

**LICENCE BY HIGHWAY AUTHORITY TO PLANT TREES, SHRUBS ETC.
IN A HIGHWAY**

**LINCOLNSHIRE COUNTY COUNCIL
HIGHWAYS ACT 1980, SECTION 142**

1. In accordance with the Highways Act 1980, Section 142 **LINCOLNSHIRE COUNTY COUNCIL** of County offices Newland Lincoln LN1 1YS (hereinafter called "the Highway Authority") as the Highway Authority for the highway known as **A52 JUNCTION BARROWBY GATE GRANTHAM** as shown edged red on the attached plan (hereinafter called "the Highway") hereby grants permission to **SOUTH KESTIVEN DISTRICT COUNCIL** of Council Offices St Peters Hill Grantham NG31 6PZ (hereinafter called "the Licensee") to plant and maintain part of the highway described in the First Schedule the things described in the Second Schedule (hereinafter called "the Plants") upon the terms and conditions specified herein and in the said Sections 141 and 142 so far as applicable, and the Licensee hereby accepts the Licence upon those terms and conditions.
2. Any planting of the plants shall be completed before the * day of
3. The permission granted by this Licence shall run from * for a term of five years and with the provision of one month before the end of the term of this Licence that negotiations between the Highway Authority and the Licensee to either :-
 - 3.1 Renew the Licence with a new and agreed Second Schedule
 - 3.2 Renew the Licence with the current Second Schedule remaining the in place

- 3.3 Upon expiry of this Licence, to not renew the Licence and the Licensee to return the Highway to the original condition as it was at the start of this Licence
4. No hole shall be dug to a greater depth than * feet in connection with the planting of the plants under this Licence.
 5. No plant which is of a poisonous nature (whether by reason of fruit flowers leaves or otherwise howsoever) or is otherwise likely to constitute a source of danger to vehicles persons or animals on the highway shall be planted under this Licence.
 6. All plants to which the Licence relates shall be properly cut pruned and trimmed at all times during the continuance of this Licence and no such plant shall be allowed to obstruct or interfere in any way with or become a source of danger to passage along the carriageway or any footway of the highway or to overhang the premises of any person other than the Licensee.
 7. The Licensee shall keep the part of the Highway to which this Licence relates in a trim and tidy condition and must not allow the trees shrubs or plants to grow more than five metres in height and must be pruned regularly and all grass planted or maintained in pursuance of this Licence shall be regularly cut or mown and must not be allowed to grow more than five centimetres in height.
 8. If it appears to the Highway Authority at any time that any plant to which the Licence relates obstructs or interferes or is likely to obstruct or interfere in any way with or to be a source of danger to passage along the carriageway to any footway of the highway or to overhang the premises of any person other than the Licensee or that any grass to which this Licence relates is not being regularly cut or mown the

Highway Authority may without notice to the Licensee lop prune cut or trim such plant or cut or mow such grass as they think fit **and recover the cost of doing such work from the Licensee** and any such action by the Highway Authority shall be without prejudice to their power under the said Sections 141 and 142 to withdraw this Licence.

9. The Licensee shall not remove any soil from the part of the Highway to which this Licence relates or otherwise do anything which would interfere with the support given to the rest of the highway.
10.
 - (a) This Licence shall not be assigned otherwise than by the occupier for the time being of the premises described above to his successor as occupier of those premises and written notice of any such assignment shall forthwith be given to the Highway Authority.
 - (b) Upon any such assignment as is described in Sub-paragraph (a) above this Licence shall continue in force subject to all its terms and conditions as if the assignee was the person described herein as the Licensee.
 - (c) Any notice served by the Highway Authority under Sub-Section (6) of the said Section 142 or otherwise shall be deemed to have been properly served if served in accordance with Section 322 upon the person named as Licensee in this Licence or where a notice has been given under Sub-paragraph (a) above upon the person described as assignee in the notice which has been given or last given to the Highway Authority.
11. The Highway Authority the Post Office Water and Sewerage Authorities and other statutory undertakers having rights to execute works in the highway and persons authorised by any of them may at any time enter

the part of the highway to which this Licence relates without notice to the Licensee to carry out works for the purpose of the highway or the undertaking in question.

