

# Highways Development FAQs

This document provides answers to frequently asked questions on the following highways development topics:

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*For further information on these topics, please refer to Wokingham Borough Council (WBC)'s Highways Development webpage - <https://www.wokingham.gov.uk/planning-policy/advice-for-developers/highways-development-advice/>*

*If you have any queries that are not answered by these FAQs, please email us at [HighwayAgreements@wokingham.gov.uk](mailto:HighwayAgreements@wokingham.gov.uk)*

## **Highway Agreements**

### **1. What are the processes and legal provisions involved in highway development?**

#### **Adoption of New Roads: Section 38, Highways Act 1980**

The adoption of highways within new developments is secured through Section 38 of the Highways Act 1980. Developers enter into a voluntary agreement with the Council which sets out their obligations to construct the roads to an adoptable standard, maintain them for an agreed period and provide a bond to cover the cost of the works should the developer become unable to complete them. Once these obligations have been discharged, the Council will adopt the roads as publicly maintainable highway. WBC seeks to adopt highway serving more than five units, as these roads are considered as being of sufficient public utility.

The process of completing a Section 38 agreement is technically rigorous. Full planning approval is first required and technical acceptance must then be given by WBC officers before an agreement can be progressed. Checks, inspections and road safety audits take place throughout the process to ensure each stage of construction meets Council requirements. Once the works have been substantially completed to the satisfaction of WBC, a maintenance period for a minimum of twelve months will commence, during which time the developer remains responsible for maintaining the highway and carrying out any identified remedial works. After this period, subject to a final inspection, the highway will be adopted. Adoption can be delayed if the developer fails to complete any required remedial works adequately during the maintenance period.

It is important to note that sewers must also be adopted by a local Water Authority prior to or simultaneously with the adoption of the highway.

Please refer to Figure 2 of the Council's Highway Design Guide which sets out this process in more detail: <https://www.wokingham.gov.uk/planning-policy/advice-for-developers/highways-development-advice/>

#### **Works on Existing Public Highway: Section 278, Highways Act 1980**

The construction of new housing developments may also involve works on existing highway, for example, accesses into new developments or works on public highway to mitigate the impact of the new development during or after construction. In these cases, developers may enter into a separate Section 278 agreement or a combined S38/S278 agreement. The process for these agreements is similar to that of S38 agreements in terms of technical checks and inspections, the provision of a bond, and the requirement to undergo a maintenance period before adoption. No S278 works on public highway may commence until the agreement is signed and the necessary Streetworks licence is applied for and approved.

Some minor highway works may instead be covered by a Minor Works Agreement or licence arrangement, if acceptable to WBC.

#### Planning Obligations: Section 106, Town and Country Planning Act 1990

Section 106 Agreements and Unilateral Undertakings are types of planning obligation authorised by Section 106 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 Section 12. Planning obligations are used alongside planning conditions to secure community infrastructure in new developments or to mitigate the impact of new developments upon community facilities including the transport network. The introduction of the Community Infrastructure Levy (CIL) has meant that S106 agreements are required less to cover costs of highway infrastructure (for information on this, go to <https://www.wokingham.gov.uk/planning-policy/community-infrastructure-levy/>).

The Council also secures Section 106 agreements when a developer does not wish to enter into a Section 38 agreement (i.e. they intend to keep roads within a new development private). This obliges the developer to construct the road to a satisfactory standard, pay for the Council to inspect the site and provide for a Management Company to be set up to manage the ongoing maintenance of the estate roads, footways and verges to an agreed maintenance regime once complete.

#### Advance Payments Code (APC): Sections 219-225, Highways Act 1980

WBC also operates the Advance Payments Code (APC) under sections 219-225 of the Highways Act 1980. Within six weeks of a developer submitting a building regulations application, the Council will serve notice on the developer requesting a bond to cover the cost of the new road works in the event that the developer cannot complete the works. This is to protect property purchasers from costs that could be incurred in such a scenario, and applies to sites of more than five units regardless of whether the developer intends to enter into a Section 38 agreement or not. The obligation to secure the bond is triggered by the commencement of works to the buildings. Failure to provide a bond at this point constitutes a criminal offence. The obligation to provide the bond is discharged either upon completion of a Section 38 agreement (which will include the provision of a separate comparable bond), or, for roads that are intended to remain private, once the Council is satisfied that the road has been constructed to the required standard.

