

KIRKLEES DEVELOPMENT TEAM

ADVICE FOR DEVELOPERS

ADOPTION OF NEW HIGHWAYS – ADVICE FOR DEVELOPMENT

WHY SHOULD I READ THIS?

If your proposed road serving your development services more than 5 properties, or requires substantial new highway works the council will serve a notice on you under Section 219 of the Highways Act 1980 called an Advance Payments Code Notice. This notice covers the roads you will be building within your development and will be served within six weeks of your Building Regulation Approval. This leaflet explains the implications of this notice and the options which are available to you for the adoption of highways within your development.

WHAT IS AN ADVANCE PAYMENTS CODE NOTICE OR SECTION 38 AGREEMENT?

An Advance Payments Code (APC) Notice is the formal instrument used by the council to secure assurances that the proposed highway works within your development can be constructed to adoptable standards if you default on your obligations on the development. This notice will require payment of a sum of money which the council has assessed as being necessary to complete any on-site highway works. The assessment is made by the council and is usually in the form of a schedule of charges for individual plots. You must pay the sums assessed, before any work commences on the construction of any building on the site. Deposits made on an APC will be refunded in full, with interest in two stages, 75% will be released at provisional adoption and the remaining 25% upon satisfactory completion of the highway works and the issue of Certificate of Adoption. An inspection fee (currently 10% of the value of the deposit) will be levied to cover the council's costs. Section 38 Agreements under the Highways Act 1980 are legal agreements which can be taken out by a developer to avoid depositing large sums of monies by means of taking out a Bond of Surety, normally with a bank or other financial institution. The value of the bond must be of equivalent value to the sum assessed in the Advance Payment Code Notice. Section 38 Agreements are legally binding agreements between the developer, the council and their surety. The Bond from such agreements is released when the road is complete and the Certificates of Adoption is issued. An inspection fee (currently equivalent to 9% of the value of the bond) is payable to the council. Failure to either pay the sum quoted in the Advance Payment Code Notice or make arrangements for a Section 38 Agreement before work commences on your site is illegal and will render you liable to prosecution.

DO I NEED AN APC/SECTION 38 AGREEMENT?

Any development which has an access road which serves 5 or more properties must have either an APC deposit or Section 38 Agreement.

WHAT INFORMATION DO I NEED TO SUPPLY?

For APC or Section 38, detailed drawings will need to be agreed with the council prior to works commencing. The following drawings/details are typically required for any development:

Layout Drawing: These must be in accordance with the planning permission and its conditions and must include highway surface, water drainage and street lighting proposals.

Longitudinal Sections: These should be provided through the centre of the proposed road.

Construction Details: Giving details of these should include details of road construction materials, depths and surface finishes.

Retaining Wall Details: Where a retaining wall or structure is required as part of the design relevant details including detailed drawings and calculations should be included with the submission.

Ground Investigation: On sites with filled ground, or other potential problems, a ground investigation report will be required together with detailed proposals for dealing with any unsuitable conditions found.

Sight Lines: Details of the sight lines at key junctions and around the site, should be suitably illustrated.

Safety Audits: Detailed safety audits should be included at all relevant stages of the design and construction of the development. (See the Safety Audit leaflet for further details) Construction standards for adoptable roads are contained within the West Yorkshire Highway Design Guide.

WHEN SHOULD I DO THIS?

The Advance Payments Code Notice is automatically issued by the council within six weeks of Building Regulation Approval being issued. If within six weeks of receipt of Building Regulation Approval you have not received such an assessment notice and there are roads or footways in the development which you consider should become adopted highway then you should contact the council as a matter of urgency. Before the council will enter into a Section 38 Agreement you must obtain full planning permission for the development including the approval of any reserved matters relating to the highway. This will normally require the submission, and approval by the council, of the drawings and information listed in the "What information do I need to supply" section. A Section 38 Agreement could take up to 6 months to prepare and complete and you should allow sufficient time in your programme for this. The normal requirement of a Section 38 Agreement is that the Developer must complete the roadworks within two years of signing the Agreement.

WHERE CAN I GET MORE INFORMATION OR HELP?

Further information and advice on Advance Payment Code notices or Section 38 Agreements can be found from the following sources:

Web Resources:

<http://www.kirklees.gov.uk/answers/roads/roads-menu.shtml>

Kirklees Council Contacts:

Mark Berry 01484 225622

Publications:

Highway Act 1980

West Yorkshire Highway Design Guide