

Guidance Notes: Licence to retain apparatus on the public highway (without excavation). New Roads & Street Works Act 1991 Section 50

introduction

If you have any questions or problems with your application, please contact Hampshire County Council on telephone number 0845 6035633, or e-mail: roads@hants.gov.uk

Please provide as much information as possible. All applications will be considered fairly and in line with these notes.

The Approval Process

For the placing, retaining and maintenance of apparatus on the highway, a Section 50a licence will be required as a condition for the Section 50b excavation licence.

On receipt of your application, an Engineer will visit the site to determine its suitability and, if excavation is required, the public utilities notified for any necessary alterations to their supply services. Any costs associated with works necessary to public utilities' supply service will be the responsibility of the licensee.

Once the Section 50a licence has been approved and signed, the Section 50b excavation licence can be processed.

Construction Works

Works within the highway will require a Section 50b licence and can only be carried out by a competent contractor. In general, the contractor will be required to:-

- a) hold public liability insurance of not less than £10m to indemnify both the applicant and Hampshire County Council on an appropriate certificate; and
- b) have operatives and supervisors who are trained and accredited to the requirements of the Codes of Practice under the New Roads and Street Works Act 1991.

The highway authority will normally resume responsibility of the highway works, not the apparatus, after two years from the completion date of the works. Until the highway authority assume responsibility for maintenance of the works the Licensee shall be responsible for any claims arising from the work or any necessary maintenance works and associated costs. The highway authority shall determine any necessary works.

Please note the Terms and Conditions supplied with the licence pack.

Licence No. :

New Roads & Street Works Act 1991 - Section 50

**Application for a licence to retain apparatus on the public highway
(without excavation)**

Issuing office

Notes to be read by the applicant

1. The licence shall only be granted to the individual or firm making the application. It cannot be transferred to any other person or firm, except in accordance with condition 6 (overleaf).
2. The applicant shall complete parts 1 to 3 below and the whole application shall be returned to the address shown above.
3. The declaration shall be signed in the presence of a witness.
4. A fee will be charged to cover administration of the licence and to ensure compliance with the conditions. In the event of the licence being denied an administration fee will be charged to the applicant to cover administrative costs. No refunds shall be given for a licence withdrawn for failure to comply with the terms and conditions.

The applicant will need to include the following documents with the completed application form:

- 1 Plan showing location and extent of the apparatus
- 2 Proof of £10 million public liability insurance to cover .See condition 7 (p.3).
- 3 Licence fee, comprising of a payment of £110 (£55 administration & £55 inspection fee)
See note 5 (above). Cheques must be crossed and made payable to Hampshire County Council.
- 4 Detailed planning approval. (If required).
- 5 Details of the dimensions, manufacturer, type and nature of the apparatus.

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**Application for a licence to retain apparatus on the public highway
(without excavation)**

1. Applicant

Name (and position in company if applicable)

Company name (if applicable).....

Address.....

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.....Post code

Telephone(day/office).....Telephone(evening/out of hours).....

2. Location and reason for apparatus

Full description of address / location where the apparatus is to be located in the public highway and the reason for its requirement. (attach further sheets if required).

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3. Declaration

I hereby apply for a licence to retain and maintain apparatus in the highway as described above subject to the conditions overleaf and special conditions attached, which I have read and accept.

Signature.....Name.....Date.....

In the presence of

Signature.....Name.....Date.....

Address.....

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Conditions of licence [SWL S50(a)]
(Section 50 & Schedule 3 of New Roads and Street Works Act 1991)