More information on the APC can be found in Appendix F of the Highways Design Guide: <https://www.wokingham.gov.uk/planning-policy/advice-for-developers/highways-development-advice/>

## **2. How can I find out if my road is adopted?**

You can view which roads are maintained by WBC at the following link:

<https://wokingham.maps.arcgis.com/apps/webappviewer/index.html?id=48c76902bc3c4517912f55369ae1499f> (if prompted for a login, click “Cancel”. Zooming in on the map will display adopted roads in yellow).

## **3. Does WBC have a duty to adopt roads at new developments?**

No – the Section 38 agreement is entered into voluntarily by the developer. Some developers may choose not to offer their roads for adoption. In this case, WBC will instead secure a Section 106 agreement (see above).

Where new developments are offered for adoption, WBC will seek to adopt those roads serving more than five dwellings, as these are considered as being of sufficient public utility.

WBC may decline to adopt all or part of the highway if:

- The highway is not constructed to an adoptable standard
- Utilities are placed in the carriageway instead of the service margins
- There is tanked drainage storage (SUDS) below the highway
- Highway structures such as bridges and culverts have not acquired the appropriate status from the Council’s technical approval process.

In these cases, a Section 106 agreement to secure private road maintenance arrangements will be required as above.

## **4. How can I find out when my road will be adopted?**

Typically it takes up to two years for works to be completed following signature of a Section 38 agreement, however this depends on the developer’s own timescales. Once works are substantially complete, the development will go onto a maintenance period of a minimum of twelve months before it is adopted, during which time any identified remedial works should be completed. Adoption can be delayed if there are still outstanding works at the end of this period.

For information on a specific development, please contact

[HighwayAgreements@wokingham.gov.uk](mailto:HighwayAgreements@wokingham.gov.uk).

## **5. How can I obtain copies of a highways agreement?**

Please contact our Land Charges department - [landcharges@wokingham.gov.uk](mailto:landcharges@wokingham.gov.uk). Please note there is a fee for this service.

## **6. How can I find out if a new housing site has an Advance Payment Code (APC) notice?**

Please contact [HighwayAgreements@wokingham.gov.uk](mailto:HighwayAgreements@wokingham.gov.uk) to confirm if the APC applies to a particular property. If an APC notice has been served this will also show up in a Local Land Charges search: <https://www.wokingham.gov.uk/planning/request-searches/search-local-land-charges/>

## **7. What would happen if the developer went bust?**

The different legal processes outlined above include the provision of bonds to cover the estimated cost of works. These bonds would enable WBC to complete the works should a developer go bust.

For Section 38 roads, the bond is partially released on commencement of the maintenance period (i.e. when the road is substantially completed) with the remainder released upon adoption. For private roads, the APC bond is discharged once WBC officers are satisfied that the road has been constructed to an adoptable standard (ongoing maintenance should be arranged with a management company, see Section 106 above).

## **Maintenance of New Developments**

### **Highway Maintenance**

**1. Who is responsible for maintaining the highway within new developments, e.g. grass cutting?**

The developer is responsible for maintaining the highway, including carriageway, verge and footway, until the development is adopted as public highway.

**2. Who is responsible for sweeping up mud on the road due to a development site?**

The developer is responsible for ensuring that their works are constructed in accordance with their approved Construction Environmental Management Plan (CEMP). This will include measures such as ensuring that construction vehicles go through a wheel wash to prevent mud and debris being carried onto the highway where it might cause a risk to highway users. For any issues, contact the development site manager in the first instance. If the problem persists, contact [constructionproblems@wokingham.gov.uk](mailto:constructionproblems@wokingham.gov.uk).

**3. Who deals with complaints about new developments – noise, light etc.?**

Please contact [constructionproblems@wokingham.gov.uk](mailto:constructionproblems@wokingham.gov.uk).

### **Highway Assets (Street Lighting)**

**1. When will street lighting be installed within a new development?**

Developers are responsible for providing street lighting on all new roads and footpaths for adoption unless there is agreement with WBC that the site should not be lit. In addition, all developments of 5 dwellings or more should have street lighting unless otherwise agreed in writing by WBC. However it should be noted that developments are looked at on a case-by-case basis, and in some situations certain factors (e.g. ecological) may impact on the lighting specification or the ability to provide street lighting.

The installation of street lighting depends on the developer's own timescales. It is good practice for lighting to be in place prior to occupation of the development.

**2. Who is responsible for fixing broken street lights or damaged street name plates?**

The developer is responsible for street lighting within the highway until the road is adopted. On adoption, the Council's Highway Assets team will take on the responsibility of maintaining the asset. Private lighting columns will typically not have a numbered WBC sticker and are usually maintained by a management company following a handover by the developer.

