



**EXCAVATIONS IN THE HIGHWAY
GUIDANCE NOTES FOR APPLICANTS**

SWL1a

Introduction

1. If you, or your organisation, wish to make a temporary excavation in the public highway for works purposes, you will need to apply for permission to The East Riding of Yorkshire Council (the Council), as defined in Section 171 of the Highways Act 1980 (HA). The requirements of the Excavation/Occupation licencing does not absolve the applicant from complying with any planning or other legislation that applies to their works.
2. The terms excavation and occupation includes, the removal of any surface within the carriageway, footway, verge or other area located between the highway boundaries..
3. Permission may be granted to the owner of land or premises benefitting from the works or to the person or company carrying out the works. The consent granted to the applicant provides for the execution of the works and any subsequent guarantee and the person executing the works for any subsequent maintenance or repair of those works. The permission granted to the person undertaking the works relates only to the works including any liability in respect of guarantee periods.
4. If consent is given the owner (Licensee) and person carrying out the works will be required to execute any works to the requirements and standards of the New Roads and Street Works Act (NRSWA) and will be subject to its provisions and all applicable legislation. The Licensee should ensure all parties named in the application are aware of their responsibilities and liabilities.
5. If you are you are planning to apply to excavate please be aware of the following:
 - a. Applications to excavate may be made by or on behalf of any party named in the application.
 - b. The Licensee becomes an "undertaker", for the purposes of the NRSWA, and because of that takes on responsibility for carrying out the duties and responsibilities imposed by the Act and its associated regulations and Codes of Practice.
 - c. If you are not familiar with the requirements of the HA or NRSWA, it is important that you appoint a works contractor with the proper knowledge and accreditation. Such a contractor will be able to help you complete the application as well as make sure that the works are conducted properly. If you appoint a contractor lacking the proper knowledge or accreditation, we may not allow them to work within the highway.
 - d. Within the NRSWA you may incur financial penalties if you do not meet the necessary statutory duties and Licence conditions. Please note that this liability cannot be delegated to any other person or organisation.
 - e. You must have been granted a Licence before any proposed works are due to start, in accordance with the timescales given below.
 - f. A Licence issued under Section 171 does not allow for the installation of any apparatus. Applicants wishing to place or maintain any private apparatus but apply for a NRSWA Section 50 Licence from the Council, the term apparatus includes drains, cables, ducts, sewer pipes, water and gas pipes etc.

How to apply

6. Complete the application form (SWL3) and send it to the Council with the following documents
 - a. The appropriate application fee. (For the appropriate charges see the East Riding of Yorkshire web site).

- b. One copy of a scale plan at 1/2500 or greater with the proposed location and depth of the relevant excavation marked by a red broken line.
- c. Proof of Public Liability Insurance. This must indemnify the Council against any claim in respect of injury, damage or loss arising from the works and provide a minimum £5 million cover and be maintained from commencement of the works on the highway, up to completion and acceptance, by the Council, of the permanent reinstatement upon the ending of the guarantee period.
- d. Documentary evidence that an operative, who holds a current NRSWA accreditation for the supervision of highway excavation and reinstatement, will supervise the site
- e. Documentary evidence that the site operative holds a current NRSWA accreditation certificate.
- f. Copies of any relevant Statutory Undertakers drawings and special conditions required.

Application Time Scales

- 7. In order for the Council to comply with its statutory duty, all applications must be submitted a minimum of 6 weeks in advance of the statutory notification periods for work detailed below.
- 8. ***Applicants must allow sufficient time for the application process in advance of any works noticing requirements.***
- 9. A shorter period may be agreed by the Street Authority in conjunction with the other Undertakers likely to be affected.
- 10. Failure to provide all of the required documents **will** require the application to be returned to the applicant and will delay the process of issuing a Licence.
- 11. As part of the application process a site meeting will be held between the Council and the designated contractor prior to the Licence being granted.
- 12. **No work may be carried out in the public highway before the signed Licence is returned to the applicant, all works must be carried out in accordance with the Licence issued.**

Obligations

- 13. Once issued the Licence obliges the Licensee to:
 - a. Comply with the requirements of the HA and NRSWA.
 - b. Issue the required notifications of works, when works occur.
 - c. Ensure that the execution of the works, is performed in a satisfactory manner with particular regard to the Code of Practice, “Safety at Street Works and Road Works” (Red book).
 - d. Ensure that works are supervised by an Accredited Supervisor in accordance with Section 67 of the NRSWA.
 - e. Ensure that when works occur, an Accredited Supervisor or Operative is physically present on site whilst works are being performed.
 - f. Indemnify the Council against any claim made by a third party in connection with any aspect of the works.
 - g. Ensure that the highway is permanently reinstated when works are completed, to the satisfaction of the Council for further details see sections below.

- h. To provide, as and when requested by any person having reasonable cause, information regarding the location of the excavation. Such information to be provided within 10 working days of request.
- i. Pay any penalties arising from a contravention of the NRSWA, or the HA. Where they apply to the works covered by the Licence.
- j. Pay any penalties, including any additional administration costs, resulting from:
 - i. missed or non-attended site meetings agreed with the Council,
 - ii. non-compliance with Street Works Regulations

Other factors to be aware of

- 14. The waste material arising from your works must be disposed of responsibly and the appointed contractor must comply with all legislation including, but not limited to the Waste Duty of Care Code of Practice.

