

2019

Goods on the Highway Policy and Conditions



Licensing

29/07/2019

Policy & Guidance on Goods on the Highway

Objective

Some business owners place items outside their premises on the highway across Kirklees but it is essential that pedestrians have a clear, safe route along pavements and walkways. More and more goods are being displayed in this way, making our towns look cluttered and less attractive. This also creates problems for pedestrians who have to get around these goods when walking around a town. It is particularly difficult for visually impaired people, those with mobility issues, wheelchair users and parents and carers with pushchairs. Goods displayed on the highway can be considered unsightly and have a negative impact on the street scene and can also be seen as an unfair extension of their business premises without paying rent and rates.

We know that businesses need to promote their services and bring in custom but this cannot be done without considering the safety of passing pedestrians and the effect on the street scene and the local economy.

Licensing goods displayed on the highway will mean they can only be placed where there is no danger to pedestrians or create a potential obstruction and where there isn't a negative impact on the street scene and will assist in enhancing the economic sustainability of towns, suburban and rural businesses and communities.

It is an offence to obstruct the highway and legislation allows for licensing schemes by a local authority.

Policy Scope

This policy relates to any goods on display or for sale placed on the highway without permission.

The "Highway" includes footpaths, paved areas and pavements, and this policy also includes goods attached to highway property. It does not include goods sited on private property or land.

Application process

Please apply on Kirklees Council's Goods on the Highway Licence application form, which is available online at: <https://www.kirklees.gov.uk/beta/licensing/apply-for-a-boards-display-of-goods.aspx>

Where consent is given, licences will be issued under sections 115 (E) of the Highways Act 1980 for a period of 5 years. Licences are not transferable.

You must obtain permission from the Council prior to placing any goods on the highway. A fee will be charged for each licence of £110 per application*. The license is valid for 5 years.

** This fee is current at July 2019 but is subject to change.*

The applicant should complete and submit the application form that includes:

- a) Exact proposed location of the goods with a scale drawing indicating where they will be placed outside the premises and where the entrance and/or exits to the premises are. The dimensions of the containers the goods are to be placed in or the goods themselves (as appropriate), the width of pavement, proximity to the kerb and distance from other street furniture (e.g. telephone boxes, benches, litter bins, street lighting/signage columns etc).
- b) Colour photo or illustration of the proposed goods to be displayed.
- c) A copy of the businesses current Public Liability Insurance Certificate and Policy, showing that they have at least £5,000,000 (five million pounds) of cover and that the policy covers items placed on the highway.
- d) Payment of the licence fee.
- e) The notice once it has been displayed on the premises (found attached as appendix A at the back of the guidance)

When considering the application consultation will be carried out with other Council departments and businesses whose premises have frontage to the proposed site to give them the opportunity to comment, as required by legislation.

The needs of other highway users will also be taken into consideration e.g. pedestrian flows, vehicular access and the cumulative effect of goods displayed from different premises etc.

This process will include the business displaying a notice detailing their application in their premises window for a minimum of 28 days allowing time for any objections to be received by the Council. If none are received and the proposed display meets all other relevant criteria the licence will be issued and will be valid for a period of 5 years from the date of issue.

If there are any objections received the Council will consider them and determine whether to grant or refuse the application. Please note applications may take up to 8 weeks to process and you must not display any goods outside your premises unless you have been granted a licence.

A new application will need to be made at least 8 weeks before the expiry of an existing licence.

Kirklees Council reserves the right to refuse to give consent to any application.

Guidance

Goods will only be licenced outside the premises that is applying for the licence and owns the goods.

The size and layout of the goods to be displayed will be dependent on factors such as available space, type of premises/goods to be displayed, how the goods will be contained, proximity to street furniture etc.

No goods attached to highway structures, street furniture, trees or other items within the highway will be licensed and such goods will be removed.

Goods will not be permitted on grass verges, central reservations, roundabouts, pedestrian safety refuges and other such areas of the highway which may cause a road traffic hazard or make it difficult to maintain these areas.

Within pedestrianised areas a minimum 3.5m (metres) wide clear route for emergency vehicles must be available.

