

Southend-on-Sea Borough Council

Report of Executive Director Neighbourhoods and Environment

To

CABINET

On

14th January 2021

Report prepared by: Sharon Harrington, Head of Traffic Management & Highways Network

Highway Enforcement Policies

Relevant Scrutiny Committee(s)

Cabinet Member: Councillor Ron Woodley

Deputy Leader (Cabinet Member for Transport, Capital & Inward Investment)

Part 1 (Public Agenda Item)

1. Purpose of Report

- 1.1 This Report seeks to resolve outstanding concerns raised as part of a peer review and following several Information Commissioner reports which recommended policy improvements.
- 1.2 The new policies set out how the Council will administrate and enforce the policies.

2. Recommendations

- 2.1 It is recommended that Cabinet adopts the new policies as described in this Report.

3. Background

- 3.1 The Council is a Highway Authority and a Traffic Authority, as described in the Highways Act 1980 and Traffic Management Act 2004. The legislation sets out the duties and powers of the Council to maintain and regulate a safe and efficient road network.
- 3.2 A new Highway Enforcement Team is being established; its purpose is to administrate the licencing of temporary activity on the road network and undertake enforcement action where required.
- 3.3 Specific areas of responsibility for the team include; -
 - a) unlawful crossovers, whether or not the kerb has been adapted

- b) highway obstructions
- c) placing of builders skips, scaffolds, hoardings, builders materials, cranes and mobile elevated working platforms
- d) abandoned vehicles
- e) selling vehicles on the highway
- f) car washing on the highways

3.4 The policies in this report are the first in a series of policy reviews to be undertaken, to underpin the new Highways Enforcement Team, specifically setting out the proposed management of the placing of builders skips, scaffolds, hoardings, builders materials, cranes and mobile elevated working platforms

4. Builders Skips, Scaffolds, Hoardings, Materials, Cranes, MEWPs and other Equipment on the Public Highway

4.1 Historically, the Council has lacked a robust policy which sets out how temporary works on or near the highway, should be undertaken.

4.2 Where there are no formal controls in place, the Council is unable to effectively respond to community concerns and ensure works are undertaken safely and with minimal impact on other road users.

4.3 The Council has several duties and powers to regulate the use of the road network, in particular the licencing arrangements as set out in the Highways Act 1980.

4.4 The new policies as set out in the appendix to this report aim to ensure the Council is properly administering the service, making sure applicants are aware of their obligations, particularly the standards and terms and conditions they are required to accept when applying for a licence.

4.5 Once adopted, these policies will enable the Council to take appropriate enforcement action, as set out in Part 5 of this report.

4.6 A related project is underway to digitise the service, this will include proposals to improve the application and licencing process using the Council website and mobile application.

5. Enforcement

5.1 Enforcement can take several forms; -

- a. No Action – where the investigation reveals no offence has occurred, the offender makes a ready admission of the breach and takes immediate steps to remedy it, there are strong mitigating circumstances or where there is no jurisdiction to act.
- b. Advice and education – where informal action can effectively be used to secure compliance with legal regulations or where the offence is considered as minor/technical and not serious enough to warrant formal action.

- c. Warning Letter – where a formal letter is appropriate to explain the legal requirements for compliance and what action will be taken in the event of non compliance.
- d. Statutory Notice – where there is a clear breach of legislation, a history of non compliance despite advice having been provided, and/or where there is potential harm to the community or environment. Where there is a statutory power to serve a notice requiring remedial action to be taken and/or for a particular course of conduct to cease, this can be an effective mechanism to remedy conditions that are deteriorating or already serious. Where there is a right of appeal, advice on the appeal mechanism will be set out in writing. Failure to comply with a statutory notice can lead to prosecution.
- e. Fixed Penalty Notice – where there is statutory authority to issue a fixed penalty notice as an alternative to bringing a prosecution.
- f. Simple Caution – where an offender admits to committing a criminal offence and it is considered to be in the public interest to offer a formal caution in place of a prosecution. A simple caution may be cited in the case of any future offending. Home Office Guidance in Circular 16/2008 will be followed when administering a simple caution.
- g. Prosecution – where there is sufficient evidence and it is in the public interest. Southend Highways officers will refer cases to Legal Services at Southend to prosecute for a criminal offence. In determining whether it is in the public interest, guidance set out in the Code for Crown Prosecutors will be considered.