Notification procedures for different types of work

- 15. **Major Works** are works which require a road closure or have a planned duration of 11 working days or more, an Advanced Notification of Planned Works (form SWL4a) must be submitted THREE MONTHS in advance of the works proposed commencement date. The Licensee must then submit a Confirmation of Planned Works (form SWL4b) TEN WORKING DAYS prior to notice of proposed start date. Upon commencement of works a Notification of Works Start (form SWL4) must be completed and sent to the Council as soon as possible but no later than the next working day
- 16. **Standard Works** are works which require a road closure or have a planned duration of between 4 and 10 working days an Advanced Notification of Planned Works (form SWL4a) must be submitted ONE MONTHS in advance of the works proposed commencement date. The Licensee must then submit a Confirmation of Planned Works (form SWL4b) TEN WORKING DAYS prior to notice of proposed start date. Upon commencement of works a Notification of Works Start (form SWL4) must be completed and sent to the Council as soon as possible but no later than the next working day
- 17. **Minor Works** are works are works that have a planned duration of 3 working days or less, an Advanced Notification of Planned Works (form SWL4a) must be submitted ONE MONTHS in advance of the works proposed commencement date. The Licensee must then submit a Confirmation of Planned Works (form SWL4b) THREE WORKING DAYS prior to notice of proposed start date. Upon commencement of works a Notification of Works Start (form SWL4) must be completed and sent to the Council as soon as possible but no later than the next working
- 18. **Immediate or Urgent Works should be discussed directly with the Council. Urgent works are defined as:**
 - a. Emergency works required to end or prevent circumstances, either existing or imminent, that might cause damage to people or property.
 - b. Urgent works required to:
 - i. prevent or put to an end unplanned interruptions to the supply of services
 - ii. to avoid substantial loss in relation to existing services
 - iii. to reconnect supplies or services where an undertaker would be under a civil or criminal liability
- 19. The above are the required minimum notice periods, the Council may sometimes require more time to process the application shorter periods of notification may also be possible but must be agreed by the Council. Please contact East Riding Street Works Team (at the email address below) for guidance.
- 20. It is the responsibility of the Licensee to inform the Council of the completion of the reinstatement. This must be done by the end of the next working day, stating whether the reinstatement is interim or permanent.

The guarantee period is set from the date the Notice of Works Stop and Registration (form SWL5) is received for the permanent reinstatement. Back dated registrations are not permitted under NRSWA.

Complimentary Traffic Management Arrangements

21. If the works require a road closures the requirements must be discussed directly with the Street Authority.
22. In cases when the use of temporary traffic signals is required as part of the work a Temporary Traffic Management Application (form SWL8) must also be submitted together with the main application.
23. Typical traffic management considerations are:
 - a. Parking suspensions
 - b. Nearness to any level crossings
 - c. Bus lanes
 - d. Existing traffic signals
 - e. Existence of road junctions
24. Temporary Traffic Management Form (SWL8) must also be submitted together with the main application.

During the works

25. The Council will monitor the contractor's performance throughout the works and guarantee period.

Works

26. Works shall commence on the date specified in the approved Licence. During the progress of the work there will be inspections by the Council, to check that the works are being performed in accordance with the Licence conditions, and whether any additional measures are required. They will advise of any non-compliance.

Reinstatement & Registration

27. At the end of the works the Highway is to be reinstated. This reinstatement may be either interim or permanent, the Licensee must inform the Council of the reinstatement using form SWL5, accompanied by a plan showing the exact location of the excavation.
28. An Interim Reinstatement must be notified in the same manner as described above. The interim reinstatement must be replaced by a Permanent Reinstatement within a period of 6 months and a new SWL5 form submitted.
29. Registration in all cases is to be sent to the Council within 24 hours of work stopped.

Post Works Inspections

30. The Council will inspect the performance of the reinstatement during the guarantee period. These inspections are to ensure that the reinstatement is performing to the standards set out in "Specification for the Reinstatement of Openings in Highways". If the reinstatement is found to be unsatisfactory, a Defect Procedure will be triggered with additional charges applicable. You are advised to ensure that any agreement you have with your contractor includes a clause which protects you in the case of failure of the works.
31. It is to be noted that any remedial works will re-start the guarantee period and will therefore be subject to additional inspections which may be charged.

Guarantee period

32. The guarantee period begins from the date the Council is notified (by form SWL5) of the permanent reinstatement and will last for 2 years for reinstatements up to 1.5m deep and 3 years for excavations in excess of 1.5m in depth. It is therefore important to notify the Street Authority as soon as the works have been completed.

Data Privacy

33. To find out how we use your data please visit [ERYC-PrivacyInfo](#)

Contacts

Any questions regarding applying to work in the public highway should be addressed to:

Street Works & Systems
Beverley Depot
Annie Reed Road
BEVERLEY
East Riding of Yorkshire
HU17 0LF

Email: streetworks@eastriding.gov.uk

Associated forms

Other documents associated with this subject are available on the website, these are:

SWL1a Excavation or occupation guidance notes for applicants (this form)

SWL3 Application for a Licence to excavate in the highway

SWL4 Street Works notice of works start

SWL4a Street Works advanced notification of planned works

SWL4b Street Works confirmation of planned works

SWL5 Street Works notice of works stop and registration of reinstatement

SWL7 Street Works Controlled waste transfer note

SWL8 Street Works temporary traffic management application