12. With regard to paragraphs 8 and 11 of this Licence –

(a) without prejudice to the powers given in those paragraphs to enter the land the subject of this Licence and carry out works therein without notice the Highway Authority will endeavour where practicable to give prior notice to the Licensee of the entry or works as the case may be.

(b) Neither the Highway Authority nor any of the Authorities referred to in paragraphs 11 shall be liable to pay compensation to the Licensee for loss of or damage to the plants in consequence of the exercise of the powers given in paragraphs 8 and 11.

13. The Licensee must indemnify the Highway Authority against all claims proceedings costs and expenses arising from or in connection with this Licence (except to the extent that they are shown to have been caused by the negligence of the Highway Authority or its employees or agents) in accordance with Section 142(8).

14. This Licence is granted subject to the notice provisions contained in the Highways Act 1980, Section 142(6) and (7) (withdrawal of Licence)

15. **Special Conditions**

Before any planting takes place the Licensee shall obtain from statutory Undertakers details regarding the position of any apparatus in the vicinity of the proposed planting. Any damage to existing apparatus shall be made good at the expense of the Licensee.

Signed by)
An Authorised Officer on behalf of)
LINCOLNSHIRE COUNTY COUNCIL)
In the presence of :)

Signed by)
An Authorised Officer on behalf of)
SOUTH KESTIVEN DISTRICT COUNCIL)
In the presence of :)

Notes

- (1) The Licensee should be completed in triplicate, all parts being signed by the Director of Highways and Planning or his authorised representative and the Licensee, the witnesses adding their addresses and occupations.
- (2) The relevant parts of **Section 142 of the Highways Act 1980** are quoted below for the information of the Licensee.

S142 subsection (6)

A highway authority may be notice served on the licensee withdraw a licence granted by them under this section –

- (a) on the expiration of such a period as may be specified in the notice, being a period of not less than seven days beginning with the date of service of the notice on the licensee, if any condition of the licence is contravened by the licensee;
- (b) on the expiration of such period as may be so specified, being a period of not less than three months beginning with the said date, if the authority considers the withdrawal of the licence is necessary for the purpose of the exercise of their functions as a highway authority.

S142 subsection (7)

Where a licence under this section expires or is withdrawn or surrendered, the highway authority by whom it was granted –

- (a) may remove all or any of the trees, shrubs, plants or grass to which the licence relates and reinstate the

- highway and may recover the expenses reasonably incurred by them in so doing from the licensee; or
- (b) if satisfied that the licensee can, within such reasonable time as they may specify, remove such trees, shrubs, plants or grass or such of them as they may specify and reinstate the highway, may authorise him to do so at his own expense.

In this subsection “the licensee” means the person who immediately before the expiration, withdrawal or surrender of the licence in question was the licensee or, if that person has died, his personal representatives.

S142 subsection (8)

The licensee and the person who immediately before the expiration, withdrawal or surrender of a licence under this section was the licensee or, if that person has died, his personal representatives shall indemnify the highway authority against any claim in respect of injury, damage or loss arising out of –

- (a) the planting or presence in a highway of trees, shrubs, plants or grass to which the licence relates, or
- (b) the execution by any person of any works authorised by the licence or by the highway authority under subsection (7) above, or
- (c) the execution by or on behalf of the highway authority of any works under subsection (7) above; but this subsection is not to be taken as requiring any person to indemnify the highway authority against any claim in respect of injury, damage or loss which is attributable to the negligence of that authority.

S142 subsection (9)

If any person plants a tree or shrub in a highway or otherwise than in pursuance of licence granted under this section, the tree or shrub is deemed, for the purpose of section 141 above, to have been planted in contravention of that section.

The First Schedule

Description of the land the subject of this Licence

TRAFFIC ISLAND, A52 BARROWBY GATE

GRANTHAM edged red on the attached plan

The Second Schedule

Description of the plants to be planted or retained in the land

To be agreed

Signed by

Authorised Signatory of Highway Authority

In the presence of

(Signature of Witness)

Signed by

Authorised Signatory of Licensee

in the presence of

(Signature of Witness)