

License Examples

Typical License Conditions (Hampshire Model)

The License below would need to be accompanied by Guidance, Risk assessment and Method Statements and procedures.

Made under Section 142 of the Highways Act 1980

1. Where a licence is granted under subsection 2(a), the licence is granted to the applicant only and is not transferable
2. Where a licence is granted under subsection 2(b), the licensee transfers to the successors, in title, of the stated premises. The applicant shall inform the Highway Authority, within one month, of any change in ownership of the premises
3. a) In accordance with s142(8) Highways Act 1980, the Licensee and the person who immediately before the expiration, withdrawal or surrender of a licence was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of:
 - (i) the planting or presence in a highway of trees, shrubs, plants or grass to which the licence relates, or
 - (ii) the execution by any person of any works authorised by the licence or by the highway authority under section 142(7), or
 - (iii) the execution by or on behalf of the highway authority of any works under section 142(7)b) In addition, the Licensee shall indemnify the County Council against all liability, loss, claim or proceeding whatsoever arising under the statute or common law in respect of the planting, maintaining, retaining or removal of trees, shrubs, plants or grass in the highway
4. a) The applicant shall hold public liability insurance in an amount not less than Â£5 million in respect of each and every occurrence or series of occurrences caused by or attributable to any event giving rise to a claim
b) The applicant shall hold such insurance cover for the duration of the licence and shall, when required by the Highway Authority, produce evidence of such insurance to the satisfaction of the County Council
5. No part of the highway may be planted so as to enclose it or to obstruct the public right to pass and re-pass over the highway
6. Any request for an extension to the period for which the licence has been granted must be made by submitting a further application to the Highway Authority at least 48 hours (excluding Saturday and Sunday and Bank Holidays) prior to the expiry of the existing licence
7. No hole shall be dug to a greater depth than 2 feet (600mm) in connection with the planting of trees, shrubs or plants covered by this licence, nor shall any hole be dug within 3 feet (1 metre) of the line of any apparatus of Statutory Undertaker, Sewerage Authority or anyone in possession of a telecommunications licence
8. No shrub, plant, or grass of a poisonous nature, or otherwise likely to constitute a source of danger, nuisance, or annoyance to persons or animals on the highway, shall be planted. No tree, shrub or plant shall exceed 2 feet (600mm) in height

9. No cultivation licence application will be approved for any trees, shrubs, plants or grass that may interfere with sight lines (visibility splays) at a road junction
10. All trees, shrubs, plants, and grass to which this licence relates shall be properly cut, pruned and trimmed at all times during the continuance of this licence and no such tree, shrub, plant, or grass shall be allowed to obstruct, overhang or interfere in any way with, or become a danger, nuisance, or annoyance to passage along the carriageway, footway, or verge, or to overhang the premises of any person other than the licensee
11. The applicant shall keep the part of the highway to which this licence relates in a neat and tidy condition to the satisfaction of the Highway Authority.
12. The applicant shall not remove any soil or materials from any part of the public highway or otherwise do anything that would interfere with the support given to the rest of the highway
13. Persons authorised by the Highway Authority or any statutory undertaker, sewerage authority, or holder of a telecommunications licence may at any time enter the part of the public highway to which this licence relates in order to carry out authorised works
14. Nothing in this licence absolves the applicant from his responsibilities to maintain access or provide protection to apparatus owned, used or maintained by statutory undertakers, sewerage authorities or anyone in possession of a telecommunications licence
15. If it appears to the Highway Authority that any tree, shrub, plant or grass covered by this licence contravenes the requirements of any conditions of the licence, the Highway Authority may withdraw the licence upon 7 days notice and thereafter remove the plants and reinstate the highway. The Highway Authority's costs of doing so shall be met by the applicant
16. The Highway Authority may, by notice served to the applicant, terminate the licence:
 - a) on the expiration of such period as may be specified in the notice, being a period of not less than 7 days beginning with the date of service of the notice on the applicant, if any condition of the licence is contravened by the applicant
 - b) on the expiration of such period as may be so specified, being a period of not less than 3 months beginning with said date, if the Highway Authority consider the withdrawal of the licence necessary for the purpose of the exercise of their functions as a highway authority.
17. Where a licence expires or is withdrawn or surrendered, the Highway Authority:
 - a) may remove all or any of the trees, shrubs, plants or grass to which the licence relates and reinstate the highway and may recover the expenses reasonably incurred by them in doing so from the last licensee applicant; or
 - b) if satisfied that the last applicant can, within such reasonable time as they may specify, remove such trees, shrubs, plants or grass, or such of them as they may specify and reinstate the highway, may authorise him to do so at his own expense