5.2 The list above is not intended and does not constitute a step-by-step escalation process, it is an illustration of the options available to the Council.

5.3 When deciding on the most appropriate action for an individual case, the Council will consider; -

- a. the degree of risk arising from the non-compliance
- b. the seriousness of the contravention
- c. the different technical means of remedying the situation
- d. the particular circumstances of the case and likelihood of its continuation or recurrence
- e. the general attitude of the offender to his or her responsibilities
- f. the past history of the person(s), company or premises involved
- g. the willingness of owners of new businesses to carry out required work
- h. the impact of the enforcement choice in encouraging others to comply with the law
- i. the likely effectiveness of the various enforcement measures
- j. any legal imperatives
- k. any legal guidance
- l. any guidance or protocols issued by Local Authority Co-ordinators of Regulatory Services, the Department for Environment or any other Government Department or Agency.

5.4 In some circumstances, a less formal response may escalate into formal or legal action, therefore in all cases, considerations will be made following the

principles set out in the Police and Criminal Evidence Act 1984, and associated regulations and codes of practice.

5.5 All parties involved in an investigation will be kept appropriately informed throughout. Personal information will be disclosed only in accordance with legal requirements and the principles set out in the Data Protection Act 1998.

5.6 The Council is not seeking to regulate the working practices or procedures of applicants or their contractors / clients, these policies only set out our requirements for a licence or permit to be approved. Works contained within a site, and how they are undertaken, are regulated by other bodies.

5.7 Where appropriate, the Council will report to, and work with other regulatory bodies, including the Health and Safety Executive, Building Control, Planning and Development Control, and Police.

5.8 Surveillance

5.9 On rare occasions, and for enabling the discharge of these statutory powers and duties, the Council may be required to monitor organisations and individuals to gather evidence in support of enforcement action.

5.10 In such circumstances, and before any activity is undertaken, the Council will consider the necessity and proportionality of surveillance, particularly covert, and will do so in line with the Council Policy and Regulation of Investigatory Powers Act 2000.

5.11 Publicity

5.12 To maintain public confidence, the Council will publicise details of any successful prosecutions to draw the public attention to the action and promote compliance with the policies and legislation.

7. Summary of Proposed Changes

7.1 The policies proposed in this report set out how the Council will administrate applications for licences and undertake enforcement action where appropriate.

8. Other Options

8.1 Members could decide to amend any elements within the policies, subject to further legal and financial clearance.

9. Reasons for Recommendations

9.1 The Recommendations, as described in this Report will help the Council to deliver its obligations in respect of managing a safe and efficient road network, and ensure any enforcement action is proportionate and transparent.

10 Corporate Implications

10.1 Contribution to the Southend 2050 Road Map

10.2 The Road Map for 2020 sets out the first five-year plan to achieve the Southend 2050 vision. These new policies will help the Council to achieve its objectives in respect of the public realm, environment and accessibility.

10.3 Financial Implications

10.4 There are no costs associated with introducing the new policies, related projects to digitise the service are being delivered within existing budgets.

10.5 It is anticipated the Council will see some increase in revenue from permits and licences as the team becomes established and action is taken against illegal operators.

10.6 Legal Implications

10.7 The policies set out how the Council will deliver its obligations as a Highway Authority in respect of the service areas identified in this Report. Before any enforcement action is considered, case specific legal advice will be sought.

10.8 People Implications

10.9 Administration and enforcement activity will be undertaken by the Highways Enforcement Team, as part of their core function. These policies will help to ensure a consistent and fair approach.