Other assets within the highway including street name plates are also the responsibility of the developer until the highway is adopted.

If you wish to report a broken street light, street name plate or other asset within highway that is already adopted, please go to:

<https://www.wokingham.gov.uk/roadworks-and-outdoor-maintenance/report-a-problem-with-roads-and-streets/>

## **Waste Collection**

### **1. Where can I find information on waste collection for new developments?**

Refuse vehicle collection for new developments is reviewed and designed at the planning stage, which includes ensuring that vehicles will be able to access developments safely.

For queries concerning specific developments, please contact

[Localities.Environmental@wokingham.gov.uk](mailto:Localities.Environmental@wokingham.gov.uk)

For general information on waste collection in the Borough, please see

<https://www.wokingham.gov.uk/rubbish-and-recycling/>

## **Parks and Public Open Spaces**

### **1. Where can I find information on parks and open space within new developments?**

Parks and public open spaces can be adopted by the local parish, WBC, or maintained by a management company. This takes place separately to highway adoption under terms of a Section 106 agreement, though the process similarly involves inspections and the completion of a maintenance period. For information on specific sites, please contact

[Localities.Environmental@wokingham.gov.uk](mailto:Localities.Environmental@wokingham.gov.uk).

# **Development Management**

## **Service Margins and Highway Boundaries**

### **1. What is a service margin?**

A service margin is a strip of land adjacent to the road, containing utilities including gas, water, electrical services and street lighting. A strip of land adjacent to the carriageway which does not contain utilities is called a maintenance margin and is used by highway maintenance operatives to work in to maintain the carriageway. Service or maintenance margins can comprise of grass verge, footway or hardstanding and are generally classified as public highway.

### **2. How wide is a service margin?**

A service margin is usually between 0.5m and 2.0m wide but it can be wider. WBC requires service margins of 2.0m where housing or development fronts onto a road. A margin of 1.0m is required where street lighting is present on one side of the road but no housing or development. A maintenance margin of 0.5m minimum can be provided where no housing, development or street lighting fronts onto the road.

### **3. Who is responsible for maintaining the service margin?**

WBC will maintain the service margins if the road is adopted as public highway. If not, the developer is responsible for maintaining the service strip until it is adopted. If the road is private, the responsibility will fall on the residents or the management company if one has been set up by the developer.

### **4. How do I find out where the highway boundary is on my driveway?**

On many residential estates, particularly where there is no footway, the service margin may be at the front of a property. The extent of property should be shown on title deeds when you bought the property, if not you should first contact the developer. The boundary of the service margin should also have been marked by the original developer e.g. by granite setts or concrete edging. In the course of time, some of the boundary markers may have been removed. In case of doubt, please contact the Highway Assets team ([highway.assets@wokingham.gov.uk](mailto:highway.assets@wokingham.gov.uk)) who should be able to establish the position of the boundary.

Please note that privately owned land can sometimes have highway rights upon it, making it public highway.

### **5. Can I plant on a service margin?**

No, generally not, but you can apply for a planting licence on the highway and it may be approved under certain conditions. Other changes, for example, placing stones in the



service margin, will also need to be agreed with WBC. Please contact [highway.assets@wokingham.gov.uk](mailto:highway.assets@wokingham.gov.uk).

#### **6. Can I discharge surface water from my property onto the highway?**

The run-off should be contained with your property by either positive drainage i.e. gullies or porous paving, which will need to be designed and submitted to WBC for approval associated with any proposed changes.

### **Parking Standards**

Further information on the topics below can be found in our Parking Standards document (see <https://www.wokingham.gov.uk/planning-policy/planning-policy-information/evidence-topics/> under Transport Evidence > Parking Standards Study). This sets out the standards WBC expects planning applications to meet.

#### **1. What size is a parking space?**

The standard size is 5m x 2.5m. Parking spaces parallel to an aisle or road would need to be 6.5m x 2.5m. A disabled bay would need to be 3.75m wide and 6.25m long. Additional space may be required where parking bays abut walls or other structures, to ensure ease of access, opening of car doors and unloading.

#### **2. How many visitor spaces are required in a new housing development?**

WBC Parking Standards require 0.2 visitor spaces to be provided for every residential property with allocated parking. For example, for every 5 houses with allocated spaces there would need to be 1 visitor space.

WBC's Parking Demand Calculation Spreadsheet (available at the link above) determines the level of unallocated parking required within a new development. The number of unallocated parking spaces will need to include the correct number of visitor spaces as above.

