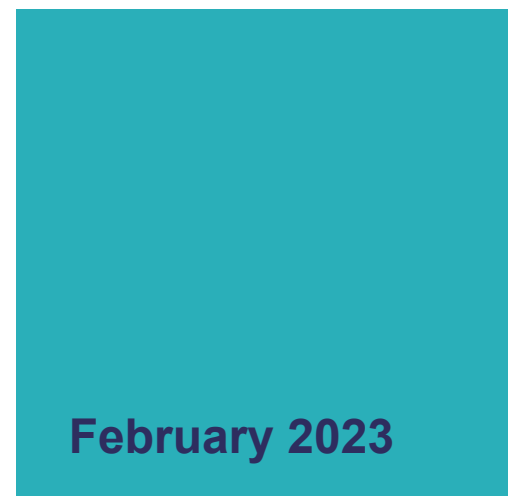
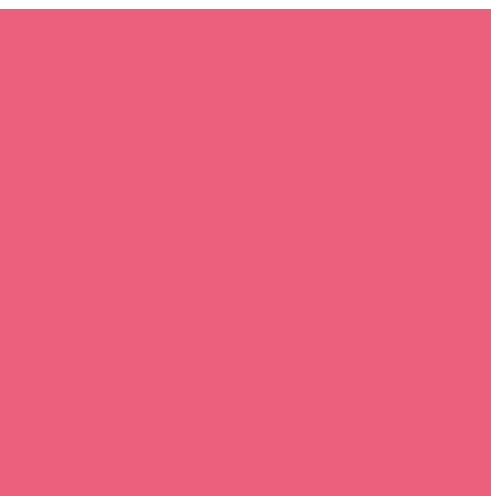




Scaffold, Hoarding, other Items Placed on the Public Highway Policy



Traffic & Highways

Scaffold, Hoarding, other Items Placed on the Public Highway Policy

Version	Date	Author	Rationale
1.0	23/01/2021	Sharon Harrington	New policy, replacing any previous policy in relation to scaffold, hoarding, structures or other item on the public highway
1.1	21/01/2022	Spencer Gray	Annual Policy Review and to include minor updates
1.2	28/02/2023	Spencer Gray	Review and update to new corporate look and city status.

Authorised by			
Name	Date	Item	Ref
Cabinet	14/01/2021	737	Agenda for Cabinet on Thursday, 14th January, 2021, 2.00 pm (southend.gov.uk)
DA	24/05/2022	N/A	
DA	05/04/2023	N/A	

Next review	Date
1	January 2022
2	February 2023
3	February 2024

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1. Introduction

Southend-on-Sea City Council's shared ambition to transform the city by 2050 is aligned to five themes, with related desired outcomes: -

- **Pride & joy** - By 2050 Southenders are fiercely proud of, and go out of their way, to champion what our city has to offer;
- **Safe & well** - By 2050 people in Southend-on-Sea feel safe in all aspects of their lives and are well enough to live fulfilling lives;
- **Active & involved** - By 2050 we have a thriving, active, and involved community that feel invested in our city;
- **Opportunity & prosperity** - By 2050 Southend-on-Sea is a successful city and we share our prosperity amongst all of our people;
- **Connected & smart** - By 2050 people can easily get in, out, and around our city and we have world class digital infrastructure.
- **Future ways of working** – is the framework for how we modernise our workforce in 2022 beyond. We will embrace new approaches, new ways of working and opportunities to become a modern council.

This scaffold, hoarding, structures or other items on the public highway policy supports the more specific desired outcomes for each theme, including: -

- Our streets and public spaces are valued and support the mental and physical wellbeing of residents and visitors.
- A range of initiatives help increase the capacity for communities to come together to enhance their neighbourhood and environment.
- We are leading the way in making public and private travel smart, clean and green.

To help achieve these goals, our approach requires effective joined-up regulation and compliance.

This protocol sets out our approach for the approval and management of road closures for events on the public highway. In doing so we will follow the principles of: -

- The Regulators Code www.gov.uk/government/publications/regulators-code;
- The Enforcement Concordant (Central and Local Government Enforcement Concordat, March 1998);
- Enforcement contained in the Legislative and Regulatory Reform Act 2006 (enforcement is proportionate, targeted, transparent consistent and accountable).

