

CYNGOR SIR CEREDIGION

Adroddiad i'r: Cabinet

Dyddiad y cyfarfod: 3 Medi 2024

Teitl: Trwyddedau Bargodi o dan adran 177 o Ddeddf Priffyrdd 1980

Pwrpas yr adroddiad: Cyflwyno ffi y Gwasanaethau Priffyrdd ac Amgylcheddol a'r Gwasanaethau Cyfreithiol am Drwyddedau Bargodi

Er: Penderfyniad

Portffolio Cabinet ac Aelod Cabinet:

Y Cynghorydd Keith Henson, Aelod o'r Cabinet dros Briffyrdd a Gwasanaethau Amgylcheddol a Rheoli Carbon

Y Cynghorydd Matthew Vaux, Aelod o'r Cabinet dros Bartneriaethau, Tai, Gwasanaethau Cyfreithiol a Llywodraethu a Diogelu'r Cyhoedd

Cyflwyniad

Mae adran 177(1) o Ddeddf Priffyrdd 1980 ("y Ddeddf") yn nodi, yn yr iaith y'i gwnaed:

"(1) No person shall—

(a) except in the exercise of statutory powers, construct a building over any part of a highway maintainable at the public expense (whether it is intended to span the highway or not), or alter a building so constructed, without a licence granted under this section by the highway authority for that highway or otherwise than in accordance with the terms and conditions of a licence so granted;

(b) use a building so constructed or altered in pursuance of a licence so granted otherwise than in accordance with the terms and conditions thereof:

and any person who contravenes any provision of this subsection is guilty of an offence and liable to a fine not exceeding [level 5 on the standard scale]; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £50 for each day on which the offence is so continued."

Mae trwydded a gyflwynir gan Awdurdod Cynllunio yn unol ag adran 177 o Ddeddf Priffyrdd 1980 yn cael ei hadnabod fel Trwydded Bargodi.

Mae'r Awdurdod Priffyrdd yn gallu rhoi'r fath delerau ac amodau ag y gwêl yn addas i'w cynnwys mewn trwydded Bargodi (adran 177(2)) ac mae trwydded o'r fath hefyd yn rhwymo'r olynwyr yn nheitl yr eiddo dan sylw.

Yn ogystal, o dan adran 177(3), gall yr Awdurdod Priffyrdd godi swm rhesymol mewn perthynas â chostau cyfreithiol neu dreuliau eraill a ysgwyddir mewn cysylltiad â rhoi'r drwydded, a thâl blynyddol rhesymol am weinyddu'r drwydded.

Mae geiriad llawn adran 177 wedi'i atodi ar ffurf Atodiad 1.

Y Sefyllfa Bresennol

Ar hyn o bryd nid oes ffi - sydd wedi ei chymeradwyo gan y Cabinet - ar waith ar gyfer trwyddedau bargodi (dim ffi gan y Gwasanaethau Cyfreithiol na chwaith gan Briffyrdd a Gwasanaethau Amgylcheddol).

Prin yw'r ceisiadau am drwydded o'r fath ac roedd yr un ddiwethaf a roddwyd yn ymwneud â Datblygiad Dan Dre yn Aberystwyth yn ôl yn 2016.

Ar hyn o bryd mae'r Gwasanaethau Cyfreithiol yn cael eu cyfarwyddo gan yr adran Briffyrdd parthed dwy drwydded bargodi.

Y Cynnig

Cynigir cyflwyno ffi i gwmpasu'r amser a dreulir gan y Gwasanaethau Cyfreithiol, a Phriffyrdd a Gwasanaethau Amgylcheddol, mewn perthynas â rhoi trwyddedau o'r fath.

Mae'r Gwasanaethau Cyfreithiol yn amcangyfrif pum awr o amser Cyfreithiwr ar gyfer pob achos ac felly mae'n cynnig ffi o £471 i gyfateb i'r ffi sydd wedi ei chymeradwyo gan y Cabinet ar gyfer Trwyddedau i Feddiannu, a Hawddfaint, sydd eisoes yn Ffioedd a Chostau 2024/2025.

Mae Priffyrdd a Gwasanaethau Amgylcheddol yn amcangyfrif chwe awr o amser Swyddog/Peiriannydd ar gyfer pob achos ac felly mae'n cynnig ffi o £500 i brosesu'r drwydded hon.

Llesiant Cenedlaethau'r Dyfodol:

Oes Aseiad Effaith Integredig wedi ei gwblhau? Os na, esboniwch pam.

Na, ni fydd y cynnig hwn yn arwain at newid i ddefnyddwyr gwasanaeth neu breswylwyr.

Crynodeb o'r Aseiad Effaith Integredig:

Hirdymor: -
Cydweithio: -
Cynnwys: -
Atal: -
Integreiddio: -

Argymhellion:

Bod y Cabinet yn CYMERADWYO:

a) bod Priffyrdd a Gwasanaethau Amgylcheddol yn codi ffi o £500; a hefyd

b) bod y Gwasanaethau Cyfreithiol yn codi ffi o £471;

am amser y swyddogion mewn perthynas â chyflwyno trwyddedau Bargodi o dan adran 177 o Ddeddf Priffyrdd 1980, mewn grym o 1/9/24 ymlaen.

