



CITY AND COUNTY OF SWANSEA

**Guidance for Works on the Highway and the Adoption of
new Infrastructure.**

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FOREWARD

City and County of Swansea, Highways.

The majority of new residential developments will require planning permission to be obtained from the Local Planning Authority.

As part of this process the Highways and Transportation Service will be formally consulted for Highways observations on the proposals.

Advice is willingly given at any stage of the development process and it is often the case that consultation prior to the formal submission of a planning application can lead to savings of time and help to avoid abortive works or misunderstandings.

Initial queries should be addressed to the Highways Management Team as detailed below:

Highways Management Team

networkmanagement@swansea.gov.uk

Address

Highways Management
City and County of Swansea,
c/o Civic Centre, Oystermouth Road, Swansea. SA1 3SN

Note:

In most cases, it will be a requirement that enquiries are undertaken with the Local Planning Authority in order that a coordinated and cross-discipline response is given.

1.0 Guidance Statement

This document sets out City & County of Swansea policy and guidance for works on the Highway and the adoption of new Infrastructure.

This guidance has been drawn up by the Highways Management Team In response to the objectives of the City and County of Swansea.

- To ensure planning applicants / developers are adequately informed of the highway Agreement process and its implications.
- To make the adoption process as efficient and economical as possible.

2.0 Purpose and aim of the Guidance

The purpose of this document is to guide developers through the process of establishing both a Section 278 Agreement and a Section 38 Agreement (S38) to ensure that highway works are delivered to the satisfaction of both parties.

The guidance outlines what developers and the City and County of Swansea can expect from each other and the options that are available to the planning applicant / developer.

Works required on the existing highway maintainable at public expense are managed under Section 278 Agreement, Highways Act 1980 (S278).

New estate roads and their associate drainage features have long been considered for adoption via a Section 38 Agreement, Highways Act 1980 (S38).

These agreements are normally reached by a legal consensus between the developer and the Highway Authority.

The implementation of the Advanced Payments Code Sections 219 - 225 of the Highways Act 1980 (APC) has also highlighted a need for revision and clarification of adoption policy and practice.

3.0 Adoption Process

Where the criteria for adoption are met and a suitable layout and design can be agreed planning applicants / developers will be invited to enter into an appropriate adoption agreement as soon as possible. The Highways Act 1980 details a number of methods by which the adoption of new roads, footways and paths may be secured and these are as follows:

4.0 Agreements under Section 278

Where developments require the alteration of the highway maintainable at public expense an agreement under this section of the Highway Act 1980 will be required.

A Section 278 Agreement (S278) provides a structured robust procedure for the technical approval of the works, regular inspections and also sets out the mechanisms by which the works are completed to Council requirements.

The City and County of Swansea is committed to working closely with planning applicants / developers to achieve:

- The highest quality development possible
- Efficient and effective delivery of projects for the benefit of all parties
- Development that is not a maintenance or financial burden or liability
- The delivery of works to adoptable standards
- Minimal disruption to the highway network during construction

Where the scope of the works are small in nature and involve minimal disruption to the highway, the use of Street Works licences may be considered in lieu of an agreement. Typically a Section 184 Licence Highways Act 1980 (S184), more informally referred to as a Vehicle Crossover License.

Where works are of a more substantial nature and there is a small associated element of Section 38 (S38), a combined agreement may be entered into as this minimises costs and streamlines the approval and construction processes.

However, where the extent of the proposed works is extensive and / or potentially disruptive to the expeditious movement of traffic, a separate Section 278 Agreement (S278) will be required.

Section 278 Agreements (S278) require the developer to submit a design for Technical Approval, details and specifications of which must be in accordance with the requirements of the design guidance set out on the Council's website.

The City & County of Swansea offers 'in house' delivery of Section 278 (S278) both design and construction options are available for consideration by the planning applicant / developer.

- The 'in house' design option provides the benefits of expediting the whole process and moreover secures a quality design and technical approval.
- The 'in house' construction option negates the requirement for the deposit of a bond / surety from the planning applicant / developer.
- The City and County of Swansea will be responsible for the works immediately which removes a maintenance period from the planning applicant / developer.

