



in partnership with



HIGHWAYS ACT 1980 - SECTION 171

Notes for guidance

The requirement to obtain Consent applies to any person or organisation (other than a Statutory Undertaker or the Highway Authority) who wishes to make a temporary excavation in the highway.

The term excavation includes the removal of any surface within the carriageway, footway, verge or other area located between the Highway boundaries.

Consent may be granted to the owner of land or premises benefitting from the works and to the person / company carrying out the works. The consent granted to the owner provides for the execution of the works and any subsequent guarantee and in default of the person executing the works for any subsequent maintenance or repair of those works. The consent granted to the person undertaking the works relates only to the works including any liability in respect of guarantee periods. The owner must ensure that he is satisfied with the competence of those employed to carry out works and recognise that he may be liable for any costs or expenses resulting from their actions or inaction.

If granted consent, the owner and persons carrying out works permitted by the consent will be required to execute works to the requirements and standards of the New Roads and Street Works Act 1991 and shall be subject to the provisions of NRSWA and all other applicable legislation. Non-compliance with the relevant statutory obligations or specified conditions may lead to prosecution. The applicant should ensure that all parties named in an application are aware of their responsibilities and liabilities. Applications may be made by or on behalf of any party named in the application. Applicants not familiar with the requirements of NRSWA are strongly advised to appoint a contractor with the appropriate knowledge to conduct the works on their behalf.

Applicants are required to pay all associated fees and charges and indemnify Nottinghamshire County Council, VIA East Midlands Ltd and their agents against any claim in respect of injury, damage or loss arising out of the execution by any person of any works authorised by the consent.

The application must be accompanied by a Works Notice and plan together with any other information necessary to fully explain the purpose, nature and extent of the works. Failure to provide adequate information may delay the granting of consent and / or the start of the works.

Applications may be emailed to licences@viaem.co.uk

Works must not commence before:

1. Consent has been granted AND
2. the start date specified in the Works Notice (including a date determined by a direction to such a notice)

Works Notice

A separate notice is required for each street on which works or traffic management are to be carried out. A 3-month Notice must accompany the application. Start dates earlier than 3 months from the receipt of the Notice may be agreed where this can be accommodated.

Plan

A map based plan of a scale not less than 1:500 must clearly show the location and extents of the works. Additional plans and drawings should be supplied where this will help to explain the works involved. An 'as built' drawing must be submitted with the notice of reinstatement details.

Fees

Applicants should note that the fees include for consideration of an application and as such part of the fees is non-returnable in the event of a withdrawal of the application or refusal to grant Consent. The fees also include inspection fees. All fees must be paid before an application will be considered. These fees are shown in the schedule of fees and charges.

Card payments by telephone may be made to 0115 9774349.

Cheques should be made payable to VIA East Midlands Ltd.

Inspection fees are applicable for each unit of inspection. Full details of inspection units can be found in the NRSWA Code of Practice for Inspections with the most common being:

- a) a single excavation not exceeding 200m
- b) 5 individual excavations

Additional fees and charges may also be incurred, including those arising from incorrect noticing, defective works or over running works, as well as for the provision of services to facilitate the works including any Temporary Traffic Regulation Order, attendance at permanent traffic signals or adjustment of highway infrastructure.

The works shall be carried out to the requirements of the New Roads and Street Works Act 1991 and all other applicable legislation including but not limited to:

Notices

Notices required under NRSWA are indicated in the form of notice and associated flow diagram listed below. Notice must be given at all stages of the works. Many works are subject to 3 months' advance notice which should be submitted at the time of application. Subsequent notices must be submitted according to the prescribed timetables which are illustrated in the flow diagram. Failure to give notice may result in a penalty and failure to give notice of completion of works and / or reinstatement may result in charges for overrunning works and a delay in the start of any guarantee period.

Notices for works must be submitted to VIA East Midlands who act for Nottinghamshire County Council in all highway matters and are empowered to direct, inspect and enforce all aspects of the consent. VIA may grant an early start for works where this can be accommodated.

Safety

All works must be undertaken to the relevant requirements for safety for the works including those prescribed in the NRSWA code of practice; Safety at Street Works and Road Works. An information board must be provided at all times that a works site is present.

Avoidance of unnecessary delay or obstruction

Works must be planned and executed with a view to minimising inconvenience to users of the street. Traffic restrictions, traffic management and working methods must be agreed with VIA when specified in a direction to a notice of works and applicants may be required to submit details to demonstrate that the works will be carried out in an appropriate manner. Applications for temporary traffic regulation or restriction, the use of temporary traffic signals, interruption to permanent traffic signals and effects on highway infrastructure must be submitted to VIA in accordance with the terms of such applications. Works must not commence until all details requested have been approved.

Qualifications

Any works must be supervised by a person qualified under NRSWA to supervise the works and there must be at least one qualified operative on site at all times that works are in progress.

Inspection

The County Council and its agents must be permitted to monitor works at all stages and comply with any direction or instruction given must be complied with.

Works likely to affect other apparatus

Where works are likely to affect another person's apparatus in the street, applicants must take all reasonable practical steps: -

- a) to give the person to whom the apparatus belongs reasonable facilities for monitoring the execution of street works, and
- b) to comply with any requirements made by them, which is reasonably necessary for the protection of the apparatus or for securing access to it.

All statutory undertakers must therefore be contacted before the commencement of any work to obtain locations and details of apparatus in the street. Failure to do so result in liability to further action by the relevant apparatus owner.

Details of the major utilities can be found in the contacts pages of the East Midlands HAUC website <http://emhauc1.wixsite.com/road>

Reinstatement and Specification

All works must comply with the drawings and details provided with and approved as part of the application and with the NRSWA Specification for the Reinstatement of Highways unless otherwise specified. This includes performance requirements up to and including handover at the end of the guarantee period (of 2 or 3 years according to the depth of apparatus; details of which must be included on the as-built drawings). Reinstatement categories can be obtained from roadworks.org

Charges for over running works

Applicants should note that charges may apply where works over run the reasonable period established by notices. Applicants are recommended to submit a detailed works programme against which any changes in progress can be monitored and measured in order that extensions to works periods may be considered.

Indemnity

The applicant shall indemnify NCC and VIA East Midlands in all respects and shall ensure that public liability insurance to a value of not less than £5million is held throughout the life of the licence.

Scope of consent

A Consent does not entitle the applicant to undertake any work other than in accordance with the conditions of the Consent. The Licensee must ensure that any other authority, permission or consent necessary for or associated with the works are obtained.

Right of Appeal

Where a person is aggrieved by:

- a) The refusal to grant consent, or
- b) Any terms or conditions of the consent granted to him;

may appeal to a magistrates' court.

Further resources

Documents associated with an application are:

Street Works Notice – Form of notice

Street Works Notice requirements flow diagram

Reinstatement registration – Form of notice

Application for use of temporary traffic signals

Application for switch off / on of permanent traffic signals

Application for switch off / on of permanent zebra crossing

Application for a Temporary Traffic Regulation Order (TTRO)