



17. Adoption of Roads and Public Areas

17.1 Adoption Policy

The policy of the City of York Council is that all residential development should be designed and constructed to the standards and specification of the Authority in order that the roads and footpaths may be adopted as publicly maintained highways. Any street serving five or more properties shall be capable of being laid out to a minimum standard and constructed in accordance with the City of York Council – ‘Layout and Specification

17.2 Guide for Development Roads.

Apart from highway drainage, any other sewer under the highway must be subject to an Adoption Agreement with the Yorkshire Water Authority; a road cannot be adopted until the sewers have been vested.

This applies to all categories of access except those remaining as shared or private drives, and includes all signs, street furniture, street lighting, highway drainage, emergency links and road markings.

To assist Developers the City of York Council have produced a series of Highway Development Information Leaflets, and No's 2, 3 & 5 are particularly relevant to the adoption process;

No 2 – Outline of third party roadworks.

No 3 - Drawing requirements.

No 5 – Sec 62 & Sec 278 Agreements

17.3 Areas for Adoption

It is essential that land, structures and apparatus to be adopted are identified during the design stage in order to avoid misunderstandings and consequent delay. All land must be conveyed to individual occupiers, local authorities, statutory bodies or some other responsible authority. The future maintenance responsibility relating to trees, shrubs, verges and other planted areas should be established prior to a detailed planning submission.



17.4 Highways

The highway authority will adopt as highways maintainable at the public expense those roads and footpaths which are necessary for public access or passage subject to their being constructed entirely in accordance with the relevant specifications and built to the satisfaction of the Highway Authority. Such highways include carriageways, footways, cycleways and emergency links which are constructed in accordance with these standards and which are of real use to the general public.

Footpaths and cyclepaths that link the development to the pedestrian and cycle network and likely to be used by the public will also be adopted. The highway authority may also adopt areas of land which are necessary to ensure the stability of the highway, and other highway drainage features i.e. balancing ponds etc.

Highway verges, whether between the footway and the carriageway or adjacent to private gardens, will be adopted as part of the highway, although this does not mean that every highway needs a verge. Generally, highway verges should not be more extensive than indicated in Section 8, although adoptable verges on local distributor roads will be encouraged and considered sympathetically, to enable tree planting and landscaping to take place.

Planting of trees, shrubs and ground cover within adoptable highway areas must be agreed with the highway authority in respect of type and location prior to the approval of a detailed planning submission. Any trees to be adopted must be thriving and structurally sound and will be subject to a satisfactory Arboricultural report.

Planting/rockeries in service verges by house owners will not be permitted, and the developer should ensure that this is covered in the house conveyancing documents.

Where road humps and speed restraint measures are to be provided as part of a traffic calming scheme these must be in place before dwellings are occupied. In some instances this may involve the provision of temporary humps at base course level.

If Traffic Regulation Orders are required to ensure the adopted highway functions properly, or to prevent the migration of parked vehicles to adjoining highways or other areas, the developer will be expected to meet all costs of consultation, legal processes, and introduction (signs/lines/illumination etc.) of the necessary orders, before the properties are occupied.



17.5 Public Open Space

Proposals for the long term maintenance of amenity areas, play space and landscaped areas should be agreed with the Highway Authority before approval of the site layout; this can be done by the provision of a contribution under section 106, Planning Agreement. All planting must be guaranteed for an agreed set maintenance period to cover future maintenance and replacement of failed stock.

Areas of soft landscaping, other than highway verges and other areas relating to the Highways e.g. visibility splays, are not acceptable for adoption by the Highway Authority and should be in private ownership unless some other responsible authority agrees to adopt and maintain them.

17.6 Parking Places

Private parking provision must be located off the public highway. Parking spaces provided in lieu of garages or private drives for the regular parking of residents' cars will not be adopted by the highway authority. Such parking spaces must be either in private ownership, or in the case of group parking of garage courts, adopted by a responsible Authority as amenity space or controlled by a residents' association. Provision for private drainage shall be incorporated into the development; surface water will not be permitted to discharge onto the highway.

In access areas, communal short term visitors' parking spaces which are contiguous with the highway, and which are clearly not for the regular short term use of any specific dwelling, will be adopted by the highway authority by agreement.