Nevertheless in some instances a different construction approach may be more appropriate whereby the planning applicant / developer may wish to undertake the Section 278 works themselves or by employing an approved and accredited (New Roads and Street Works Act 1991) contractor via a conventional and orthodox Section 278 Agreement (S278).

Options should be discussed with Highway Management in the first instance.

No works will be permitted on the highway maintainable at public expense without an appropriate agreement being in place.

Planning Consent is not consent to work on the Highway.

5.0 Agreements under Section 38

Where developments require the layout of new roads (off the highway maintainable at public expense) then an agreement under this section of the Highway Act 1980 can be considered by the planning applicant / developer and the City and County of Swansea.

A Section 38 Agreement (S38) provides a structured robust procedure for the technical approval of the works, regular inspections and also sets out the mechanisms by which the works are completed to Council requirements.

The City and County of Swansea is committed to working closely with planning applicants / developers to achieve and deliver:

- The highest quality development possible
- Efficient and effective delivery of projects for the benefit of all parties
- Development that is not a maintenance or financial burden or liability
- The delivery of works to adoptable standards
- Minimal disruption to the highway network during construction
- Consistent use of acceptable materials

Entering into a Section 38 Agreement (S38) is the preferred method of securing adoption and dedication of new highways.

It enables the City & County of Swansea to take over and maintain at public expense (adopt), roads, footways, footpaths, cycle lanes and street lighting constructed by a planning applicant / developer through legal agreement.

An Agreement under this section of the 1980 Act provides a structured robust procedure for the technical approval of the works, regular inspections and mechanisms through which the works are completed to an appropriate standard and other Council requirements.

The works are secured by an appropriate bond / surety which ensure that the road works can be completed in the event of the developer defaulting. The agreement requires a staged certificated release of the bond / surety subject to an agreed maintenance period.

The technical details and specifications for the works must be in accordance with the requirements of the design guidance.

The City and County of Swansea will not agree to the carrying out of inspections of works in the absence of real intent of the developer entering into an agreement.

Applications to enter into a Section 38 Agreement (S38) should be made to the City and County of Swansea as soon as practical during the development process, subject to the planning applicant / developer securing a Section 104 Agreement Water Industry Act 1991 with the respective Water Company.

If a Section 38 Agreement (S38) is entered into prior to site works commencing then this may negate the serving of an Advanced Payment Code notice. (Please refer to 7.0).

6.0 Agreements under Section 228

This section allows for the adoption of highways following works being executed in a private street by the posting an appropriate notice in the street.

After the posting of such a notice and on the expiry of one calendar month, during which time no valid objections have been received, the area of highway will become adopted and maintainable at the public expense.

This method is generally limited to be used only for small areas, and in regularising the Highway Network to the benefit of all the users of the highway.

7.0 Advanced Payment Code (APC)

The Advanced Payments Code (APC) Sections 219 to 225 Highways Act 1980.

These sections of the Highways Act 1980 make provision for the Highway Authority to secure a payment from a planning applicant / developer against the cost of future road works on a development (to ensure roads are built to an adoptable standard). This payment is used to complete outstanding Highway works should the planning

applicant / developer default and may be in addition to the Private Street Works Code.

The serving of a notice under the APC is triggered within 6 weeks of the deposit of Building Regulation plans, and this may be in advance of any Section 38 Agreement (S38) being signed.

The most appropriate use of the Advanced Payment Code (APC) is to encourage the adoption of highways which meet the criteria for adoption via a Section 38 agreement (S38).

The City and County of Swansea has little discretion to exclude any new residential roads from the provisions of the Advanced Payments Code (APC) even if the planning applicant / developer want to keep the roads private.

As a rule of thumb, Advanced Payments Code (APC) notices are generally not served on private streets serving 5 properties or less or on road layouts which do not meet adoptable standard criteria or otherwise qualify for exemption under the Act.

Highways on which APC notices are not served will not be considered for adoption and will remain private and the responsibility of the frontagers, either as a collective or as part of a management company set up by the developer.

