



# Application for Permission to Execute Roadworks

## Notes of Guidance for Applicant

### New Roads & Street Works Act 1991 Section 109

'Road Works' Including Placing, Maintaining or Adjusting Apparatus in, or under, a Road or Removing Apparatus from a Road (Including Excavation, Boring, Pipe Bursting or Similar Techniques)

**Note:** Within the following paragraphs, the conditions relating to permission are set out. Where relevant, Notes for Guidance are provided within the paragraph in *italics* and within square brackets [ ].

#### Section 1 Bodies and Works Not Applicable to this Procedure

- 1.1 Granting permission under Section 109 (S109) is not relevant to bodies which are Statutory Undertakers (SUs) or Public Utilities (PUs) or otherwise empowered by a licence to act directly as an undertaker in accordance with the New Roads & Street Works Act 1991 (NRSWA). Herein, all such bodies are covered by the acronym 'PU'.  
*[Such bodies are required to provide work notification etc via the Scottish Road Works Register (SRWR).]*
- 1.2 Granting permission under S109 is not relevant to bodies acting as agent to any body excluded in Paragraph 1. Neither does it apply to a contractor working on behalf of such body or agent.  
*[Agents should have access to the SRWR and contractors should have the relevant notices etc placed in the SRWR by the client undertaker or agent.]*
- 1.3 Granting permission in respect of private roads is not relevant to these procedures.  
*[Permission for work in private roads should be obtained from the road manager(s).]*
- 1.4 Granting permission under S109 is not relevant to other ancillary or stand-alone activities such as depositing a skip, erecting a scaffold, occupying the road or carrying out minor civil engineering in the road such as forming a drop crossing.  
*[Permission for such activities should be requested from the Roads Authority (RA) under the relevant section of the Roads (Scotland) Act 1984.]*

#### Section 2 Conditions

- 2.1 The term 'applicant' as used within this and associated documents is to be construed as referring to the body on behalf of which the application form is signed after permission is granted as well as before such permission. It is synonymous with 'the UIP' which is used in places within this document.
- 2.2 The person signing the application form must be a representative of the Utility Infrastructure Provider or equivalent (both referred to herein by the acronym 'UIP') which will be responsible for fully accepting these conditions and fully responsible for meeting these conditions during and after the actual road works.
- 2.3 Permission may be withdrawn by the RA where it considers it appropriate. If this occurs and work has commenced, works will cease except that which is necessary to make the site safe to the satisfaction of the RA. Works will not recommence until written approval is given by the RA.
- 2.4 Nothing in this document or in the RA's granting of permission will be taken as exempting the applicant from obtaining any other necessary permissions for the works eg though not