Short term waiting bays in Access Areas which are merely widened sections of the carriageway will be acceptable for adoption if they are not too extensive. Lay-bys adjacent to shops or community buildings will be accepted for adoption providing proper provision is made for traffic flow and safety. Bus lay-bys will be encouraged if agreement on their location can be reached at the design stage, and they may require Traffic Regulation Orders to ensure their proper use.

17.7 Adoption Procedures

It is expected that developers will make an agreement with the City of York Council under Sections 38, 62 & 278 of the Highways Act 1980. With this agreement, roads and footpaths are, on satisfactory completion following a formal maintenance period, automatically adopted as highway maintainable at the public expense.



Immediately a development receives Building Regulation approval, the Highway Authority requires a statutory guarantee that funds are available to complete the roads and footpaths to the satisfaction of that Authority. Therefore a Notice of Assessment in accordance with the Advance Payments Code, Section 219/220 of the Highways Act 1980, will be served in this respect.

Before construction begins the developer must either:-

- complete payment of the estimated cost of highway works in accordance with the Notice served under the Advance Payments Code; or
- enter into a Section 38/62/278 Agreements which provides a bond for due completion of the roads, and may require a 'one off' maintenance payment under sections 62/278 for new road features to existing highways if affected by the development

In either respect the developer must provide eight complete copies of the drawings and details of the proposed highway layout as follows:

- i. a location plan to a scale not less than 1/2500.
- ii. a layout plan to a scale not less than 1/500.
- iii. longitudinal sections of all roads to a scale 1/500 horizontal and 1/100 (or larger) vertical. Levels on gradients to be at 10m intervals and on short vertical curves at 5m intervals (or as site conditions dictate). Road sections to include longitudinal sections of surface water and foul water sewers – invert levels, pipe gradients and bedding to be given.
- iv. a typical cross section of the highway showing details of constructions, and all other associated details i.e. manholes, sewer trenches, pipe surrounds and backfill, in accordance with the typical detail drawings given in this guide.
- v. cross-sections of the highway will be required at 30 metre intervals, to a scale of 1/50 where the adjoining site levels vary + or – 0.5 metres from the finished carriageway levels. The cross section must show details 3 metres beyond the proposed highway boundaries.
- vi. All levels shall relate to Ordnance Datum (Newlyn) and the benchmark used shall be shown on the location plan with its value.
- vii. All drawings submitted for approval must carry the following note; the design and specification shall in all respects comply with the current City of York Council – Layout and Specification Guide for Development Roads.



An example of the quality of drawings required are illustrated in Appendices 30 and 31 (typical road and drainage details, typical cross sections and block paving details, and the extent of the adoptable highway in an Access Court). A general section detail is also illustrated in Appendix 32.

If a developer wishes to construct an estate in distinct phases, the phasing should be clearly shown on his submission for approval.

If an early start to building is essential, developers must make an Advance Payment prior to commencing building work, which includes payment of the supervision fee. This can be replaced as soon as possible with a Section 38 Agreement. In this case, the Advance Payment is refunded with interest once the Section 38 Agreement is in place.

Developers are required to notify the highway authority seven days before of the commencement of any work on prospectively adoptable highways so that inspection and approval can be arranged. This applies to work under both Advanced Payment Code and Section 38 Agreements. Works not so inspected will not be adopted until proven satisfactory at the developer's expense. A composite plan indicating public utility apparatus to be laid or erected within the adoptable highway will be required. A supervision fee, to cover the Highway Authority's inspection of works on site is charged and must be paid prior to completion of the agreement.

The City of York Council has a standard form of Section 38/62/278 Agreement. The Plans, as referred to above, accompanying the agreement shows the road and footpaths to be adopted as public highway. The plan may be modified by mutual consent during construction but it will be necessary to substitute the revised plan into the Agreement prior to the adoption of the roads.

Public rights of way crossing land are protected by statute. They may not be obstructed by development until a formal diversion has been obtained. Development affecting such rights may be prejudiced if formal procedures under the provision of Section 257 of the Town and Country Planning Act 1990 are not instigated at an early state where diversions are required.

