

Annex D

Methodology

Project	Birmingham Parking Demand Management Study
Title	Methodology

	Author	Checked by	Approved by
Name	Lucy Ronaldson	Stephen Harrison	Himanshu Budhiraja
Role	Assistant Transport Planner	Technical Director	Divisional Director
Date	31/01/2019	12/09/2019	17/09/2019

1 Introduction

This note outlines the process undertaken and key assumptions made when estimating:

- The quantity of liable workplace parking spaces in Birmingham; and
- The potential WPL-generated revenue.

The quantity of liable parking spaces and potential WPL revenue was estimated for the following three scenarios:

- Managing the city core (city centre only);
- Managing employment districts (city centre + Green Travel Districts (GTD's)); and
- Managing the wider city (city centre + GTD's + remainder of Birmingham).

These scenarios were tested based on an agreed set of assumptions using experience from the Nottingham Workplace Parking Levy (WPL).

2 Quantity of Workplace Parking Spaces

Birmingham City Council (BCC) provided Pell Frischmann (PF) with the Birmingham City Centre Parking Study report undertaken by Jacobs in 2016 outlining the estimated number of workplace parking spaces within Birmingham city centre. This indicated a total of 17,443 spaces within the A4540 (i.e. within the area covered by the city centre CAZ).

Following review and discussion with Jacobs and BCC it was agreed that this was likely to be an underestimate of the number of workplace parking spaces and that alternative methods of estimating this should be investigated.

BCC provided PF with business rates data to assess whether this could be used to update or validate the previous estimates. However, following review and analysis of this dataset and discussions with BCC it was concluded that: the business rates data was not comprehensive nor accurate enough to provide an accurate estimation of parking spaces within the city centre and that an alternative approach to estimating workplace parking spaces was required.

The next approach used journey to work data for Nottingham and Birmingham from the 2011 census. **Figure 2.1** shows the process taken to estimate the number of WPL chargeable spaces for Birmingham.