In these situations the planning applicant / developer must make it clear to all prospective residents that the roads will remain privately maintained, in addition it should be made clear as to who will be responsible for the maintenance.

Where an Advanced Payment Code notice has been served it is an offence to start work, until the planning applicant / developer has satisfied the Notice or entered into a Section 38 Agreement (S38).

8.0 Private Street Works Code (PSC)

The Private Street Works Code (PSC) Sections 205 to 218 of the Highways Act 1980 sections of the Highways Act.

This makes provision for the Highway Authority to carry out works on private streets where it is of the opinion that works are required, and can recover the costs of works from the property owners fronting the street.

The Private Street Works Code (PSC) can be requested by frontagers in order to get their street adopted and is subject to a resolution being passed by the Council

The Private Street Works Code (PSC) can also be utilised in synergy with the Advanced Payments Code.

9.0 Temporary Access Agreement

Occasionally the planning applicant / developer may wish to proceed with works off the highway prior to entering into a Section 278 Agreement (S278) or indeed during the aforementioned process.

If there is no existing vehicular access present on the Highway, the planning applicant / developer is likely to only have rights to access land by foot only.

To facilitate the planning applicant / developer may approach the City & County of Swansea to consider temporary access.

Typically an application is only supported subject to a detailed Construction Traffic Management plan being provided and approved. It will be necessary for the planning applicant / developer to provide detailed design, pay the requisite fees and provide the appropriate level of insurance.

The appointed contractor will need to be duly accredited under the New Roads and Street Works Act 1991.

Details of requirements can be found in the appendices.

10.0 Construction Traffic Management Plan

The demolition, excavation and construction traffic generated by new development of all scales can have a serious impact on parking availability, traffic flow, road safety, residential amenity and pedestrian convenience if not properly managed.

For this reason the Council require all new developments that have the potential to cause disruption submit a Construction Traffic Management Plan (CTMP). Moreover this requirement is often conditioned within the Planning Consent

A typical Construction Traffic Management Plan should contain the following information:

- Routing of demolition, excavation and construction vehicles.
- Access arrangements to the site inclusive, of the management of pedestrians and other road users in order to cause minimal disruption to the highway network
- The estimated number of vehicles per day/week inclusive of swept path analysis.
- Details of the vehicle holding area
- Details of the vehicle call up procedure
- Estimates for the number and type of parking suspensions that will be required i.e. Temporary Traffic Regulation Orders.
- Details of any diversion, disruption or other abnormal use of the public highway during demolition, excavation and construction works.

- A strategy for coordinating the connection / diversion of services on site with any programmed work to utilities upon adjacent land / highway
- Work programme and/or timescale for each phase of the demolition, excavation and construction works
- Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes, parking bay suspensions and remaining road width for vehicle movements
- Proposed Chapter 8 proposals and durations
- Quality (to scale) engineering drawings overlaid on the adopted highway network
- Road safety audit in regard to proposed arrangements and Temporary Access location.
- Copy of Public Liability Insurance
- Key personnel contact details and site organisation.

Where the CTMP is a condition of the Planning Consent - you will be in breach of your planning permission and liable to enforcement, if you commence works without a plan in place.

11.0 Commuted Maintenance Sums

Commuted Maintenance Sums are essential to cover the cost of additional maintenance and maybe required for both Section 278 Agreements (S278) and Section 38 Agreements (S38).

Generally Commuted Maintenance Sums will be required for additional areas of highway and assets on Section 278 works.

In regard to Section 38 works a Commuted Maintenance Sums will be required for nonstandard items, materials or items which are more expensive to maintain.

Typical values of Commuted Maintenance Sums are shown in the appendices and are related to the County Surveyors Society publication – Commuted Sums for Maintaining Infrastructure Assets and City and County of Swansea Policy.

12.0 Stopping Up of Highway

Occasionally the planning applicant / developer will have a requirement to remove the Highway Status from land to facilitate a new development.

In this instance the relevance of whether the highway is adopted or not is immaterial, a due process is required prior to any works.

