

## S50/02 - Licence To Place, Retain And Maintain Apparatus Within The Highway - Guidance Notes



*Note: Applications must be submitted on form S50/01.*

<http://www.durham.gov.uk/article/3529/New-Roads-and-Street-Works-Act>

Please note that once the application form and supporting documentation is submitted, the licence will take a minimum of 6 weeks to process and prepare the necessary legal documentation. This should be taken into account when planning the timescale for your works. **Work cannot commence until the licence is signed by both parties. Please also note that failure to comply with the various sections of the New Roads and Street Works Act 1991 is an offence under the Act.**

The Section 50 Licence Fee is £975 (with effect from 1 April 2024). This includes administration, legal, registration and inspection fees. In addition, a bond may be required to cover the reinstatement of works to be completed within the highway. This is calculated based on the location and extent of the works to be completed. Bonds are held for the duration of the guarantee period and are released with accrued interest (upon application and subject to a satisfactory final inspection)

Payments for the licence fee and any bond required can be made by either requesting an invoice or via a BACS transfer. Please contact Network Management via [S50streetworks@durham.gov.uk](mailto:S50streetworks@durham.gov.uk) if a payment by BACS is required.

Fees are payable before the licence will be issued.

### **Section 1 – Owner of Property / Land to be served by the apparatus**

A licence obtained under Section 50 of the New Roads and Street Works Act 1991 provides permission to place, retain and maintain private apparatus within the publicly maintained highway (i.e. roads, footways and verges maintained at public expense). These powers and responsibilities are outlined in Part 3 of the New Roads and Street Works Act. <https://www.legislation.gov.uk/ukpga/1991/22/part/III>

The Licensee for the purpose of the Section 50 licence is the long-term owner of the land / property to be served by the apparatus or the long-term owner of the apparatus to be installed. The licence remains in force in perpetuity, i.e. for as long as the apparatus is retained within the adopted highway and the maintenance responsibility rests with the Licensee. Contractors will not be permitted to enter in to the Section 50 licence unless they are the owners of the apparatus and will take responsibility for the maintenance of the apparatus installed in perpetuity or until the licence is assigned to new owners or adopted by a statutory undertaker. **The Section 50 licensee must inform the Council if ownership changes.**

Details of the land/property to be served by the apparatus are required. This confirms the land/property to be served by the apparatus and the Licensee details. This can be submitted by providing a Land Registry title register and plan or a copy of the deeds or conveyance for the property.

Where applicable upon completion of the licence the Council will under Section 33 of the Local Government (Miscellaneous Provision) Act 1982 register a Land Charge. <http://www.legislation.gov.uk/ukpga/1982/30>. This will ensure that future purchasers of the property served by the Apparatus are put on notice of the existence of the Section 50 Licence and its terms.

In addition to the liabilities imposed by the licence, the licensee will also remain liable for the condition of the highway reinstatement for a 2-year period (3 years if the works are deeper than 1.5m). This 2- or 3-year period will commence on the date agreement is reached with the Highway Network Manager. Similarly, during this period, the licensee will be responsible for dealing with any accidents or claims that may arise as a result of the reinstatement of the highway.

## **Section 2 – Site Details**

Details of the land to be served or affected by the apparatus will be required. This will include confirmation of what will be served by the apparatus to be installed (i.e. a single building or development site). If the Section 50 pertains to a development site, a plan showing the whole development will be required, along with a plan showing only the apparatus connections subject to the Section 50 licence, and a land registry or title plan.

## **Section 3 – Details of Proposed Works**

Details of all private apparatus to be installed (i.e. apparatus not being installed under statutory undertaker powers) are to be confirmed.

Within four weeks of completion of the work, a record of the location of the apparatus that has been installed in the highway should be created and submitted in accordance with the Code of Practice for Recording Underground Apparatus in Streets, November 2002.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/511704/recording-of-underground-apparatus-in-streets-code-of-practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/511704/recording-of-underground-apparatus-in-streets-code-of-practice.pdf).

If the position of the apparatus is altered for any reason at any time in the future, an amended record should be submitted showing its new location within four weeks of the alteration. Similarly, if ownership of the apparatus changes at any time in the future, notification of this change should be sent in writing within four weeks of the change.

If the route of the apparatus runs through private land, i.e. land that is not owned by the licensee, permission from the land owner will be required. This agreement is usually laid out within wayleave or easement permissions. These permissions must be agreed with the land owner prior to the progression of the Section 50 licence.

## **Section 4 – Traffic Management Details**

This application will be reviewed by the Road & Street Works Operations Team Leader where the feasibility of the application will be assessed. The programme of works, traffic management and specification for the temporary (if necessary) and permanent reinstatement of the highway will need to be discussed and agreed with the Road & Street Works Operations Team Leader at least 7 days prior to the proposed works commencing. Contact details are listed below.

At least 7 working days prior to commencing works, a Part N notice must be sent to Network Management, Durham County Council, St Johns Road, Meadowfield Industrial Estate, Meadowfield, Durham, DH7 8XQ confirming the date on which you propose to commence work in the highway. <http://www.durham.gov.uk/article/22923/Part-N-notice->

## [forms](#)

The day works are completed within the highway, a Part R1 notice should be submitted confirming the actual date the works were completed, the size(s) of the reinstatement(s) completed on the highway and whether the reinstatement is temporary or permanent. **Notices that have not been served in accordance with the New Roads and Street Works Act may be subject to a fixed penalty notice.** Note that if it is agreed that a temporary reinstatement may be carried out, then this procedure must be repeated when the permanent reinstatement is carried out. <http://www.durham.gov.uk/article/22924/Part-R-notice-forms>

### **Section 5 – Contractor/Ground Worker Details**

Street works accreditation must be held by contractors proposing to complete works in the highway. Copies of this must be submitted with the application. Throughout the duration of the works the licensee will be responsible for the signing, lighting, guarding and other safety measures deemed necessary in respect to the works, and to ensure that there is a New Roads and Street Works accredited supervisor and operative present when carrying out the works. Public liability insurance must be held to the required level and submitted with the application.

### **Section 6 – Adoption of Apparatus**

In some circumstances the apparatus installed may be subsequently adopted by a statutory undertaker. Once we are aware of the adoption of the apparatus by the statutory undertaker and subject to the Section 50 guarantee period being completed, the maintenance responsibility will be assumed by the statutory undertaker and the Section 50 licence will lapse.

### **Consultation with Public Utilities**

The licensee will also need to notify their intention to commence works to each Statutory Undertaker and any other party who may have apparatus in the highway at the location where the proposed works are to be carried out. Note that the licensee will be responsible for complying with the requirements and associated costs of additional works required by the Statutory Undertaker such as protection to or diversion of apparatus that may be considered necessary to accommodate the proposals.

### **Contact Details**

**Highway Network Manager:** Tel: 03000 263691

**Section 50 Administrator:** Tel: 03000 262420

**Road Closure Administrator:** Tel: 03000 267095