



A POLICY FOR

THE LOCATION AND LICENSING OF
AWNINGS AND LIGHT CANOPIES
OVER THE PUBLIC HIGHWAY

LD/JUNE/07

INTRODUCTION

- 1.01 **The Policy** - This policy sets out the processes to be considered when applying for consents to place any awning or light canopy that may protrude or project (overhang) the public highway from an adjoining building. It is intended to act as a guide to applicants to explain why there is a need to control and manage these structures placed over the highway, the issues to be considered and the conditions that will be applied upon successful application.

Other more significant structures that protrude, project or overhang the public highway are generally administered and licensed by KHS Structures Management using the Technical Approval Procedure for Highway Structures.

BACKGROUND

- 1.02 **Common law** – Common law has established that a highway is a route which all persons can use to pass and repass along as often and whenever they wish without hindrance and without charge. This definition therefore includes the road or carriageway and the footway or pavement. In order to preserve these rights of way it is necessary to ensure that they are not obstructed either wilfully or without due consideration. Consequently there is an obligation to regulate features placed over the highway to minimise risk and to make sure that there are no severe hazards particularly for the visually impaired, for those with mobility problems, the elderly and those with young children.
- 1.03 **Responsibilities** - In the County of Kent, this obligation rests with the Kent County Council (KCC), as Highway Authority, and the owners of any features or structures placed over the highway. The KCC is responsible for the fabric of the highway and therefore must ensure that, for example, access is maintained, that furniture does not obstruct sight lines or road traffic signs and that the area is maintained for the safe passage of pedestrians and vehicular traffic. These features are assessed and safeguarded using Highways Act powers.
- 1.04 **Powers** – Kent County Council (KCC), as Highway Authority, have powers under the Highways Act 1980 to grant consents, (licences) to place structures, both temporary and permanent overhanging the public highway. The powers also exist to remove any unauthorised structure under the same Act.
- 1.05 **Permissions** - An applicant seeking approval to erect a structure over the public highway will need to be aware that there are other administrative elements to consider :-
- 1) Local authority (district/borough authority) planning permission will usually be required for the structure and possibly for the use of land prior to application of this licence. Applicants are advised to contact the Planning Department within their local District/Borough Council.

- 2) Local authority (district/borough authority) advertisement consent may be required if an element of advertising is proposed in any decoration or design.
 - 3) Local authority (district/borough authority) listed building consent may be required for structures proposed to adjoin listed buildings.
 - 4) A KCC Highways Act licence is needed because the highway is maintained by the Highway Authority and the safe passage of pedestrians and vehicular traffic must be regulated.
- 1.06 **When a structure can be erected** - An applicant is **not** in a position to erect any structure over the highway until all the required approvals, associated with 1) – 4) above, have been granted as necessary. In addition, not until evidence of public liability insurance has been provided and checked and the licences are on public display within the body of the business as specified.
- 1.07 **Enforcement** - Under the Highways Act 1980, KCC has permissive powers to enforce any structure that overhangs the public highway. This role is to be carried out by a nominated Kent Highway Services (KHS) representative who has cause to visit the premises as part of their routine duties or following a report from a member of the public via the contact centre, by post or in person.

If justified complaints are received and following investigation it is found that full compliance of all conditions is not achieved or if conditions alter, a licence may be withdrawn at no cost to the authority at any time during the period of consent.

Unless there is an immediate and urgent problem the site will be visited by a KHS representative and followed by a written warning notice for which there will be an administration charge. This action will be replicated on one further occasion before despatch of communication to indicate that further action will be taken. It is possible that the licence will then be withdrawn or further enforcement action taken. It may be necessary to remove projections from over the public highway. These structures may be demolished and all materials resulting from the demolition may be disposed of for which all reasonable costs will be recharged to the licence holder.