#### **3. How big does a garage need to be?**

Internal dimensions need to be a minimum of 6m x 3m for a single garage. If cycle storage is to be included, the minimum internal dimensions need to be 7m x 3m. Garage doors need to be 2.4m wide by 2.1m in height. Up and over doors also require space between the car and the garage for the door to swing open. 0.5m is normally sufficient for this.

#### **4. Where should cycle parking be located for houses?**

If the internal dimensions of a garage are at least 7m x 3m, then cycles can be stored in the garage. If the garages are 6m x 3m or there are no garages, then cycle storage would

need to be in sheds (of at least 2m x 0.9m to fit one bicycle or larger for more) in rear gardens with external access.

#### **5. What are the requirements of a cycle store for developments?**

Cycle storage outside of individual dwellings falls into two categories, short term and long term. In all situations, each cycle space will need to be 2m x 0.9m and facilities should be located in an area with good natural surveillance.

Short term facilities provide temporary storage for up to an hour or two whilst appointments, errands or short-term activities such as shopping or having lunch are undertaken. This type of parking might be provided by Sheffield style stands. These should be placed at least 900mm apart and at least 550mm away from vertical obstructions. For further details, please see Section 4.7.3 of the Parking Standards document.

Locations where cyclists are likely to leave bicycles for a number of hours, such as residential developments (especially flats), workplaces and schools will require long term facilities which should be secure and covered. The doors would need to be a minimum of 1m wide and should not open directly outwards onto a footway or road.

More details on cycle storage requirements can be found in the Parking Standards document (link above). Developers and designers are also referred to Manual for Streets Section 8.2 and Sustrans Information Sheet FF37.

## Glossary

**Adopted or public highway** – highway maintained by the Council at public expense. The highway comprises of the carriageway, as well as footway (pavement) and verges within service or maintenance margins.

**Advance Payments Code (APC) Notice** – a legal document issued within 6 weeks of building regulations submission, setting out the obligation for the developer to secure a bond covering the cost of highway works as soon as construction work commences to the buildings.

**Construction Environmental Management Plan (CEMP)** – a plan approved by the local authority outlining how the impacts of constructing the developer in the surrounding area will be minimised or mitigated.

**Local Land Charges** – financial charges or restrictions imposed on an area of land by public authorities, which affect whoever owns the land even if ownership changes. APC notices and legal agreements are among the documents that will be registered on the Local Land Charges Register. Searches of the register should be undertaken when buying a new property.

**Maintenance margin** – a strip of land usually adjacent to the road which does not contain facilities but is used by operatives to carry work in or maintain the carriageway. This forms part of the adopted highway.

**Management company** – where roads are to remain private rather than adopted, developers may set up a management company (and are often required to as part of a Section 106 agreement) to maintain the road instead of WBC. Property owners on private developments will normally pay a management fee to the company for this service.

**Parking Allocation** – for major residential development applications, WBC would expect to see a mix of the following types of parking space detailed in a parking plan:

- Allocated – parking spaces allocated to a particular property
- Unallocated – parking spaces that can be used by any residents in the development
- Visitor – a type of unallocated parking space intended for visitors to the development.

WBC's Parking Demand Calculation Spreadsheet (see <https://www.wokingham.gov.uk/planning-policy/planning-policy-information/evidence-topics/> under Transport Evidence > Parking Standards Study) determines the level of unallocated parking required within a new development. The number of unallocated parking spaces will need to include the correct number of visitor spaces as calculated above.

**Road Safety Audit (RSA)** – a process for checking that all road safety issues have been considered during the design process for highway related planning applications. Audits are undertaken either by the Highway Authority or a team of two or more qualified members

approved by the Highways Authority. The audit has four stages covering applications from preliminary design to monitoring after the road is constructed and open to traffic.

**Service margin** - a strip of land usually adjacent to the road, containing utilities including gas, water, electrical services and street lighting. This forms part of the adopted highway.

**Streetworks licence** – any proposed works in the public highway must have permission from WBC’s Streetworks team before they commence. Minimising disruption across the Borough’s highway network is a key consideration. Find out more here:

<https://www.wokingham.gov.uk/roadworks-and-outdoor-maintenance/roadworks-and-road-maintenance/street-works-permit-scheme/>

**Technical acceptance** – when the design of a highways development scheme is deemed by WBC officers to meet required standards including safety, they will confirm to the developer that the plans have technical acceptance. At this point, legal progression of a Section 38 or 278 agreement can commence.