Typically a planning applicant / developer will have already obtained Planning Consent and in this instance Stopping Up of Highway can be applied for under Section 247 of the Town and Country Planning Act 1990 directly with Welsh Government. The City and County of Swansea will fulfil its duties as in the consultation process as the local Highway Authority.

Stopping Up of small sections of Highway and Network anomalies can be facilitated under Section 116 of the Highways Act 1980 at the magistrates' court.

The applicant must be fully aware that Stopping Up of Highway is never guaranteed and both routes carry an element of risk and that it is an offence to interfere with the Highway.

13.0 Fees

The approval and supervision of new highway infrastructure is a complex and time consuming process.

It is therefore appropriate that such costs are borne by the developer. For the sake of clarity fees discussed below are also in the respective Agreement application forms that can be found in the appendices.

The value of the works will fundamentally be decided by the City & County of Swansea however the respective applications will ask the planning applicant / developer to provide estimates, these maybe used as a guide.

Section 278 Fees.	8.5% of the Council's estimated cost of the works or £2000 whichever is the greater.
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Section 38 Fees.	8.5% of the Council's estimated cost of the works or £2000 whichever is the greater.
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Section 38 Sliding Scale Fees.	Works with an estimated construction cost over £1,250,000 are eligible for a discount of 2.5% with a capped maximum fee of £75,000
	Works with an estimated construction cost over £1,000,000 are eligible for a discount of 2% with a capped maximum fee of £70,000
	Works with an estimated construction cost over £750,000 are eligible for a discount of 1.5% with a capped maximum fee of £58,750
	Works with an estimated construction cost over £500,000 are eligible for a discount of 1.0% with a capped maximum fee of £45,000
	Works with an estimated construction cost over £250,000 are eligible for a discount of 0.5% with a capped maximum fee of £28,750

Other Highway Fees:

- Temporary Access Agreement: £1,200
- Construction Traffic Management Plan, consultation a minimum Fee £1,200 this includes: (1 site visit, 1 assessment and 1 meeting post assessment). In complicated and more involved circumstances this fee will be increase on total cost recovery basis.
- Stopping Up' of Highway under Section 116 of the Highways Act 1980 guide estimated costs £6,000 (based on historical applications) however this can increase if objections are raised at the magistrates' court. The majority of fees are allocated to advertising the Order.
- Stopping Up' of Highway under Section 247 of the Town and Country Planning Act 1990: any fees may be managed on a time charge basis. This will be discussed in accordance of the process commencing.

In the event that the fee is surpassed then the City & County of Swansea will invoke powers of Total Cost Recovery against planning applicants / developers.

14.0 Drainage

The developer must make clear at the outset whether or not a surface water sewer is to be considered as part of the Section 38 Agreement or whether it is also proposed to enter into an Agreement under Section 104 of the Water Industry Act 1991.

In the event that it is proposed to connect highway drainage into sewers under a Section 104 Agreement then written supporting documentation from Dwr Cymru Welsh Water must be provided, to confirm that the sewers have been accepted for adoption as public sewers.

Section 38 Agreements (S38) will not be completed until the respective Section 104 agreement is in place.

In general roads will only be accepted for adoption if they are drained via a positive gravity fed system i.e. an existing public sewer, highway drain (for highway water) or watercourse – to be sanctioned by the respective Water Authority, Highway Authority or Natural Resources Wales – where applicable.

Where it is proposed the highway drainage outfalls into 3rd party systems, evidence of a right to discharge in perpetuity will be required in all cases. If this is offered for adoption then respective easements need to be secured.

In addition, for privately maintained features evidence of the proposed maintenance regime will be also required.

In circumstances where there is no appropriate outfall available then the Developer needs to be mindful that in general soakaways will not be permitted within any road offered for adoption.

Proposed soakaways intended for roof and yard drainage must be designed and located outside their zone of influence to any adopted road or road intended for dedication to the Highway Authority. In general this zone is 7m.

Acceptable methodology and construction specification of highway attenuation is encouraged to be thoroughly discussed at the earliest opportunity if being considered for adoption.

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