

# Promoting Public Realm Development and the Role of Leicestershire County Council Highways

## 1. Introduction

### 1.1. Purpose of the guide and audience

This Guidance Note (Note) details the stages involved in preparing and delivering public realm development, with particular emphasis on schemes that require a Section 278 Agreement to work on Leicestershire County Council's (LCC's) adopted public highway.

The Note aims to advise about the necessary steps and aspects to consider regarding proposed highway that forms part of new development. The Note refers to all development phases but focuses on LCC's approvals process, traffic management arrangements and construction and maintenance considerations such as inspections.

### 1.2. Leicestershire Highway Design Guide

The intention of preparing this Note is to provide high level information about the stages involved in development schemes, any legal considerations and the Highway Authority fees charged in carrying out its duties. For detailed guidance regarding acceptable design standards, materials and construction and legal processes please refer to the LCC's [Leicestershire Highway Design Guide \(LHDG\)](#). Regarding Section 278 related work please refer to Part 6 "Working in the existing highway – Section 278" and our "Standard Conditions".

### 1.3. Roles of the authority and communication

The Environment and Transport Department at Leicestershire County Council is responsible for a range of highway and transport issues, including maintenance of all public highways in the County except for motorways and major trunk roads (maintained by National Highways).

The Highways and Transportation Branch (the Branch) of the Department is responsible for providing advice on development proposals that affect highways and transportation infrastructure. It deals with matters including:

- discussions with developers before they submit planning applications;
- providing advice on applications (substantive response) to local planning authorities;
- construction and adopting works for new development, including inspections;
- commuted sums; and
- travel plans.

Specifically, the various Highways and Transportation Branch Teams are responsible for:

#### Highway Development Management

- i. Representing Leicestershire County Council as the Local Highway Authority and statutory consultee in the planning process.

- ii. Providing detailed advice to Local Planning Authorities to allow the determination of planning applications, including advising conditions and contributions where appropriate.

### **Infrastructure Planning**

- i. Overseeing technical approval, delivery and adoption of development related highway infrastructure.
- ii. Performing statutory Lead Local Flood Authority duties.

### **Traffic and Signals**

- i. Managing the development of the network and the impact of growth,
- ii. Traffic management,
- iii. Traffic and safety queries,
- iv. Traffic signals installation and maintenance,
- v. Traffic assessments, safety schemes and traffic regulation orders.

### **Network Management**

- i. Temporary Traffic Regulation Orders
- ii. Permits and Licences to work in the highway
- iii. Coordination planned road works and maintenance activities (Temporary Traffic Regulation Orders, Road Space bookings)

### **Network and Data Intelligence**

- i. The design, development and operation of the County Council's transport models.
- ii. Collection, analysis and provision of transport data and intelligence to support economy and growth,
- iii. Data collection services to internal and external clients, modelling, data services
- iv. Technical advice as an income-generating service to internal and external clients (fees chargeable)

### **Safe and Sustainable**

- i. Lead on road safety education including managing the School Crossing Patrol service, Bikeability and Community Speed Watch (CSW)
- ii. Delivering Driver Education Workshops (DEW) and facilitating the Leicester, Leicestershire and Rutland Road Safety Partnership (LLRRSP)
- iii. Responsible for managing and maintaining the Public Rights of Way (PROW) network
- iv. Manages the definitive map, modification and diverse orders, enforcement matters and vegetation cuts
- v. Overseeing sustainable travel across the county (schools and businesses) and encourage sustainable modes of travel under the Choose How You Move (CHYM) branding – cycling, walking, passenger transport, car share.

- vi. Provide comments on Travel Plans and Public Transport Strategies and as part of S106 process facilitate Travel Packs, applications for free Bus Passes and undertake Travel Plan monitoring
- vii. Delivering the Enhanced Partnership Plan and Scheme, handling bus service registration changes, assessing the impacts against passenger transport policy and strategy (PTPS) and to decide on any County Council course of action.
- viii. Manage and maintain the County Council's bus shelter stock and work with Network Management to mitigate the impacts of road works on bus services

Although the Branch cannot not act as a scheme partner or sponsor, or offer detailed design ongoing support for scheme development, prospective developers are encouraged to speak to an officer at the earliest stages in the process to avoid later issues. It is also strongly advised that in addition to a design consultant and other key development team members, you engage an experienced transport planner early on to support your scheme.