2. Background

The construction and use of scaffolds, hoardings and related structures on the public highway is regulated by the Highways Act 1980. No structure should be placed on the public highway without the expressed permission of Southend-on-Sea City Council, as described in this policy.

Permission is not required where the structure is placed wholly on private land, however, a licence is required where there are any projections over the public highway, at any height.

The purpose of this policy is to set out how the Council uses its powers to regulate the safe and efficient use of the public highway. This policy does not set out how an applicant should design, set up, use or remove any structure, this function is wholly the responsibility of the applicant, to ensure their own safe systems of work.

It is acknowledged that a structure, once erected, may become critical to the safety and stability of a building or other permanent structure. Should the presence of the structure permitted by a licence issued under this policy cause a nuisance or danger to other road users, or a further emergency situation arise, the Council will seek to engage with the applicant, and officers from the Council Building Control Service, to identify possible solutions, it does however reserve all rights to amend the conditions of a licence, or revoke it altogether, where an applicant fails to work with the Council, or the situation otherwise remains unresolved. In any such circumstances, the Council accepts no liability for any loss or damage incurred.

In an emergency, the Council Building Control Service or out-of-hours emergency service, may authorise a licence for immediate use. In such circumstances, the applicant must apply as required by this policy, on the next working day.

3. Council Position

This is a statutory power exercised by the Authority and delegated to Traffic and Highways.

4. Relevant Enforcement Legislation

Southend-on-Sea City Council, in exercise of their powers under Section 169/171/171A/171B/171C/172/172/174/175/175A of the Highways Act 1980, hereby grant permission to erect or cause to be erected scaffolding or other structures in accordance with the above application and subject to any conditions set by the council.

5. Guidance for Officers (Definition of Highway)

“Highway” in this instance is defined as either;

- Footway, verge and carriageway maintained at public expense
- The surface layers of any area considered to be a public right of way (including un-adopted streets) but not any areas of private land or private road that do not form a right of way

A public right of way is determined as any roadway or footpath that is not maintained at public expense, is not designated as Private and – under common law – is defined as follows;

“A highway is a way over which all members of the public have the right to pass and re-pass. Their use of the way must be as of right, not on sufferance or by licence”.

A private road is considered to be one signed as such or one that is closed to public by means of barrier or gate (or possibly simply by the presence of a barrier or gate). The onus on proof of a highway being classed as private lies with the landowner making the claim.

The definitive record of Highways Maintained at Public expense is held by the Council, and is published online under [Publicly Maintained Highways](#).

6. Temporary Structures

A temporary structure licence is required to place some materials on or over the Public Highway. These include:

- Scaffold
- Hoarding
- Building material
- Crane/Crane Over sail

A contractor wishing to carry out activities on the highway must have current Public Liability Insurance of at least £10 million.

7. Enforcement

Following a breach of the Terms & Conditions, the Council may issue a Fixed Penalty Notice, an FPN could be issued for; –

- Placing a scaffold or hoarding without a licence
- A failure to comply with any Terms & Conditions
- Damage caused to the public highway
- A failure to remove or reposition a scaffold or hoarding when requested to do so by a person authorised by the Council, or a police officer.

For serious breaches, the Council may seek to prosecute the applicant.

Where an applicant fails to comply as set out in the licence, and after exhausting other solutions, the Council may itself or instruct a third party to reposition or remove a scaffold or hoarding, and seek to recover any/all costs incurred from the applicant.

8. Various Licences

Scaffolding

All scaffolding placed on the Public Highway requires a temporary structure licence which must be obtained before erecting the structure. To ensure compliance with permit conditions, applications will only be accepted from scaffolding contractors. Building contractors, businesses and residents cannot apply.

The licensee [the scaffolding company] is entirely responsible for the scaffolding and must adhere to the Terms and Conditions and to the individual licence issued. Failure to comply with these Terms and Conditions may result in enforcement action, including FPNs and/or prosecution. If any requirements of the licence are not complied with, the issuing Authority may take such measures as necessary to mark, guard, light or remove the scaffold, clean and repair the highway and the licensee shall be liable for the costs incurred in such measures.

A scaffolding licence will be granted providing the regulations are adhered to.