GOOD PRACTICE GUIDANCE

CRITERIA TO BE CONSIDERED BY THE APPLICANT

- 2.01 **Issues to consider** - Prior to presenting any application consideration must be given to the following which will be taken into account as part of any formal assessment.
- 2.02 **Space** – Is there enough room for the use as proposed? A minimum vertical clearance of 2.6m is required from the surface of the footway to the lowest point of the underside of any projection and there must be a minimum clearance of 0.6m from the edge of the furthest point of the projection to the edge of the carriageway (the kerb).
- 2.03 **Neighbours** – Will the proposal affect neighbouring businesses and residents? It would be very useful to consult with neighbours, tenants and adjacent residents and to submit evidence to show that they have been consulted and present any letters of support. By giving those adjacent to the site or those who may materially be affected the opportunity to comment, it may be possible to address any concerns prior to a formal submission. This will also assist the planning process. As part of the administration of the Highway Licence, the Kent County Council (KCC) may consult with any neighbours who may be materially affected.
- 2.04 **Public liability insurance** – Insurance cover is required. The persons to whom permissions are granted must always have valid public liability insurance for at least £10,000,000 which also indemnifies the KCC its agents, servants and workmen against any costs, claims, expenses, actions or damages arising. Evidence of such public liability insurance shall be provided to the satisfaction of the KCC respectively before permissions can be exercised.
- 2.05 **Fees and charges** – Are fees and charges due? Fees will be payable within the provisions of the fees scale determined by the KCC relevant to the period for which the application/consents relate/s.
- 2.06 **Design** – While not a highway issue, consultation with the Planning Authority on design is advisable prior to submission of an application, to avoid potentially abortive discussion on highway matters.

Conditions

- 4.01 The applicant shall display a complete copy of all the conditional consent/s in a conspicuous position at or near to the place to which the consent/s is/are applicable throughout the period of consent/s.
- 4.02 Nothing in this consent shall absolve the applicant from prosecution should the application area be used in any other way than consented to or if any use expands beyond the application area.
- 4.03 Access for Emergency Services will be not be obstructed at any time.
- 4.04 With the exception of planning permissions, advertisement consents and listed building consents, the consent/s may be withdrawn, at no cost to the authority involved at any time during the period of consent if complaints are received, conditions alter or if full compliance of all conditions is not achieved. Unless there is an immediate urgent problem, the applicant will be served with up to two written notices/warnings to comply. A failure to still comply will result in a third communication indicating that action will be taken. Applicants should note that consents last for one year and therefore require renewal.

PROCEDURES for APPLICATION FOR A LICENCE

- 5.01 For a licence on the highway, first contact Kent Highway Services, at the address given to establish if the principle would be acceptable
- 5.02 If an indication is given that the submission is satisfactory the applicant should then make contact with the relevant Planning Officers within the local district/borough authority to make arrangements to submit a planning or other related applications as necessary to cover all the relevant aspects of the proposal as outlined in this policy.
- 5.03 The applicant should contact the KCC Kent Highway Services appropriate Divisional Office for an application form (Appendix 1) which should be completed and returned along with all the relevant necessary documentation. To ensure that your application is processed quickly, you should have considered all the points listed in the 'application checklist' and supply all the relevant supporting data.
- 5.04 It may take up to three months to process all aspects of the application which takes into consideration all representations made by interested frontagers who would be materially affected by the proposal. Consultation may include the local Superintendent of Police and Local Authority Planning Departments .
- 5.05 It must be emphasised that any proposed structure **cannot** be erected until the applicant has all the required licences and paid the associated fees and charges.

6.01 PRE-APPLICATION CONSIDERATION

Prior to making an application for a licence to place an awning or light canopy over the public highway it will be necessary for the applicant to give consideration to the following criteria.