Rheswm am y penderfyniad:

Adennill costau

Trosolwg a Chraffu:

Ddim yn berthnasol

Fframwaith Polisi:

Ddim yn berthnasol

Amcanion Llesiant Corfforaethol:

Hybu'r economi, cefnogi busnesau a galluogi cyflogaeth

Goblygiadau Cyllid a Chaffael:

Effaith gadarnhaol ar y gyllideb drwy dderbyn incwm ychwanegol

Goblygiadau Cyfreithiol:

Ddim yn berthnasol

Goblygiadau Staffio:

Ddim yn berthnasol

Goblygiadau eiddo / asedau:

Ddim yn berthnasol

Risg(iau):

Ddim yn berthnasol

Pwerau Statudol:

Adran 177 o Ddeddf Priffyrdd 1980

Papurau Cefndirol:

Dim

Atodiadau:

Atodiad 1 – Adran 177 o Ddeddf Priffyrdd 1980

Swyddog Arweiniol Corfforaethol:

Rhodri Llwyd, Swyddog Arweiniol Corfforaethol: Priffyrdd a Gwasanaethau Amgylcheddol

Elin Prysor, Swyddog Arweiniol Corfforaethol: Gwasanaethau Cyfreithiol a Llywodraethu

Swyddog Adrodd:

Phil Jones: Rheolwr Corfforaethol – Gwasanaethau Priffyrdd

Louise Harries: Uwch Gyfreithiwr – Gwaith nad yw'n gynhennus (Eiddo)

Dyddiad:

26/07/2024

ATODIAD 1

Highways Act 1980

1980 CHAPTER 66



Highways Act 1980 (1980 c 66)

UK Parliament Acts > H > HH-HN > Highways Act 1980 (1980 c 66) > Part IX Lawful and Unlawful Interference with Highways and Streets (ss 130-185)

177 Restriction on construction of building over highways

(1) No person shall—

(a) except in the exercise of statutory powers, construct a building over any part of a highway maintainable at the public expense (whether it is intended to span the highway or not), or alter a building so constructed, without a licence granted under this section by the highway authority for that highway or otherwise than in accordance with the terms and conditions of a licence so granted;

(b) use a building so constructed or altered in pursuance of a licence so granted otherwise than in accordance with the terms and conditions thereof:

and any person who contravenes any provision of this subsection is guilty of an offence and liable to a fine not exceeding [level 5 on the standard scale]; and if the offence is continued after conviction, he is guilty of a further offence and liable to a fine not exceeding £50 for each day on which the offence is so continued.

(2) Subject to subsections (3) and (4) below, a licence under this section may contain such terms and conditions, including terms and conditions with respect to the construction (including the headway over the highway), maintenance, lighting and use of the building, as the highway authority think fit; and any such term or condition is binding on the successor in title to every owner, and every lessee and occupier, of the building.

(3) No fine, rent or other sum of money is payable in respect of a licence granted under this section except—

(a) a reasonable sum in respect of legal or other expenses incurred in connection with the grant of the licence; and

(b) an annual charge of a reasonable amount for administering the licence;

and any sum payable by virtue of paragraph (a) above is recoverable from the applicant for the licence and any sum payable by virtue of paragraph (b) above is recoverable from the owner of the building.

(4) No such licence shall authorise any interference with the convenience of persons using the highway, or affect the rights of the owners of premises adjoining the highway, or the rights of

[statutory undertakers or the operator of [an electronic communications code network]] [or a driver information system].

(5) Where a licence under this section makes provision for the execution of any works or the provision of any facilities which in the opinion of the highway authority require to be executed or provided by them in connection with the building or its construction or alteration, the authority may execute those works or, as the case may be, provide those facilities and may recover the expenses reasonably incurred by them in so doing from the licensee or from the owner of the building.

(6) A person aggrieved by the refusal of a highway authority to grant a licence under this section or by a term or condition of the licence may appeal to the Crown Court, except that no such appeal lies—

(a) if the land on which the highway in question is situated is owned by the highway authority, or

(b) against any term or condition which the highway authority declare to be necessary for the purpose of securing the safety of persons using the highway or of preventing interference with traffic thereon.

(7) Where a person has constructed or altered a building for the construction, or, as the case may be, alteration, of which a licence is required by this section without such a licence or otherwise than in accordance with the terms and conditions of the licence, the highway authority may by notice served on the licensee or the owner of the building require him to demolish the building within such time as may be specified in the notice or, as the case may be, to make such alterations therein and within such time as may be so specified.

(8) Where there has been a failure to comply with any terms or conditions of a licence under this section with respect to the maintenance or use of a building, the highway authority may by notice served on the licensee or the owner of the building require him to execute such works or take such steps as are necessary to secure compliance with those terms or conditions within such time as may be specified in the notice.

(9) If a person on whom a notice is served under subsection (7) or (8) above fails to comply with the notice within the time specified in it, the highway authority may demolish the building or, as the case may be, execute such works or take such steps as are necessary to comply with the notice and may recover the expenses reasonably incurred by them in so doing from that person.

(10) Where by virtue of subsection (9) above a highway authority demolish a building, they may dispose of the materials resulting from the demolition.

(11) In relation to any prohibition or restriction on the use of a building imposed by the Minister by virtue of any term or condition contained in a licence granted by him under this section, section 1(1)(c) of the Local Land Charges Act 1975 has effect as if the references to the date of the commencement of that Act were references to 1st November 1971.

[(12) [Part 10 of Schedule 3A to the Communications Act 2003 (the electronic communications code)] (which provides a procedure for certain cases where works involve the alteration of [electronic communication apparatus]) shall apply, for the purposes of works authorised or required by a licence under this section to be executed, to the licensee.]

(13) This section does not apply to a building which constitutes a bridge within the meaning of section 176 above, but subject to that in this section “building” includes any structure and any part of a building.

Highways Act 1980 (1980 c 66)

(14) Where the land on which a highway is situated is owned by the highway authority, nothing in subsection (3) above is to be taken as affecting the rights of that authority as the owner of that land to sell or lease the air-space above the surface of that land or grant any rights in relation to it.

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