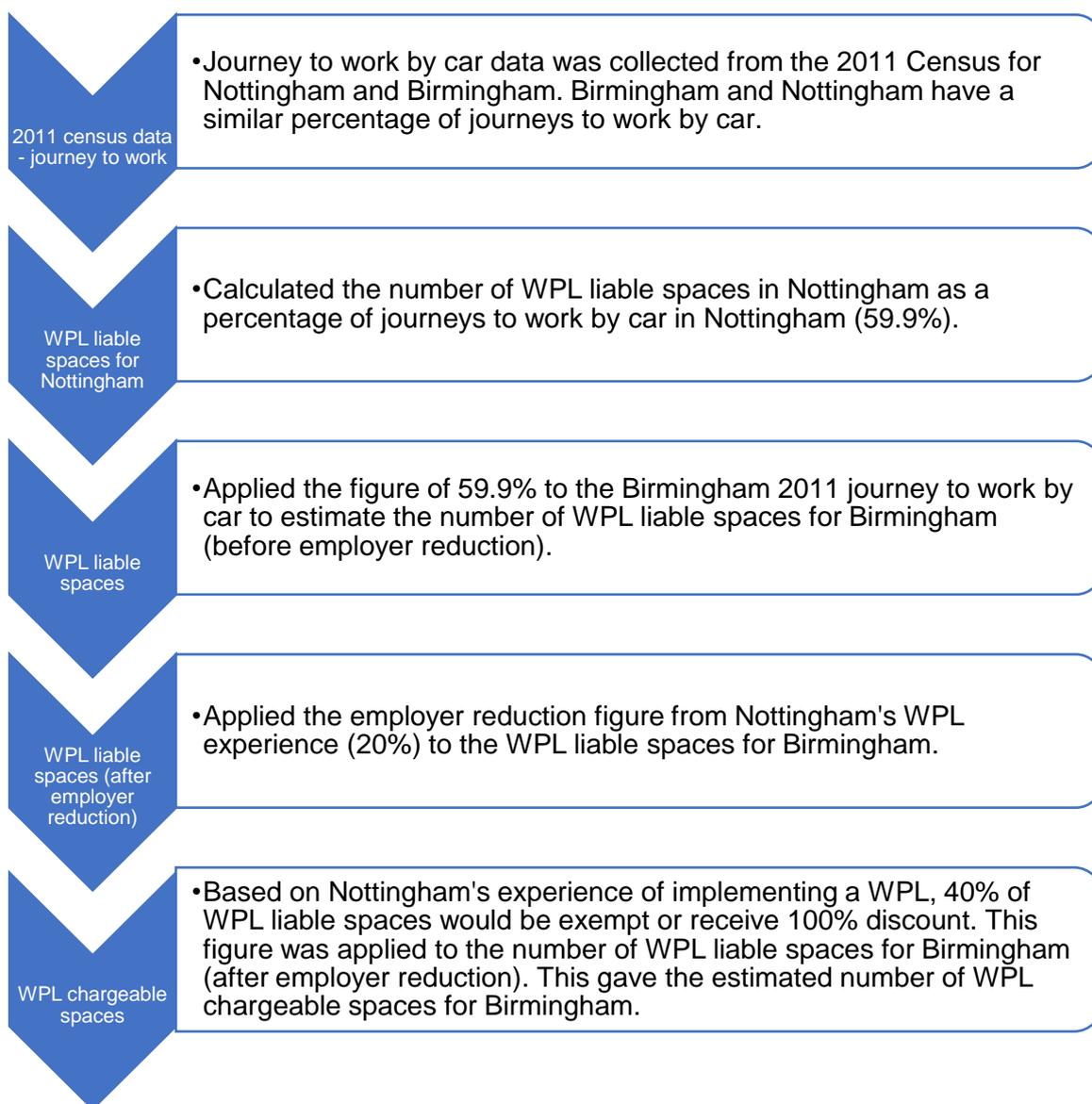


Figure 2.1 Birmingham WPL chargeable spaces

3 Assumptions

Table 3.1 below summarises the set of assumptions agreed with BCC and which formed the “central case” for Birmingham.

Table 3.1 Central Case Assumptions

Assumption	Description	Level	Justification
Ratio of journeys to work by car and liable spaces	The ratio of journeys to work by driving a car (2011 census) to liable spaces in Nottingham.	59.9%	Nottingham and Birmingham have similar characteristics in terms of journeys to work by car and public transport combined.
Employer reduction in liable spaces	Percentage of WPL liable spaces reduced as a result of employers taking proactive action to reduce the number of	20%	Based on Nottingham’s WPL experience

	spaces so they would not have to pay the WPL e.g. reduce to less than 10 spaces		
Exemptions & discounts	Percentage of WPL liable spaces that would be exempt or receive 100% discount from the WPL e.g. disabled bays, small employer (less than 10 spaces)	40%	Based on Nottingham's WPL experience
Levy charge	Charge applied to WPL chargeable spaces.	£500	Based on Nottingham's current WPL charge
Efficiency of enforcement	The percentage of employers complying with the terms of the WPL.	100%	Based on Nottingham's WPL experience

4 Outputs

Table 4.1, below summarises the estimated WPL generated annual revenue for each of the three scenarios using the assumptions set out above. These are estimates of the gross figures, i.e. they do not take account of CAPEX and OPEX costs.

Table 4.1 Central Case Revenue Outputs

Scenario	Chargeable Spaces (after employer reductions, exemptions & 100% discounts)	Levy Charge per liable parking space/annum (£)	Revenue/Annum (£m)
Managing the city core (city centre only)	14587	£500	£7.29
Managing employment districts (GTD's)	17433	£500	£8.72
Managing the city core and managing employment districts (city centre + GTD's)	32020	£500	£16.01
Managing the city core + managing employment districts + managing the wider city	75629	£500	£37.81