Hoarding

A hoarding placed on the Public Highway in Southend-on-Sea requires a temporary structure licence which must be obtained before erecting the structure. If a hoarding has been erected on the Public Highway without approval, it will be considered an illegal obstruction and the issuing Authority will require its immediate removal.

The licensee is entirely responsible for the hoarding and must adhere to the Terms and Conditions as well as to the individual licence issued. Failure to comply with these Terms and Conditions may result in legal proceedings, including FPNs and/or prosecution. If any requirements of the licence are not complied with, the issuing Authority may take such measures as necessary to mark, guard, light or remove the hoarding, clean and repair the highway and the licensee shall be liable for the costs incurred in such measures.

Highway Enforcement Officers patrol the streets of the city on a regular basis to make sure that all hoardings are legitimately sited, adhering to the Terms and Conditions set out in the licence, and promptly removed following their permit expiry.

The hoarding and conveyor shall be erected and dismantled in accordance with the manufacturer's guidelines and compliance with the relevant safety legislation and standards. There shall be compliance with the HSE [Health and Safety Executive] conditions and guidance notes, the Health and Safety at Work Act 1974 and the Highways Act 1980.

A hoarding licence will be granted providing all regulations are adhered to.

Building Materials

Placement of building materials on any part of the highway in Southend-on-Sea requires a licence. The materials, in total, must be no longer than five metres and no wider than two metres. If the building materials are on a parking bay, the parking bay must be suspended.

Parking bay suspension can be applied for online, for further details visit the Council's website under [Parking Suspensions and Dispensations](#).

Parking suspension must be sought prior to the placement of materials on the highway and this must be accompanied with the Highway Activities application form when submitted.

Failure to comply with these Terms and Conditions may result in legal proceedings, including FPNs and/or prosecution. If any requirements of the licence are not complied with, the issuing Authority may take such measures as necessary to mark, guard, light or remove the building materials, clean and repair the highway and the licensee shall be liable for the costs incurred in such measures.

Enforcement officers patrol the streets of the city on a regular basis to make sure that all building materials are legitimately sited, adhering to the Terms and Conditions set out in the licence, and promptly removed following their permit expiry.

A building materials licence will be granted providing all regulations are adhered to. A licence can be applied for online from the Council's website under [Highway Permits](#)

Crane Licence

To use a crane on the Public Highway a crane licence must be applied for. To ensure compliance with permit conditions, applications will only be accepted from crane operators. Building contractors, businesses and residents cannot apply.

The following must be submitted (if applicable) along with the completed Highways Activities application form:

- A copy of public liability insurance
- Method statement
- Traffic and/or pedestrian management plan
- Proof of parking bay suspension
- Approved traffic order

Process of an application will take approximately 6-8 weeks if a crane licence requires a road/footway closure, and 14 days for parking bay suspension

9. Licence Periods

Unless otherwise expressly agreed, a licence will be valid for up to 28 days or 5 days in the case of a crane or other plant item. In certain areas, the Council may require a shorter licence period, or other specific conditions.

During the licence period, the Council may inspect the site, ensuring the Terms & Conditions of the licence are being adhered to. Subsequent action entirely at the discretion of the Council may include:-

- Verbal or written warning
- Imposition of additional specific conditions
- Revocation of the licence and a requirement to immediately remove the temporary structure
- Enforcement action using Fixed Penalty Notices, or prosecution.

At all times, the applicant is wholly responsible for the scaffold, hoarding or any related equipment or material, regardless of any disputes with a third party.

10. Charges

Charges will be reviewed annually as part of the Council's fees and charges budget setting.

Fees and charges will be based on: -

- Skip bag (covered by a materials/plant licence)
- Building materials and plant (both those bought direct from builders' merchants and materials / items ordered or used by contractors).
Note that any sand, soil, gravel or other loose material has to be bagged or contained. Failing to do this can result in the responsible person being billed for clearing the highway and any drains affected
- Containers and welfare units
- Skips
- Scaffolds
- Hoardings
- Cranes or mobile elevated work platforms

11. Payment of Fees and Charging

Prompt payment of fees and charges by all parties is expected.

Payments for permits and deposits are made using online payments via the MySouthend website, for further details can be found from the Council's website under [Highway Permits](#).

Any company who does not comply with the Council's standard terms and conditions for payment will be referred to Sundry Debtors for collection.