West Sussex County Council Highways Licence to Plant in the Highway Highways Act 1980 (Section 142)

Guidance Notes for Individual Applicants

The aim of the licencing procedure is to enable private individuals to plant on highway land where local authority funds are not available. Section 142 of the Highways Act 1980 empowers the Highway Authority to grant a licence permitting the owner/occupier of any premises adjoining the highway to plant and maintain or to retain and maintain shrubs, plants or grass in the highway.

Please be aware of the following points:

1. The verge must be a minimum of 2 metres (6 feet 6 inches) wide before planting is considered. Planting must be at a minimum distance of 1.2 metres (4 feet) from the edge of the carriageway.
2. The planting of shrubs and other plants are permitted depending on the location. Please do not select a species of plant that is prickly for planting adjacent to footpaths.
3. Hedges and enclosures of any form (e.g. fences) are not permitted.
4. The applicant must be either the owner or occupier of the property adjoining the highway (i.e. fronting the verge in question) and should state so if they are not the owner.
5. The licence will be issued to plant and maintain. The form of licence which is normally used is assignable and is granted to the owner/occupier of the premises adjoining the Highway and their successors in title i.e. any subsequent owner/occupier. If any variation to this is intended, please supply full details to accompany the application form. No charge is made for the licence.
6. The licensee shall indemnify the Highway Authority against any claim in respect of injury, damage or loss arising out of the planting or presence in the highway of shrubs, plants or grass to which the licence relates.
7. In some cases permission for planting can be requested for an area which is not adjoining the applicant's property. In this instance the Parish, Town or District Council may agree to make an application on the applicant's behalf. WI 028 GN 001 v1.1 Guidance Notes for Planting in the Highway 30/10/2014.

Application Procedure

Application forms for licences can be obtained from the WSCC Contact Centre or the WSCC web site.

1. Sections numbered 1 to 8 should be filled in by the applicant and the form returned to the appropriate Highways Area Team. It should be accompanied by 5 copies of a plan or drawing showing the PRECISE LOCATION of the proposed planting scheme and possible sight lines which have to be preserved.

2. A Highways Area Team member will inspect the site to assess visibility requirements and will liaise with utility providers to establish the presence of any underground apparatus which may be affected by the planting proposal. The Parish Council will also be consulted and any objections resolved before a licence is granted.

3. In certain circumstances, it may be that the proposed licensee would wish to 'dedicate' the shrubs etc. Any 'dedication' has to be approved by the Director of Highways & Transport, but funds are not available for maintenance, and so the responsibility for maintenance is that of the Licensee.

4. If the application is approved the licence will be issued by the Director of Highways & Transport.

You must get a licence from the county council before you can enter into the highway for the purpose of planting.

Applications must be made at least one month in advance of the date which works are required to take place and must meet the requirements of the Highways Act 1980, Sections 141 and 142.

You will need to provide:

- An accurate location plan (minimum 1:2500 scale)
- Evidence of valid public liability insurance to a minimum of £5 million
- A proposed date for the start of works
- Your name, address and signature

Download and complete the application form below and send to Executive Director for Environment and Economy, Lancaster House, 36 Orchard Street, Lincoln, LN1 1XX

There is no fee for this licence.

Approval process

1. Once you submit an application, we will check your documentation, assess your request and bank your payment
2. We will contact you if any information or documents are missing. We may also contact you to discuss your works further, if required
3. We will send you two copies of the private licence. Both must be signed by you, witnessed and returned to the council
4. Once we receive your signed copies we will countersign them. We will then send your licence documents, together with any conditions of work, within one month
5. Works can only begin when you have received your licence documents

Refused applications

If it's not possible to resolve any issues or conflicts, your application will be refused and you will be unable to carry out your proposed works. Your paperwork and payment will be returned to you.