- Is it likely that the KCC will agree to a request in principle
- Are there any doubts about land ownership
- Are there any doubts about rights of way
- Are there any existing related planning consents
- Is the local environment suitable
- Are other frontagers likely to object
- Is the site a 'communal area'
- Will accessibility be preserved on the footway and within the site
- Is there sufficient space to accommodate a projection over the public highway
- Will the furniture be fit for its intended purpose
- Will direct or third party advertising be part of the proposal
- Can cleanliness standards be achieved and maintained

6.02 The application should be accompanied by the following;

- A location plan 1:1250 which clearly defines the premises
- A plan 1:50 or larger to show:

The premises, the adjacent properties and the highway boundary. The kerb line should be shown by a red line.
- A Detailed plan showing sections or elevations of the proposed projecting features.
- Copies of any necessary local authority (district/borough) permissions such as planning, licensing etc. or written confirmation that these permissions will not be required.

- A copy of the applicants £10 million Public Liability Insurance which must be valid until the expiration of the licence period. This insurance must also indemnify Kent County Council against any action or liability arising as a consequence of the existence or use of the awning or light canopy.
- A photograph or brochure detailing the specification of the proposed projection eg. Design, fabric, and manufacture.
- Details of method of attachment and a method statement for erecting and maintaining the structure.
- For all renewal applications it will be necessary to provide independent structural check certificates detailing both mountings and wind resistance.

REFERENCES

Highways Act 1980, Section 177

The Disability Discrimination Act 1995

Town and Country Planning Act 1990 (as amended)

Town and Country Planning (Control of Advertisements) Regulations 1992
(as amended)

Planning (Listed Buildings and Conservation Areas) Act 1990

Local Government (Miscellaneous Provisions) Act 1982



KENT COUNTY COUNCIL

KENT HIGHWAY SERVICES

HIGHWAYS ACT 1980 SECTION 177

PROJECTIONS LOCATED OVER THE PUBLIC HIGHWAY

PERMIT NUMBER:.....

PERMISSION HAS BEEN GRANTED UNDER THE ABOVE LEGISLATION FOR THE PLACING OF A PROJECTION OVER THE PUBLIC HIGHWAY ABUTTING THE PREMISES TRADING AS:

.....

ADDRESS.....

.....

.....

THIS PERMISSION IS GRANTED FOR A PERIOD OF TWELVE MONTHS

COMMENCING:

.....

AND EXPIRING:

.....

ANY CONCERNS OR QUERIES RELATING TO THESE ACTIVITIES AUTHORISED BY THIS PERMIT SHOULD BE MADE IN WRITING TO:

INSERT ADDRESS OF APPROPRIATE DIVISIONAL OFFICE

APPENDIX 1

East Kent Division
Beer Cart Lane
Canterbury CT1 2NN
Fax 01227 785144

Mid Kent Division
Doubleday House
St. Michaels Close
Aylesford ME20 7BU
Fax 01622 798333

West Kent Division
Joynes House
New Road
Gravesend DA11 0AT
Fax 01474 544029

Direct Dial: 08458 247 800

Dear Sir/Madam

Licence to Place a Projection over the Public Highway

I refer to your request for information on the above. A licence has to be obtained from Kent Highway Services to permit the placing of any projection eg. Awnings, canopies or blinds over the public highway.

Please find enclosed for your information:

- A licence application form, to be completed and returned to the Divisional Office appropriate to the site at which the projection is proposed be placed.
- A copy of the Conditions of Licence TC2

Charges for the licence are £115 for a one year licence and full payment must be received with your application. This is an administration charge for processing the licence and is non-refundable. Cheques should be made payable to Kent County Council.

Depending on the location of the premises, Kent Highway Services may be required to advertise your intent to place a structure over the highway. This is normally done by displaying notices in the immediate area of the intended site, however sometimes more extensive advertising may be required. If this is the case additional costs may be incurred. You will be advised of any charges upon application and these costs must be paid in full before the licence can be granted.

Please note that it is necessary for Kent Highway Services to receive an application for a licence to place a projection over the highway at least 6 weeks prior to the intended placing of the projection.

You must provide a detailed plan clearly showing the extent of the area you wish to use including dimensions.

Planning permission may be required for certain sites. You should contact your local Borough / District Council planning authority for further information. If planning permission is required, you need to attach a copy of the permission to your application

If you have any further queries, please contact Kent Highway Services on 08458 247 800.