12. Highways Licences

Items placed on the public highway by contractors and householders are overseen by the Highways and Enforcement Team.

The team licenses, monitors and controls scaffolding, skips, hoardings, plant, materials, containers, welfare units and any other item placed upon the public highway.

Anything placed on the highway is potentially dangerous. The council has a duty to enforce the Highways Act 1980.

Placing items without having the advance permission of the Council is against the law and can lead to the removal of items and prosecution.

The Highways and Enforcement Team only deals with the public highway. It has no authority over private or council property.

Contractors and householders who want to put things upon the public highway (including pavements, roads and highway verges) need to have a licence from the Council first.

All professional companies (scaffolders, skip companies, builders and suppliers of materials) should already know this. However, householders are advised to always make sure that a licence has been obtained before allowing deliveries or works to start. This is also true of things they have ordered for their own use.

Checking that a licence is already in place is important, since unlicensed objects can be removed and impounded, sometimes without warning. This can obviously interrupt, or delay works.

It can also involve extra expense should the council seek to recover the public money spent removing and storing / disposing of the objects involved.

If you want to check that an item is licensed you can ask your contractor to show you the licence, quote you the licence number and check with this office.

13. Application

The Council will only consider applications from those who demonstrate; -

- They retain all relevant operating licences
- Valid Public Liability Insurance, of a value not less than £10 million pounds for any single claim
- There is no evidence of repeated or serious breaches of the Terms & Conditions within the past 12 months.

Applications are submitted online; details can be found the Council's website under [Highway Permits](#).

An application must be submitted at least 28 working days in advance, unless in an emergency which must be agreed in advance. Applications will not be considered when submitted on a Saturday, Sunday or public holiday.

Once an application is received, the Council will consider any additional specific conditions which may be required in addition to the Terms & Conditions.

If an application is approved, confirmation and the licence will be sent electronically to the applicant.

Where further information is required, or an application is rejected, the Council will contact the applicant to explain the reasons and whether any alternative options would be considered.

14. Scaffold, Hoarding, or other Items on the Public Highway Policy. Terms & Conditions

These Terms & Conditions are associated with a licence issued by Southend-on-Sea City Council for the placing of a scaffold, hoarding, building, crane or other policy licence items on the public highway. A licence is valid only when these Terms & Conditions are adhered to.

Applicant

1. The applicant retains all relevant licences, accreditations and approvals to design, set up, use and remove a scaffold or hoarding.
2. The applicant has provided evidence of Public Liability Insurance of not less than £10 million for any single claim.
3. The correct fee has been paid to the Council, as set out in the Annual Fees & Charges Review.

Scaffold

4. The design of a scaffold will include consideration of the impact on the public highway and promote suitable measures to ensure the continuing free flow of all traffic, including pedestrians, and will conform to all relevant British Standards or other relevant standards or statutory requirement.
5. Display the company details and permit number

Items Placed on the Footway, Cycleway or Verge

6. A pedestrian walkway must be maintained at all times, temporary walkways may be required subject to the following conditions;-
 - a) Where footway capacity allows for an unobstructed walkway outside the scaffold or hoarding of not less than 1.5 metres for its entire length, a temporary walkway is not required.
 - b) Where the footway capacity does not allow for an unobstructed walkway outside the scaffold or hoarding of 1.5 metres or more for its entire length, a temporary walkway must be provided either enclosed within the scaffold or hoarding, or into the carriageway, cycleway or verge, providing for a walkway of not less than 1.5 metres for its entire length, and with an unobstructed height of not less than 2 metres.
 - c) Where a temporary walkway is provided enclosed within the scaffold or hoarding, it must include;
 - i) A flat and weather resistant surface
 - ii) Internal lighting, ensuring continuity of lighting throughout
 - iii) A pedestrian handrail

- d) Where possible, a temporary walkway enclosed within the scaffold or hoarding, should be designed in such a way that natural light and view from the carriageway is maintained, so as not to create an area for antisocial or criminal behaviour. Where this is not possible, the temporary walkway may be fully enclosed, but the Council may require additional conditions, such as CCTV or regular security patrols.
- e) Where a temporary walkway is to be provided within the carriageway, cycleway or verge, the requirements set out in [Chapter 8 of the Traffic Signs Manual](#) apply, the design of which must be included within the application.
- f) In all circumstances, the outward facing, or otherwise accessible to the public, sections of the scaffold or hoarding must be designed in such a way that any sharp or dangerous protrusions are properly covered or highlighted.

