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NEW ROADS AND STREET WORKS ACT 1991 - SECTION 50

Notes for guidance

The requirement to obtain a Street Works Licence applies to any person or organisation (other than a Statutory Undertaker) who wishes to place, retain and thereafter inspect, maintain, adjust, alter or renew apparatus, or change its position or remove it in or from the Highway.

The term apparatus includes; drains, cables, ducts, sewer pipes, water and gas pipes, etc.

Applications may be made for a licence to place apparatus in the Highway or to work on existing apparatus in the Highway. Apparatus owners should note their statutory duty to secure that the apparatus is properly maintained at all times. It is recommended that a licence should become part of the deeds of the property served by the apparatus.

Licences may be granted to the owner of land or premises served by the apparatus and to the person / company carrying out the works. The licence granted to the owner provides for the ongoing use of the apparatus and its subsequent maintenance, repair and renewal. The licence 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 a licence the owner and persons carrying out works permitted by the licence will become an Undertaker for the purposes of the New Roads and Street Works Act 1991 and having the rights and responsibilities as such shall be subject to the provisions of NRSWA and all other applicable legislation. Non-compliance with the relevant statutory duties or licence conditions may lead to prosecution under the Act. Applicants should note that this liability cannot be delegated to any other person or organisation. 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 and its agents against any claim in respect of injury, damage or loss arising out of the placing or presence in the street of apparatus to which the licence relates or the execution by any person of any works authorised by the licence.

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 apparatus and the associated works. Failure to provide adequate information may delay the granting of a licence and / or the start of the works.

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

Works must not commence before:

1. a licence 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 apparatus, together with the property / land served by the apparatus and the highway boundary. Additional plans and drawings should be supplied where this will help to explain the works involved. The material type, colour and diameter or other key dimensions should be included in the description of apparatus stated in the application. 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 a licence. The fees also include a commuted sum for management of the licence during its life and inspection fees. All fees must be paid before an application will be considered. These fees are shown in the schedule of fees and charges.

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

Licensees may also incur additional fees and charges 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 licensee is an Undertaker as defined in the New Roads and Street Works Act 1991 s48(4) and having the rights and responsibilities as such shall be subject to the provisions of NRSWA 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. Licensees must provide notice at all stages of the works. Most installations of new apparatus are subject to 3 months' advance notice which should be

submitted at the time of application for a licence. 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 street works matters and are empowered to direct, inspect and enforce all aspects of the licence. 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 licensees 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 licensee must permit the County Council and its agents to monitor works at all stages and comply with any direction or instruction given.

Works likely to affect other apparatus

To comply with Section 69 of NRSWA where street 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 may leave the licensee liable 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 NRSWA Specification for the Reinstatement of Highways. 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. Licensees 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 licensee 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.

Change of ownership

Where a licensee proposes to cease using or to abandon the apparatus or to part with his interest in the apparatus he shall give the County Council at least six weeks' notice before doing so.

Where a licensee proposes to part with his interest in the land to which the apparatus is licenced he shall give the County Council notice before doing so, stating to whom the benefit of the licence is to be transferred.

Scope of Licence

A Licence does not entitle the Licensee to undertake any work other than in accordance with the conditions of the Licence. The Licensee must ensure that all other authority, permissions and consents necessary for the function of the apparatus are obtained including but not limited to consent to connect to other parties' apparatus.

The licensee shall not alter, adjust or renew the apparatus without a further licence from Nottinghamshire County Council and prior to undertaking any such work shall comply with all requirements in respect of notices for works and inspection fees.

Right of Appeal

Where the apparatus, in respect of which an application for a Street Works Licence is made, is to be placed or retained on a line crossing the street, and not along the line of the street, a person aggrieved by:

- a) The refusal of the Authority to grant him a Licence;
- b) Their refusal to grant a Licence except on terms prohibiting its assignment, or;
- c) Any terms or conditions of the Licence granted to him;

may appeal to the Secretary of State.

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)

Schedule of fees and charges