

The Advance Payment Code / APC Guide for Homebuyers

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Advance Payments Code (APC) – “In Breach” Explanation

The Advance Payments Code (APC) is a statutory requirement under the Highways Act 1980 (Sections 219–225). It applies where new properties are built on roads that are not yet adopted (i.e. not maintained at public expense).

When Building Regulations approval is granted, the Council must secure a financial provision or agreement from the developer to ensure that the roads serving the development are completed to an appropriate standard. This is intended to protect future homeowners from potential costs.

What does “APC in breach” mean?

An APC is considered to be in breach where an APC Notice has been served but the developer has not complied with its requirements.

Typically, this means that no deposit, bond, or formal agreement is in place to secure the proper construction and future maintenance of the roads.

What does this mean for you?

If an APC is in breach:

- The roads may remain private and not adopted by the Highway Authority
- There is no guaranteed mechanism to ensure the roads are completed to an acceptable standard
- Responsibility for future works or maintenance may remain with the developer and/or property owners

Potential risks for homebuyers

An unresolved APC breach may result in:

- Financial risk – property owners may be required to contribute towards road construction or maintenance
- Infrastructure risk – roads may not be built to an adoptable or long-term maintainable standard
- Conveyancing risk – solicitors may raise further enquiries or advise caution
- Mortgage and resale risk – some lenders may be reluctant to lend, and the position may affect future sales

How is the APC in breach resolved?

The APC Notice will remain until it is formally discharged. This usually requires the developer to:

- Enter into a Section 38 Agreement (for adoption), or
- Enter into a Private Street Agreement (for private roads with maintenance arrangements), or
- Provide an acceptable APC deposit or bond

Why is this recorded?

APC Notices and breaches are recorded on the Local Land Charges Register to ensure the position is disclosed during property searches. This allows purchasers and their advisors to make informed decisions and encourages developers to resolve outstanding obligations.

Seek further advice from your solicitor

This information is provided as general guidance only and does not constitute legal advice.

If you are considering purchasing a property affected by an APC Notice or breach, you should seek advice from your solicitor or conveyancer regarding the implications for a specific property, and request clarification from the developer on how the matter will be resolved.

If you require further assistance from Kirklees Highways please contact the road adoptions team by email at - Highways.Section38@kirklees.gov.uk