Yours faithfully

For and on behalf of the Divisional Manager

Licence to Place a Projection over the Public Highway

Section 1 – To be completed by the Applicant

Proposal for : A projection over the public highway eg. Awnings, canopies or blinds		
Location		New Application : <input type="checkbox"/> Renewal : <input type="checkbox"/>
Full Name and Address of Applicant	Operative Period	
	From	To
Emergency Telephone Number.....		

I have read, understood and will comply with the Conditions of Licence TC2 and agree to pay for the issue of this licence for 1 year or alternatively agree to pay for the issue of a renewal licence for 1 year.

Signed: Contact Telephone Number:

Contact Fax Number:.....

Name: Date:

- The Council, pursuant to the powers conferred by Section 177 of the Highways Act 1980 hereby grants permission to the above Owner in accordance with the above dated application for the operative period as stated above (or as shown in the special conditions)

THIS LICENCE IS NOT VALID UNTIL SECTION 2 IS COMPLETED

Section 2 – To be completed by Kent Highway Services

Special Conditions:

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Signed: Date:

For and on behalf of the Divisional Manager

Paid in full:	Yes / No	Agreed By:		Insurance & indemnity checked	Yes / No
Agreed:	Yes / No	Licence No:		Renewal:	Yes / No

Assessed by: Division

Telephone: Fax:

Conditions of Licence – TC2

1. Detailed plans must be provided to Kent Highway Services clearly indicating the premises, the adjacent properties, the highway boundary and the kerb line along with a detailed plan showing sections and elevations of the proposed projecting feature. (see 6.02)
2. The proposed structure shall be positioned as agreed with Kent Highway Services. No items shall be sited as to obstruct access to any premises unless the consent of the occupier of these premises has been obtained.
3. All initial applications must be accompanied by a method of attachment and a method statement for erecting and maintaining the structure certified by a suitably qualified person.
4. Certification by a qualified person that the installation of the awning or light canopy is in accordance with all necessary legislation and is safe for the public to pass under must be received by Kent Highway Services within 28 days of erection of the awning.
5. The licence owner will be charged fees of £24 if, following a routine inspection, any infringements of the licence, or problems arising out of the use of the site are found. Any additional visits to the site, which may have to be carried out by Kent Highway Services, will be charged at £24 per visit.
6. Any infringements of the licence or problems arising out of the use of the site must be immediately rectified to the satisfaction of Kent Highway Services. Kent Highway Services reserve the right to terminate a licence without notice.
7. No structure shall remain overhanging the public highway pursuant to this permission after the period of this permit has expired.
8. The owner will indemnify KCC from all actions as a consequence of the existence/use of the awning/oversailing and will additionally hold Public Liability Insurance to indemnify the Kent County Council up to the value of £10 million against any liability, loss or damage, claim or proceeding whatsoever arising under Statute or Common Law in respect of the placing and maintaining of a projection over the public highway or their removal there from and any action as a consequence of the existence or use of the awning or light canopy. The applicant is required to submit proof of this insurance prior to the licence being issued.
9. No structure is to be placed within 0.6m of the edge of an adjacent carriageway and must maintain a minimum vertical clearance of 2.6m from the surface of the footway to the lowest point of the underside of any projection.

10. If the area within or under the projection is to be used as a specified smoking area or if it is deemed likely that the area will be used for this purpose, the applicant shall provide convenient receptacles for the disposal of associated waste. These receptacles must be contained within or on the applicants property and emptied daily or more frequently if necessary. They should not be an obstruction to any member of the public.
11. Planning permission may be required for certain sites. If you require any form of advertising you must contact your local planning authority prior to applying to Kent Highway Services. You should contact your local Borough / District Council planning authority for further information. If planning permission is required, you need to attach a copy of the permission to your application.
12. Depending on the site location, there may be additional local agreements or conditions to adhere to. If so, these will be sent out with your licence.
13. The licence is valid for up to one year and must be renewed annually if the applicant wishes to continue using it. All annual renewal application must include an independent structural check covering both the mountings and wind resistance.