## 2. Scheme Development – Concept to Detailed Design

### 2.1. Introduction

The amount of detailed work required for each development proposal will vary depending on its scale and impact on the surrounding highways and transportation infrastructure. It is important for all developments that the highway and transportation elements are treated holistically alongside other elements of the proposal. Part 2 of the LHDG sets out the benefits of this approach, LCC's general highway development guidance, advice on preparing your scheme and concept proposal and submission requirements.

It is vital that you approach both the Branch and the relevant planning authority for joint discussions at the earliest opportunity. This will assist in reducing the time taken at the planning application (where applicable), technical approval and construction stages. Early discussions will help the developer understand whether the proposal is likely to be acceptable in principle on highway or planning grounds.

One key element before progressing a proposal is to consider the funding required for delivery. Thorough consideration must be given to the likely costs involved, from preparation through to construction and maintenance. Regarding this Note, fees are charged by LCC that are associated with the approvals and network management processes. These fees are highlighted in the Sections below, but please speak to an officer if you are uncertain about the charges made.

### 2.2. Initial Preparation Stages – Principles to Concept Proposal

The initial stage of preparation is about establishing the basic principles of the proposal. Part of this process is about understanding the information that could influence the design. This includes assessing infrastructure facilities and conditions surrounding the site, such as the existing road network, traffic issues and proximity to schools and shops.

Other factors to consider during this stage are relating to those elements that will help shape the developments general layout, such as the location of site access, requirements for bus services and residential parking requirements. It is at this stage that it will be decided whether a transport assessment is required.

Many schemes will require a concept proposal, bringing together all highways and transportation, planning and any other relevant matters to demonstrate how you propose to deliver a safe, accessible and maintainable high-quality development. The level of information required at this stage will depend on the extent to which elements of the proposal are covered by the LHDG and whether it is the intention to submit a planning application.

At the preliminary design stage, the following surveys and stakeholder engagement works should be undertaken to ensure that any issues are fully understood:

- i. Topographical and Geological Information Surveys to understand ground levels and features and underlying ground conditions in and adjacent to the public highway.
- ii. Engagement with all statutory undertakers and utility suppliers in the area, including their requirements for diversion of their apparatus to accommodate your proposals.
- iii. Carriageway and footway construction core testing and trial hole analysis is required where anything other than full construction is proposed. Proposals must be consistent with the current highway construction guidance.
- iv. Details of surface water drainage systems/sewers; a detailed survey to demonstrate that a positive connection (via an adequate drainage network) to a public sewer or a watercourse.

It is only following the above work that an Agreement in principle can be reached following discussions with the planning authority and the Branch.

### 2.3. Planning and Preliminary/Detailed Design

Planning consent from the Local Planning Authority may be required where there are changes in the nature/use of the public highway and/or the change of use of private land to become part of the highway. Preliminary design is required for the purposes of planning applications but completion of detailed design should take place and be submitted for technical approval (see Section 3) following planning permission to avoid abortive work by the design team.

An Environmental Impact Assessment must be prepared for all road schemes along with other key planning documents. This will include the conducting of ecological surveys and noise, air and water quality monitoring.

You should continue to engage with the Branch prior to submitting a planning application and/or detailed design for technical approval.

## 3. Technical Approval and Legal Agreements

Where a scheme has undergone the planning process and gained planning permission, this permission does not constitute consent to work in the highway. Prior to carrying out any form of work in the public highway, approval must first be obtained from LCC as the Highway Authority, a bond must be secure and LCC's inspection fees paid. This section focuses what is required from a developer in order to gain consent.

### 3.1. Technical Approval and Section 278 Agreements

Where development requires works to be carried out on the existing highway, you will need to complete an Agreement with us under Section 278 of the Highways Act (Agreement). Before developing the detailed design and submitting a proposal for technical approval, the work set out in Section 2 should be completed and, where required, full planning permission obtained.