- exhaustive, planning permission and permission to connect to third party systems and apparatus.
- 2.5 It is the responsibility of the applicant to determine from the RA all relevant details of the road(s) to be worked on including traffic sensitivity, reinstatement category and special designations and to build this information into his plans and work specifications.
- 2.6 It is the responsibility of the applicant, prior to submitting an application for permission, in respect of the area of proposed works to have obtained information in respect of other apparatus belonging to PUs and the RA by issuing a Plant Information Request through the One Call Service provided for the SRWR by Symology Ltd. It is also the applicant's responsibility to consider the information received in light of his plans and to communicate and reach agreement with others as required.
- 2.7 Granting permission to a UIP under S109 effectively makes that body an undertaker under the NRSWA with all the duties that Act imposes on undertakers. The UIP and its applicant and planning and operational staff must be fully familiar with the requirements of the current version of the documents named below and works will be carried out in accordance with these, namely: NRSWA, related Regulations and the following:
- 'New Roads & Street Works Act 1991' as amended;
  - The several Regulations related to the above Act;
  - 'Code of Practice for Co-ordination of Street Works & Works for Road Purposes & Related Matters';
  - 'Measures Necessary Where Apparatus is Affected by Major Works (Diversionary Works) – A Code of Practice';
  - 'Specification for the Reinstatement of Openings in Highways';
  - 'Code of Practice for Inspections';
  - 'Safety at Street Works & Road Works – A Code of Practice';
  - Roads & Utility Committee (Scotland) (RAUC(S)) Advice Notes; and
  - Any other Act, Regulation or Code of practice which is introduced by reference in any of the above.
- 2.8 Section 7.4.4 of the 'Code of Practice for the Co-ordination of Street Works...' states that the RA should ensure that the applicant is made aware of his/her/its obligations under the NRSWA.
- 2.9 If at the planning stage of work relevant to this procedure, the UIP knows which PU will adopt the apparatus, specific verification will be required from that undertaker that it is not prepared to provide notices etc to the SRWR and to monitor third party notices in respect of the applicant's apparatus. If the PU undertakes to carry out these tasks, payments to the RA in respect of such tasks will not be incurred.  
*[It is much preferred that that undertaker provide the notices etc to the SRWR in such circumstances.]*
- 2.10 If appropriate, permission will only be granted on receipt of the relevant application form (appended to this document) duly and accurately completed and signed together with the specified enclosures and with receipt and clearance of the relevant initial fee.  
*[As inviolable time scales are set by the NRSWA not counting the necessary time for the Council's NRSWA Section to deal with the administration, it is strongly advised that contact is made with the NRSWA Section well in advance to discuss the project and its ramifications.]*
- 2.11 No apparatus, surface boxes, chambers or other fittings will be placed within construction layers or the verge without the consent of the RA. Consent will be conditional on, among other aspects, receipt of the specification for the apparatus, boxes etc and the RA being satisfied that the apparatus, boxes etc are suitable for the proposed locations.

- 2.12 Notification must be given to the RA on the adoption by a PU of the apparatus including surface apparatus and boxes or chambers. A copy of the PU's acceptance certificate or similar must be attached to the notification. Such adoption will free and relieve Clackmannanshire Council from any and all responsibility for monitoring the effects of third parties' works on the apparatus in question with immediate effect. Similarly, should the applicant become a PU and/or gain access to the SRWR, he or she will so notify the RA and such notification will free and relieve the Council as above.
- 2.13 Unless the PU indicates that it has accepted responsibility for the track(s), opening(s), reinstatement(s) and surface apparatus, boxes, chambers involved with the permitted works, the UIP will remain responsible for all these elements for the guarantee period of two or three years as determined from the relevant COP and, if it is later shown that the UIP failed fully to meet relevant specifications at the outset, in perpetuity. Surface apparatus, boxes and chambers will likewise remain the responsibility of the UIP in perpetuity unless adopted by a PU. Without prejudice to the 'in perpetuity' elements of this paragraph, defects previously identified by the RA and not repaired at the two or three year limit will result in the UIP remaining responsible for the above elements indefinitely until the defects are put right to the satisfaction of the RA.
- 2.14 The responsibilities set out in paragraph 2.13 will transfer to the applicant's heritors or successors.
- 2.15 Where the PU adopting the apparatus is known in advance, the application form must be accompanied by a certificate from that PU indicating its intention that the apparatus, surface boxes etc (and track/reinstatement if relevant) will be adopted. The caveat that the work must be to the PU's satisfaction is accepted. A robust indication of the intended timescales for adoption of the several elements must be included assuming no issues will arise regarding unsatisfactory work.
- 2.16 Where an adopting PU has not been identified at the time of application, the applicant will be responsible as indicated below until such time as an adopting PU is identified and adoption is confirmed.
- 2.17 In spite of the foregoing, if, for whatever reason, the apparatus is not adopted by the intended or any PU, the UIP, its heritors and successors will remain responsible for it. The RA will continue to monitor notices which affect the apparatus and will continue to charge the UIP and its heritors or successors as appropriate the relevant rate set out in Section 3. The rate will vary over time in accordance with the current rate as set by the RA.
- 2.18 Once permission is granted, the applicant must submit an 'Intention to Commence Road Works' proforma. This must be received by the RA a minimum of fifteen working days (not counting public holidays) prior to the starting date shown therein. It should be noted that the RA has a duty to co-ordinate all road works and it may not prove possible to accept the starting date proposed. However, if the starting date has been fairly robustly set through discussion prior to application for permission, it should already have been entered into the co-ordinated programme.  
*[Under the NRSWA the RA has a duty to give 10 days notice to other interested parties via the SRWR. The extra five days are to allow the RA time for administration, resolving issues etc. The RA cannot anticipate all overruns or programme changes by bodies already on the road or scheduled to commence works but will try as far as possible to minimise delays to all and to keep bodies waiting to start advised of the situation. It is particularly difficult to accommodate every UIP for a major development as each will wish to enter the adjacent roads at roughly the same time. In such circumstances, site sharing and trench sharing would be encouraged.]*
- 2.19 On completion of all permanent reinstatement, a 'Notification of Reinstatement' shall be submitted within 24 hours of so doing. If the works are extensive or if formally phased, intermediate submission(s) of this form will be required.
- 2.20 Checking of works, signing and guarding and reinstatements will not be limited to the pre-set