10.10 Property Implications

10.11 There are no property implications.

10.12 Consultation

10.13 No direct public consultation has been undertaken with members of the public. If adopted, the Council will engage in a publicity campaign to highlight the new Highways Enforcement Team, and the benefits that residents and businesses should expect.

10.14 Equalities and Diversity Implications

10.15 An Equality and Diversity Assessment has been completed and is attached in Appendix 4 to this Report. It is not anticipated there will be any disproportionate impact on any protected groups, to the contrary, as a properly regulated public highway will improve accessibility for all.

10.16 Risk Assessment

10.17 Once adopted, these policies will be used as a basis for developing operational procedures for the Highway Enforcement Team, each aspect of their new role will be subject to risk assessment.

10.18 Value for Money

10.19 Enabling the Council to take enforcement action, particularly where no licence is in place and the works are being undertaken illegally, will help to ensure the new Highways Enforcement Team represents value for money, and delivers on the priorities of residents and businesses.

10.20 Community Safety Implications

10.21 The policies will help the Council to regulate how works are undertaken on the public highway, ensuring it remains safe and accessible. Temporary works can attract anti-social behaviour and other crime, which the Highway Enforcement Team, using these policies will be better positioned to respond to.

10.22 Environmental Impact

10.23 It is anticipated the new policies will help the Council to achieve its objectives in respect of the environment, regulation of temporary works on the highway, for example with builders skips, will help to ensure waste is properly disposed of, reducing the likelihood of fly tipping.

11. Background Papers

11.1 None

12. Appendix

12.1 Policies

Builders Skips on the Public Highway Policy



Version 1
October 2020

Document information

Title: Builders Skips on the Public Highway Policy

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1. BACKGROUND

The Highways Act 1980 mandates that skips cannot be placed on the highway without the permission of this highway without the permission of the highway authority, and that the highway authority may specify conditions on the place of the skip in terms of siting, dimensions, reflectivity, signing and guarding, lighting, car of contents and removal.

Permission is not required where the builders skip is placed wholly on private land.

A builder's skip is defined in this policy as any container designed or able to be transported on a road vehicle, and placed on the public highway for the purpose of storing and removing any form of waste.

Where waste is hazardous or dangerous, further consent may be required from other regulating authorities – the applicant is entirely responsible for ensuring any other consents are in place before the application is submitted, and proof of consents must be provided along with the application.

A builders skip licence will set out the standard Terms & Conditions as described in this Policy, and any site or user specific conditions the Council may impose, entirely at its discretion, these may include; -

- The siting of the builders skip
- Its dimensions, colour, or construction material
- The use of lids and locks
- The way it is lit and guarded
- The timing of its delivery and removal

Where emergency circumstances arise, or where the presence of the builders skip presents a nuisance or danger to other road users, the Council may, without notice, require its immediate relocation or removal, amending or withdrawing the licence.

2. COUNCIL POSITION

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

3. RELEVANT ENFORCEMENT LEGISLATION

| | | |
|-------------------|-------|---|
| Highways Act 1980 | S.139 | Control of builders skips |
| | S.140 | Removal of builders skips |
| | S140A | Builders skips charge for occupation of the highway |
| | S140B | Builders skips; charge determined by reference to the duration of occupation of the highway |
| | S140C | Regulations under section 140A and 140B |

4. 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 at

<https://www.southend.gov.uk/downloads/download/411/adopted-roads>

5. SITING OF SKIPS

Skips should be placed on the carriageway, parallel to the kerb line, in a manner that does not obstruct the passage of vehicles or pedestrians and that allows for appropriate sight lines to be maintained.

Skips should not be placed in no loading zones, bus stop clearways, bus lanes, on double yellow lines or on zigzag approaches to crossings.

Where a skip is placed on a block paved, or flagged area, suitable protection to the surface in the form, of plywood sheets (or similar approved) should be laid first before the skip is placed.