Items Placed in the Carriageway

- 7. Where a scaffold or hoarding is placed within the carriageway, additional conditions will apply.
- 8. If the presence of the scaffold will restrict or prohibit the movement of traffic, a temporary traffic regulation order may be required. For a TTRO, additional timescales apply, please contact streetworksmanagement@southend.gov.uk for more information.
- 9. External lighting, illuminated the colour red must be provided along the outside edge of the scaffold or hoarding, at a height not less than 2 metres, and at intervals of not more than 10 metres.
- 10. Protections from vehicle damage may be required by the applicant to meet their design standard, these must be proposed within the application, and may include water filled or concrete barriers. These must be painted in a red / white alternating colour pattern and are in addition to any requirements of [Chapter 8 of the Traffic Signs Manual](#).

Installation and Removal

- 11. Unless otherwise expressly agreed, no scaffold or hoarding should be set up or removed after 17:00 hours, and before 07:30 hours. Where on a walking route to or from a school or within a busy town or district centre, further restrictions may apply.
- 12. At all times during installation and removal, or at any other time where works are undertaken to the outside of the scaffold or hoarding, the appropriate traffic management measures must be extended to cover this works area. No works should be undertaken outside of the works area.
- 13. Works vehicles are not exempt from parking restrictions. Whilst loading or unloading materials, it may be appropriate for the essential vehicle to be parked close to the site. The applicant must include the method statement for this work in their application. A Civil Enforcement Officer or Police Officer may require a vehicle to be relocated or removed if it causes an obstruction to other road users.

14. On completion of the works, any debris or other material must be removed and disposed of by the applicant.
15. Any damage or defect to the public highway resulting from, and identifiable once the scaffold or hoarding has been removed, must be notified to the Council within one working day.
16. At all times between installation and removal, a sign must be placed on or adjacent to the scaffold or hoarding, identifying the applicants name, address, and contact telephone number. The applicant must also provide the Council with a direct, emergency contact.

Applicant Responsibility

17. The applicant remains responsible for any and all impacts of the presence of the scaffold or hoarding.

Miscellaneous

18. If the scaffold or hoarding requires the suspension of a parking place, the applicant must apply separately using the Council website under [Parking Suspensions and Dispensations](#).
19. Where works vehicles are required at any point, the Council may issue a dispensation for it to be parked within a designated parking place, the applicant may apply for a dispensation using the Council website under [Parking Suspensions and Dispensations](#). Any vehicles parked in contravention of a traffic regulation may be issued a penalty charge notice.
20. Under no circumstances does this licence provide any consent or permission for a person associated with the installation, use or removal of a scaffold or hoarding to give a direction to traffic (either using hand signals or verbal instructions). If the temporary obstruction of traffic is required, this must be included in the method statement, and be delivered using a regulated means – usually a hand held 'stop works' sign, as set out in [Chapter 8 of the Traffic Signs Manual](#).
21. The Council may inspect the site of a scaffold or hoarding at any time, and without notice. Where defects are found, the applicant must make arrangements for any defects to be rectified within 12 hours, before nightfall where related to safety equipment, or otherwise as directed by the Council.
22. Notwithstanding any of the provisions in these Terms & Conditions, the Council reserves the right to amend or withdraw the licence at its discretion.

15. Review

This is a living document and will be reviewed and updated if/when statute or national standards or best practice requires it. This document will be reviewed after 12 months of operation and then every 3 years.

Review Summary

Version	When Reviewed	Summary of Changes Made
V1.0	Jan 2022	Section 3: now delegated to Traffic and Highways Section 4: more sections of the Highway Act added Section 6: now £10 million public liability Section 7: damage caused to the public highway added Section 9: changed to 28 working days Section 11: updated payment information Section 13: changed to 10 working days and updated web link Section 14: now £10 million public liability and company details and permit number to be displayed on scaffolds
V1.1	Feb 2023	Overall: Update to City status and new corporate look Section 9: Added detail on how we will deal with permit extensions Section 13: Corrected the notice as it was incorrectly 10days instead of 28days and added the notice period for Cranes and other plant items