17.8 Verges on the edge of highways

A verge which is contiguous with private gardens and which the highway authority agrees to adopt will require special attention to ensure that the rights of the highway authority and statutory undertakers and the public at large are fully understood by the purchaser of the adjacent property. Much can be done including careful landscaping to indicate that such a verge is part of the highway. Sett or cobble patches should be provided to contain stop taps,



hydrants etc. The back of the verge (extent of the public highway) must be demarcated by a pcc footpath edging set flush with the verge.



Figure 26 – Highway verge

Where amenity verges are provided between the back of the footway and the highway boundary, these will be adopted, but the Statutory Undertakers and householders must be made aware of their rights and limitations in respect of access and maintenance of these verges.

One objective of open plan estates where service verges may occur is that householders will be encouraged to maintain the service verge. Therefore, whatever measures are taken to define the verges must not hinder maintenance by householders. However, purchasers must be made aware of the prohibition of building walls or fences and planting in the service verge of any hedges, trees or shrubs other than those included in the approved planting scheme and that the statutory undertakers may excavate their services within the service verge at any time.

Service verges must be shown on layout plans submitted for planning permission and any approved planting must be fully established before adoption.

While it is recognised that it is a matter for agreement between the developer and the purchaser it is strongly recommended that a suitable covenant be inserted in the conveyance to each purchaser. The following wording is recommended:-



“The Purchaser hereby covenants with the Vendor that he the Purchaser and his successors in title will not at any time hereafter erect or construct any building wall or fence or plant any tree or shrub on the strip of land shown cross hatched on the plan annexed hereto nor do or suffer to be done therein or thereon any act, matter or thing whereby the cover or soil over or the support of the pipes, wires and/or cables laid or to be laid in the said strip of land shall be altered or which may render access therefore more difficult or expensive and shall understand that the highway authority, the statutory undertakers and the public at large have unencumbered right or access to the said strip of land”.

Service verges shall be clearly indicated on sales plans available to prospective buyers.

17.9 Paved margins, clearance strips and overrun areas.

Paved margins will be adopted only if they are hard paved to the satisfaction of the Highway Authority and they perform a function relative to the highway i.e.

- **Paved margins** - carrying street lighting equipment, highway drainage etc;
- **Clearance strips** - protecting highway structures above, adjacent to or below the highway;
- **Overrun areas** - specifically designed to carry the overrun of large vehicles negotiating highway features; and
- **Paved areas** - used for the storage of specialised paving materials for the use of future maintenance of the highway.

17.10 Sewers and Drains

The Highway Authority will adopt and maintain as highway drains, those pipelines provided solely for the disposal of surface water from prospectively maintainable highways under the section 38 agreement, provided that:

(a) where such drains are laid outside the limits of the maintainable highway suitable easements shall be negotiated by the developer, with such rights of easement being transferred to the Highway Authority on adoption of the roads;

(b) Surface water flow calculations are to be submitted for approval by the Highway Authority; and



(c) the outfall at the point of discharge of a drain is of sufficient capacity and free of any legal encumbrances.

The status of all other drains and sewers under the adoptable highway must be the subject of negotiation with the Highway Authority or the Yorkshire Water Authority.

The Highway Authority will not normally accept the laying of private drains and private sewers within the limits of either the existing highway or prospectively maintainable highway. Connections from individual properties to the existing Highway drains will not be permitted. Connections from individual properties to the public sewers are a matter for the Water Authority's Agents.

17.11 Structures supporting the Highway

Structures to which the public have access or which support the Highway, whether to be adopted by the Highway Authority or maintained by another body, shall be designed and constructed in accordance with the procedures laid down in the Council's 'Technical Approval Procedure for Developers Structures'.

Structures supporting the highway but integral with properties will not normally be acceptable.

The Highway Authority will adopt and maintain structures which solely support the highway. Suitable access shall be provided for inspection and maintenance and where easements are required for this purpose these shall be negotiated by the developer and transferred to the Highway Authority on adoption of the structure.

17.12 Structures over the Highway

Any structure above or overhanging the highway i.e. balconies/bridging structures etc. will be permitted, providing all statutory regulations are complied with, and the developer obtains a licence under section 177 of the Highways Act and such licence is linked to the section 38 Agreement.