inspections but may be carried out at any time the RA thinks fit and may include any relevant techniques including rolling straight edge and coring. While ad hoc coring may be carried out during or soon after the works, relatively extensive coring of the works will certainly be carried out in conjunction with the next National Coring Programme.

- 2.21 Permission granted will only extend to cover a PU (and its agent or contractor) which requires to make the final connection(s) of the applicant's apparatus to its own systems if the necessary road openings and work are carried out within the signing and guarding belonging to the applicant and on a timescale concurrent or immediately consecutive to the applicant's immediately adjacent work. Should the PU set up its own signing or guarding and/or carry out its work at a time differing from the applicant's adjacent work, it will require to provide the relevant notices via the SRWR.
- 2.22 Nothing in the granting of permission will be construed as giving permission for altering or interfering with any road infrastructure such as culverts, pipes, gullies, chambers, detection loops etc. Should any relevant issue arise, the agreement of the RA will be required before alteration or interference commences. Such agreement will almost certainly involve agreed diversion or remedial works or similar. Similarly, granting permission for the works does not imply permission to alter or interfere with the apparatus or property any other party.

### Section 3 Financial Aspects

- 3.1 The initial sum (Para 2.5) payable to Clackmannanshire Council will comprise of the following elements:
- i) An administration charge per Unique Street Reference Number (USRN) affected by the proposed Road Works.  
*[The multiple notices which the RA requires to post on behalf of the applicant must be in respect of each USRN. Generally there is one USRN per street but there may be more on longer streets or on streets of multiple 'character'.]*
  - ii) £50 per twenty eight days or part thereof based on the estimated time until an undertaker takes over that responsibility in respect of each USRN. These sums are to cover the administration of the RA's duty under the NRSWA of recording the presence of the apparatus and dealing with third party notices on the SRWR which might affect the apparatus. The estimated time mentioned above is to be verified by the adopting PU where it is known at the time of the application. The first twenty eight days to commence on the date work commences in each USRN.
  - iii) The inspection fee authorised by the NRSWA in respect of the basic three inspections at the rate set by the Regulation current at the time of the application.
  - iv) In cases where Traffic Orders are required an additional fee will apply.
  - v) Fees for all Roads and Transportation Permits and Consents are published on the Council website at:  
<http://www.clacksweb.org.uk/transport/roadsfeescale/>
- 3.2 Further sums will be payable to Clackmannanshire Council if and when the following arise:
- i) A defect is discovered or reported. The inspection fee authorised by the NRSWA at the rate set by Regulation current at the time the defect is identified will be payable respectively for two and three extra inspections. If the defect is not cleared within one month of notification to the applicant, twice the authorised fee is payable repeating each month or part thereof until the defect is fixed. Nothing in this paragraph will be construed as permitting a delay in carrying out remedial work particularly in connection with a safety issue.
  - ii) The unforeseen need for a Traffic Order or Orders which will be charged at the rate set out in Paragraph 8.

iii) The actual cost plus 20% of any investigatory and/or remedial work which requires to be carried out by the RA relating to a safety issue of any kind or relating to the rectification of a defect of any kind on default of the applicant.