Where a business has a private forecourt adjacent to the highway any goods must be placed wholly within this forecourt.

Any liability arising from an accident or damage involving any goods placed on the highway remains firmly with the owner of the goods/business.

Goods must not be displayed without the prior permission of the Council.

Licence conditions

1. Any goods on the highway must be suitably displayed e.g. in display units that are fit for purpose, stable, robust and maintained in good condition.
2. A clear pedestrian route shall be maintained for those walking on the highway. This should preferably be adjacent to the building frontage so that most pedestrians and particularly those with visual impairments can maintain their regular route. This should normally be a minimum width of 1.8 metres (m). Therefore goods should be placed 1.8m from the building frontage. Consideration should be given to entrances and exits from premises, which should not be obstructed. Visibility splays must not be obstructed. Each application will be considered on its individual merit.
3. The position of the goods must be consistent on a day-to-day basis and must be in the approved position. It is essential that the position and location does not cause any obstruction or inconvenience to those with disabilities and particularly that adequate space is left between the goods and frontage of the building, or in the case of pedestrianised areas and precincts with heavy footfall that it will not cause an obstruction.

4. The layout of the goods and enclosures will have to be approved. It is essential that the layout does not provide any inconvenience or obstruction to those with disabilities.
5. Goods must be contained on or within a stand, table or enclosure with fixed external dimensions. No items or their enclosures should be more than 1m high. The function of the enclosure is to demarcate and contain the goods but also to give a clear warning particularly to people with visual impairments. For this reason it is essential that any barriers/enclosure have some solid elements particularly just above ground level so as to be detectable by a stick.
6. Goods may only be sited in accordance with the times stated in the licence.
7. Holders of a licence must hold and maintain a valid public liability insurance policy with cover up to £5,000,000 (five million) pounds.
8. The Goods on the Highway licence must be displayed within the premises in a prominent position so it can be easily inspected as required (e.g. in an externally facing window or on a wall inside the publicly accessible area of the premises).

The guidance and licence conditions may be amended from time to time.

A breach of the conditions may result in formal enforcement action and the licence being revoked.

Procedure for non-compliance with a Goods on the Highway Licence

Should the licensee not be compliant with the terms of their licence the Council will try to work with the licensee in the first instance to resolve any issues this procedure will be:-

- 1) Where the licensee is found not to be complying with the specific conditions of their individual licence, Council officers will offer advice and assistance to enable the licensee to rectify the breaches to ensure compliance.
- 2) Where this is unsuccessful, a letter will be sent informing the licensee that they continue to be in breach of the conditions of licence. Further assistance will be offered to the licensee to rectify any breaches but if compliance is not achieved within 14 days this may trigger step 3.
- 3) If persistent breaches of conditions remain the Council will take whatever action it deems appropriate in each individual case. Up to and including seizure of the goods and prosecution.

Procedure for non-licensed Goods on the Highway

1) Where goods are unlicensed or present an obstruction or danger to users of the highway the business owner will be asked to remove it/them immediately.

2) Where this is not possible the Council may remove the item/s and charge the costs incurred for removal and/or storage to the business responsible.

3) If persistent siting of unlicensed goods continues the Council will take whatever action it deems appropriate in each individual case. Up to and including seizure of the goods and prosecution.

The information given may be held in manual or electronic form and will be subject to the provisions of the Data Protection Act 1998.

This authority is under a duty to protect the public funds it administers, and to this end use information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.



**THE HIGHWAYS ACT 1980
PERMISSION TO PLACE A-BOARD/ ITEM(S) ON THE HIGHWAY**

An application for permission to place A-Board/Item (s) on the Highway has been made to Kirklees Council by:

Applicant Name: _____

This relates to placing A-Board/Item (s) outside the premises on the Highway and is in respect of the premises know as:

Premises Name: _____

Situated at: _____

Any representation regarding the application must be made in writing to:

Licensing Services
Flint Street Depot
Flint Street
Fartown
Huddersfield
HD1 6LG
or
Licensing@kirklees.gov.uk

And made no later than 28 days after the notice is posted; which is

Date: _____