6. ILLEGAL SKIPS

The Highways Act mandates that;

- the skip is properly lighted during the hours of darkness [and, where regulations made by the Secretary of State under this section require it to be marked in accordance with the regulations (whether with reflecting or fluorescent material or otherwise), that it is so marked];
- the skip is clearly and indelibly marked with the owner’s name and with his telephone number or address;
- the skip is removed as soon as practicable after it has been filled;

Any skip that does not comply with the above is unlawful and can be removed by the authority.

7. LICENCE PERIODS

Unless otherwise expressly agreed, a builder's skip licence will be valid for up to 21 days. In certain areas, the Council may require a shorter licence period, or other specific conditions with the following exceptions;

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 builders skip
- Enforcement action using Fixed Penalty Notices, or prosecution.

At all times, the applicant is wholly responsible for the builders skip, its contents and impact on the public highway or any of the conditions set out in this Policy, regardless of any disputes with a third party.

8. CRITERIA FOR SKIPS IN THE BOROUGH

Skips within the Borough should meet the following criteria over and above that required by the Highways Act;

- Be closed and lockable.
- Delivered before 8.00am and not removed until after 5.30pm
- Placed on plywood sheet boarding to prevent damage to surfaces.
- Have their exact location agreed with a member of the Highways team.

9. REQUIREMENTS FOR REGISTRATION:

Southend Highways Authority requests that all skip companies operating within the borough register with the authority, and provide the following details

- Registered name of the company
- Registered address of the company
- Name of the company owner
- Address of the company owner
- Name of the company as it appears on the skip
- Companies House Registration Number
- VAT Reference Number
- Public liability insurance
- Environment Agency Waste Carriers Licence
- VOSA Goods Vehicle Operators Licence

All registered companies operating within the district will be displayed on the council's website.

10. CHARGES

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

Fees can charges will be based on

- Skip Licence Fee
- Illegal Skip Fee
- Non-Compliant Skips

11. PAYMENT OF FEES AND CHARGES

- Prompt payment of fees and charges by skip companies is expected.
- Charges will be levied by invoice on a monthly basis until such time as new payment methods (BACS, Credit/Debit Card & Online payments) are available.
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- Any company who does not comply with the Councils standard terms and conditions for payment will be referred to Sundry Debtors for collection.

12. RECORDING OF INFORMATION

All licenced skips on the highway network are to be recorded on the Symology system, which is to be used as the de facto licence register. These will then appear on the roadworks.org website.

13. PROCEDURE FOR UNLICENSED SKIPS

If a skip is found unlicensed on the Highway the following procedure should be undertaken;

The skip should be photographed, clearly showing any identifying marks and the location of the skip on the highway.

If there are no obvious markings on the skip itself, a statement should be obtained from the resident/company who ordered the skip ascertaining where it has been procured from. This statement should include names/telephone numbers and email addresses of the company who has placed it. If a receipt has been issued, a copy should be obtained where possible.

The company should be approached to either remove the skip immediately, or to pay a retrospective licence fee.

Where it has been identified that a company has placed 5 or more skips on the Highway consecutively without obtaining a licence or paying retrospective fees then a case should be prepared for prosecution via Legal Services.

The following information is required.

- Dates and times that each skip was found on site.

- Statements from procuring residents/business naming the company the skip was procured from
- Excerpts from the licence register for the relevant date span showing the lack of licence.
- A letter under caution must then be sent to the owner of the skip company, via recorded mail asking why the skips were placed on the highway without a relevant licence, requesting a reply within 7 working days of the recorded receipt of the letter.

Upon receipt of reply – or if no reply has been received after 7 working days – the Head of Service will make a decision as to whether a formal prosecution is undertaken.

In all cases where prosecution is considered, intelligence regarding the company in question will be shared with bordering authorities, and details of the offences will be provided to VOSA and Environment Agency respectively for relevant licencing breaches

14. APPLICATION

The Council will only consider applications from waste management operators who in addition to retaining a Skip Operator Licence, demonstrate; -

- They retain all relevant operating licences
- Valid Public Liability Insurance, of a value not less than £5 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 via the Council website (www.southend.gov.uk).