*[In respect of safety issues, although the intention would be to give the applicant the opportunity to deal with such issues, it must be realised that the nature of the issue may not make this practical. On all occasions the determination of what requires to be done, the extent thereof and within what timescales will rest with Clackmannanshire Council.]*

iv) The actual cost plus 20% of any testing of the works including trial holes or coring whether or not such testing discovers a defect.

v) The actual cost plus 20% of any works on the RA's infrastructure not part of the works which has been damaged or rendered life-reduced by the applicant or of any works to restore a site to a standard acceptable to the RA on withdrawal of permission once work has started and no agreement has been reached on recommencement.

vi) The actual cost plus 20% of any reasonable survey work required by the RA to establish the accurate location of the apparatus in default of the submission of the plan required under paragraph 5.4. Also included will be costs in respect of trial holes and reinstatements required to establish the depth of apparatus.

vii) £50 per twenty eight days or part thereof in respect of each USRN for each twenty eight days beyond the time period paid for under the initial payment until adoption of all the apparatus including surface boxes etc.

viii) The actual cost plus 20% of all reasonable costs and expenses incurred by the Council to provide a successful claim against the applicant or to successfully recover any moneys from the applicant.

Costs relevant to the above sub-paragraphs (iii) to (vi) inclusive, will include necessary ancillary work such as traffic management.

3.3 Any sums calculated as per Paragraph 3.2 will become a charge on the applicant's heritors or successors if appropriate.

## Section 4 Insurance

4.1 The applicant shall indemnify, and keep indemnified, Clackmannanshire Council from and against all actions, claims, demands, costs, charges, losses and expenses of whatever kind or nature which may be brought or made against it or incurred by it in respect of the negligence, omission or default of the applicant once permission is granted or of those for whom the applicant is responsible arising in respect of any operation authorised by the granting of permission unless due to the negligence or other breach of legal duty on the part of the Clackmannanshire Council or of any person for whom Clackmannanshire Council is responsible. A copy of the company's insurances relative to the above will be provided along with the Application Form. Should there be any change to the companies insurance and/or if it is renewed during the course of the work, the new document or renewal will be exhibited to the RA.

## Section 5 Traffic Management and Submission of Timetables and Plans

5.1 Traffic management arrangements must be agreed in advance of the submission of the formal application and these arrangements must be submitted along with the application. If it has been determined that a Traffic Regulation Notice or Order is required, six weeks will be required from the date of submission of the application to the date work may commence.

5.2 If it has been determined that temporary traffic signals are required, an appropriate separate application form (copy attached to this procedure) will accompany the 'Intention to Commence Road Works' proforma (See Paragraph 2.15).



- 5.3 Timetables and plans showing the proposed works and phases thereof, if appropriate, together with construction methods and reinstatement details will accompany the application. Any necessary amendments arising during the course of the works must be agreed with the RA.
- 5.4 Accompanying the only or last 'Notification of Reinstatement' form must be as-built locational information in accordance with RAUC(S) Advice Note 12. If map based information is provided, the map(s) must be at a scale at which it is possible easily to recognise the features quoted as references, the unambiguous line of the apparatus and the dimensional information provided. If the information is digital, it must be in a format acceptable to the RA.

## Section 6 Road Authority Duty

- 6.1 The RA will undertake to place preliminary and commencement notices on the SRWR in accordance with the NRSWA, its Regulations, Codes of Practice and the conditions of use of the SRWR.
- 6.2 The RA, from the time work commences until complete adoption of all the elements of the work (see earlier paragraphs) will, subject to the conditions attached to granting permission, undertake to monitor notices on the SRWR irrespective of which party issues them. Any plant information request or works notice considered likely to effect the applicant's apparatus will be brought to the attention of the applicant or of the relevant heritor or successor if appropriate. It will undertake to place on the SRWR any appropriate response notice provided by the applicant or his heritors and successors.

## Section 7 Special Conditions

- 7.1 Special conditions may be attached to any permission granted. Any such will be appended in writing to the permission form.