- 1 This licence permits the holder to place or maintain (without excavation) and retain apparatus described in this licence on the public highway in accordance with the relevant provisions of the New Roads and Street Works Act and associated Regulations and Codes of Practice and the further conditions of this licence. The Licensee's attention is specifically drawn to Schedule 3 of the New Roads and Street Works Act 1991, the requirements for noticing, signing and guarding and for reinstatements and to the highway authority's powers to inspect, direct any works and to charge for inspections or delays. The Licensee shall take account of the requirement for him to serve notices when programming any works, including initially placing the apparatus on the highway.
- 2 The Licensee shall not carry out any excavation of the public highway, except in accordance with a further Street Works 'temporary excavation' licence[Section 50(b)], to be obtained from the highway authority. This includes excavation that may be required to initially place the apparatus in the public highway. An application for a licence to excavate the highway in order to place or maintain apparatus pertaining to this licence must be made at least 1 calendar month before works are scheduled to be undertaken.
- 3 The Licensee is responsible for obtaining any other consent or licences as may be required for the intended works.
- 4 All works carried out on apparatus described in this licence shall be undertaken by operatives accredited for such work under the New Roads and Street Works Act 1991 Codes of Practice. Each time work is to be carried out on the apparatus, including the initial installation, the Licensee shall provide proof that the operatives carrying out such works hold valid, relevant accreditation. Such proof should be included with the notification of the intended works.
- 5 Initial installation or each and every time maintenance of the apparatus, (that requires no excavation of the public highway) is to be carried out, the Licensee shall notify the highway authority of his intention to carry out such works. Notification shall be carried out fully in accordance with the relevant Codes of Practice and using the form attached. *See Appendix 4.*
- 6 If the property, to which the apparatus is connected, is sold, the Licensee must advise the purchaser of the presence of the licence and the apparatus to which it pertains. The Licensee may assign the licence, and all its conditions, to the new owner provided he advises the highway authority of the change of ownership AT LEAST SIX WEEKS in advance of the property being sold, giving the name and address of the new owner.
- 7 The applicant shall indemnify the County Council as highway authority in respect of any third party actions, claim demands, expenses or proceedings in respect of injury, damage or loss, which may arise out of, or in connection with, the placing or presence in the street of the apparatus to which this licence relates. The Licensee shall effect insurance indemnifying the Licensee and the County Council for the duration that the apparatus remains on the public highway. Such insurance shall afford indemnity of not less than £10 million in respect of each and every occurrence or series of occurrences caused by or attributable to any event giving rise to a claim. A copy of the insurance policy shall be included with the initial application. The Licensee shall also provide

continuous evidence of the existence of such public liability insurance for as long as the licence remains in force. Should the Licensee's insurance lapse, the Licensee will be deemed to have automatically failed to comply with the conditions of the licence.

- 8 The apparatus shall be laid to such a position, depth and specification as described in the plans accompanying this licence or as directed by the highway authority.
- 9 The Licensee shall not interfere with any drain, culvert, gully, bridge, wall or other highway structure without the specific consent of the highway authority.
- 10 The apparatus shall be maintained in a condition to the satisfaction of the highway authority. The highway authority may direct the Licensee to carry out such works as may be required.
- 11 This licence shall remain in force for as long as the apparatus remains on the public highway or until it is withdrawn by the highway authority or terminated by the Licensee giving written notice under the provisions of paragraphs 5 and 6 of Schedule 3 of the New Roads and Street Works Act 1991.
- 12 Where apparatus is removed or altered by the highway authority as a result of this licence being surrendered, withdrawn or expiring the current Licensee shall be liable for any expenses incurred by the works and shall indemnify the County Council as highways authority against all third party actions, claim demands, expense or proceedings in respect of injury, damage or loss arising out of the works of removal or alteration.
- 13 Where required, to initially place the apparatus, the highway authority shall serve notices to the Statutory Undertakers in accordance with the requirements of the New Roads and Street Works Act 1991 on behalf of the Licensee. Such notices must be made at least twenty-five working days prior to the start of the works to place the apparatus. The Licensee shall be responsible for arranging and carrying out any diversionary works required by a Statutory Undertaker in their response to a notice. The Licensee shall allow for the notification process and any diversionary works required when programming his works.
- 14 Prior to the commencement of any works, the Licensee shall determine the precise location of any Statutory Undertakers plant.
- 15 Expenses incurred by the highway authority carrying out works as a result of the failure of the Licensee to comply with the conditions of the licence shall be chargeable to the Licensee.
- 16 In the event of the licence not being granted by the highway authority, an administration fee will be charged to the applicant to cover administrative costs. In the event of this licence being revoked for failing to comply with the conditions of the licence then no refund will be made by the highway authority.

Note

1. The 'highway' includes the carriageway, footway and any verge.
2. If the applicant objects to these conditions or a refusal by the highway authority to approve a licence then an appeal may be made to the Secretary of State.
3. A criminal offence is committed if Section 51(1) of the New Roads and Street Works Act, 1991, is breached.
4. 'on the highway' means on, over or under the Highway.



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(without excavation)**

ISSUING OFFICE

For office use only

The applicant

Name (and position in company, if applicable).....

Company name (if applicable).....

Address.....

.....

..... Postcode

Telephone(day/office).....Telephone(evening/out of hours).....

Is hereby granted a licence to retain apparatus on the public highway (without excavation) at:

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In accordance with the details described on the application and subject to the conditions attached.

Licence period

See Clause I of Conditions of licence.

Licence approved by

Signature.....Name.....Date.....

(On behalf of the County Council).....