An application must be submitted at least 5 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 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.

15. BUILDERS SKIP LICENCE TERMS & CONDITIONS

These Terms & Conditions are associated with a licence issued by Southend Borough Council for the placing of a builders skip on the public highway. A licence is valid only when these Terms & Conditions are adhered to.

Applicant

1. The applicant retains a Skip Operator Licence and any other associated licences and is not otherwise excluded from applying for a Builders Skip Licence.
2. The applicant has provided evidence of Public Liability Insurance of not less than £5 million for any single claim.
3. The correct fee has been paid to the Council, as set out in the Annual Fees & Charges Review.

Builders Skip

4. The builders skip dimensions do not exceed 5 metres in length, and 2 metres in width, unless other specific conditions are set out on the licence.
5. The builders skip is constructed of a suitable material and is maintained such that it can accommodate the weight of any materials to be placed within it, and to enable safe loading and unloading from the road vehicle.
6. The builders skip is painted yellow, and permanently marked with the owner's name, address and contact telephone number.

Prohibited Uses

7. Unless otherwise expressly approved, no builders skip licenced under these Terms & Conditions shall be used to store or dispose of any material which is inflammable, explosive, noxious, otherwise hazardous or dangerous, waste which is likely to putrefy or become a nuisance to other road users.
8. The builders skip must not be loaded higher than the upper limit permitted by the manufacturer recommendation, or otherwise beyond the upper edge of the builders skip.
9. No temporary boarding or netting is permitted to provide additional loading capacity, either by height or overhang.
10. A builder's skip must not be used as a container for setting or maintaining a fire as a method to dispose of waste.

Applicant Responsibility

11. Any liquid or material spillages onto the public highway, both from the builders skip itself, or activity associated with its loading, must be removed, and properly disposed of.
12. Where dust is likely from a builders skip, the material must be properly 'damped down' and / or a suitable cover be provided, and used. Any cover must not obstruct any lower sides or edges of the builders skip to as to obscure any safety equipment or the applicant name and contact details.

Positioning

13. The builders skip must not be placed closer than 150mm from the nearside kerb edge, so as not to obstruct drainage, and not greater than 300mm to minimise the impact on traffic flow.

14. No drains, manhole covers or any other form of access chamber is to be obstructed.
15. Unless otherwise expressly agreed, no part of the builders skip shall be placed;
 - a) Within 15m of a road junction or 45m of a road junction with traffic lights
 - b) Within 45m of a pedestrian crossing, refuge or island located within the centre of a carriageway
 - c) On a carriageway marked with Zig-Zag markings in the vicinity of a pedestrian crossing or school entrance
 - d) Within any part of the carriageway subject to an Order prohibiting waiting for any period, unless expressly agreed with the Council, and in such circumstances, the applicant should anticipate additional restrictions on the duration a builders skip may remain in that location
 - e) At or near a bend or in any other part of the highway where it would create a danger to road users
 - f) Where it would obstruct the visibility of any traffic sign or warning device
 - g) On a footway, verge or cycle track
 - h) Within a disabled persons parking place

Signing, Lighting & Guarding

16. The builders skip must meet the relevant standards, as set out in the Builders Skips (Markings) Regulations 1984 and associated British or European Standards as may be relevant.
17. The requirements for signing, lighting, and guarding as set out in Chapter 8 of the Traffic Signs Manual must be met, with the minimum requirements set out below; -
 - a) not less than two amber lights, one placed at each end of the builders skip on the offside
 - b) if not located within a line of regularly parked vehicles, a series of cones placed at a 45 degree angle from the outer edge of the builders skip, to the nearside kerb.

Removal

18. The builders skip will be removed not more than two working days after it has been filled, or as soon as is practical, whichever is sooner.
19. Any materials or liquids remaining on the public highway once the builders skip has been removed, will be cleared and disposed of by the applicant.
20. Any damage or defect to the public highway resulting from, and identifiable once the builders skip has been removed, must be notified to the Council within one working day.

Miscellaneous

21. If the builders skip is to be located within an off street car park, operated by the Council, an additional charge may be applied for the suspension of a parking bay. Not less than two bays will be required to protect other car park users.
22. The Council may inspect the site of a builders skip 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.

23. Notwithstanding any of the provisions in these Terms & Conditions, the Council reserves the right to amend or withdraw the licence entirely at its discretion.

Scaffold, Hoarding, Structures or other Items on the Public Highway Policy



Version 1
October 2020

Document information

Title: Scaffold, Hoarding, Structures or other Items on the Public Highway

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5. 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 Borough 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 is 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.

6. COUNCIL POSITION

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

7. RELEVANT ENFORCEMENT LEGISLATION

Southend-on-Sea Council, in exercise of their powers under Section 169/171 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.

8. 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 at <https://www.southend.gov.uk/downloads/download/411/adopted-roads>.

5. TEMPORARY STRUCTURES

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

- Scaffolding
- 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 £5 million.

6. 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
- 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 costs incurred from the applicant.

7. VARIOUS LICENSES

7.1 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.

7.2 Hoarding

All 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.

Enforcement officers patrol the streets of the borough 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.

7.3 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, see

<https://www.southend.gov.uk/directory-record/655/highways-parking-bay-suspension>

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 borough 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. Download an application form to place building materials on the Public Highway at the bottom of this webpage.

7.4 CRANE OPERATORS PERMIT

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

8. LICENCE PERIOD

Unless otherwise expressly required, a licence will be valid for up to 21 days. 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 may include; -

- Verbal or written warning
- Imposition of additional specific conditions
- Revocation of the licence and a requirement to immediately remove the builders skip

- 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.

9. CHARGES

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

Fees 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 any drains affected
- containers and welfare units
- skips
- scaffolds
- hoardings
- cranes or mobile elevated work platforms

10. PAYMENT OF FEES AND CHARGES

- Prompt payment of fees and charges by skip companies is expected.
- Charges will be levied by invoice on a monthly basis until such time as new payment methods (BACS, Credit/Debit Card & Online payments) are available.²
- Any company who does not comply with the Councils standard terms and conditions for payment will be referred to Sundry Debtors for collection.

11. HIGHWAYS LICENCES

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

The team licenses, monitors and controls scaffolding, skips, hoardings, plant, materials, containers and welfare units 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 Highway 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.

12. APPLICATION

The Council will only consider applications from waste management operators who in addition to retaining a Skip Operator Licence, demonstrate; -

- They retain all relevant operating licences
- Valid Public Liability Insurance, of a value not less than £5 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 via the Council website (www.southend.gov.uk).

An application must be submitted at least 5 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 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.

13. SCAFFOLD, HOARDING, STRUCTURE OR OTHER ITEMS ON THE PUBLIC HIGHWAY LICENCE - TERMS & CONDITIONS

These Terms & Conditions are associated with a licence issued by Southend Borough 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 £5 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.

Items Placed on the Footway, Cycleway or Verge

5. 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

6. Where a scaffold or hoarding is placed within the carriageway, additional conditions will apply.
7. If the presence of the scaffold will restrict or prohibit the movement of traffic, a temporary traffic regulation order may be required. For a TRO, additional timescales apply, see the Temporary Traffic Regulation Orders Policy available on the Council website (www.southend.gov.uk).
8. 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.
9. 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

10. 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.
11. 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.
12. 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.
13. On completion of the works, any debris or other material must be removed and disposed of by the applicant.
14. 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.
15. 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

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

Miscellaneous

17. If the scaffold or hoarding requires the suspension of a parking place, the applicant must apply separately using the Council website (www.southend.gov.uk).
18. 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 (www.southend.gov.uk). Any vehicles parked in contravention of a traffic regulation may be issued a penalty charge notice.
19. 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.
20. 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.
21. Notwithstanding any of the provisions in these Terms & Conditions, the Council reserves the right to amend or withdraw the licence at its discretion.