The design work and submission should be completed in accordance with Parts 4 and 6 of the LHDG. The designer will be required to complete the Detailed Design Checklist (DD1 – see supporting guides in Part 6 of the LHDG) confirming where the relevant information is included in their submission (as appropriate for the nature/scale of the works). <sup>(1)</sup>

You should continue to augment the survey, and engagement work completed at the preliminary design stage (see Section 2.2).

Should the proposals include the use of land that is not presently part of the existing public highway the landowner will need to be included in the legal Agreement for the executions of the works. The County Council would normally require ‘absolute title’ for the purposes of adding new areas of highway under the S278 Agreement.

*<sup>(1)</sup> Please note, design is approved on the details provided. The client and developer are responsible for ensuring compliance with CDM regulations.*

#### Consultation

Submissions must demonstrate that an appropriate level of discussion and consultation has been undertaken with local stakeholders, including those directly affected by the proposals (adjacent residents, business owners/operators, etc.) and any issues addressed as far as reasonably possible. Statutory consultations may be required for some aspects of the highway works.

### 3.2. Fees and costs

Fees and costs are chargeable for work undertaken by the Highway Authority for assessment, inspections, legal fees and future maintenance of infrastructure (commuted sums); these costs should be included in your estimate of total scheme cost.

1. **Inspection Fees** <sup>(2)</sup> - to cover the authority’s costs in managing the processes associated with appraisal & approval of the proposed scheme design, completion of the legal Agreement and continued compliance with the obligations of the S278 Agreement. The inspection fee is charged at 10% of the cost of the Highway Authority’s estimated costs of completing the highway works (including any stats / utility apparatus diversions) i.e. if the estimated cost of works is £415,985, the inspection fee will be £41,598.50. This fee is required to be paid to the County Council’s legal officers prior to the completion of the legal Agreement.
2. **Legal Fees** - required to cover the costs of drafting and completing the legal Agreement necessary to undertake the works in the highway. These fees are £1,200.

3. **Commuted Sums** - may be required to cover the costs of maintaining any elements of the scheme that are non-standard (in terms of materials and features) or 'extra-over' areas of construction. These costs can be significant in terms of scheme deliverability. The commuted sum for maintenance of granite paving where used instead of standard tarmac is currently £51 per m<sup>2</sup>; over an area 100m<sup>2</sup> this equates to £5100 per maintenance period. Please refer to the LHDG companion document on Commuted Sums for further detail.
4. **Bond** (or security deposit in lieu of bond) - required to provide the Highway Authority the appropriate level of surety to ensure that they can deliver the highway works should the developer or its contractor no longer be in a position to do so. The value of the bond/deposit will need to be equal to the full costs of highway works.
5. **Statutory consultations** - may be required under highway and transport legislation to allow certain features to be implemented, such as changes speed limits, alterations to moving restrictions, creation of cycleways, introduction of speed control measures and provision of some pedestrian crossings. The Authority requires the costs of the consultation processes associated with completing the regulatory obligations of these features to be met and charges £7,500 per feature.

*<sup>(2)</sup> Please note the Inspection carried out the Highway Authority is to verify, for the County Council's own records, that the works are being undertaken in accordance with the approved details, using the appropriate materials, tools and techniques. This does not equate to the same form of supervision required by the 'client' for the purposes of project/contract management and CDM regulations.*

## 4. Works Coordination

### 4.1. Road Space Booking

LCC operates a highway permit scheme to enable the minimisation of disruption caused by works to the road network. Anyone carrying out works on the road network in Leicestershire will need to apply for a permit before commencement (unless you have an authorised Licence under Section 50 of the New Roads and Street Works Act 1991). However, any technical approval and legal Agreements must be in place before a permit can be issued. The lead in time for the Permit Scheme is 12 weeks

Fees are charged for each of the following:

- Issuing a permit
- An application for a permit, where the Permit Scheme requires a Provisional Advance Authorisation (PAA) <sup>(3)</sup> to be obtained as part of that application; and
- Each occasion on which there is a variation of a permit or the conditions attached to a permit

<sup>(3)</sup> A PAA is required for “Major Activities” (as identified in the Department for Transport’s Statutory Guidance for Highway Authority Permit Schemes). PAAs provide a mechanism for significant activities to provisionally ‘book’ road space prior to further planning and discussion between the Promoter and the Permit Authority. Applications for a PAA must be made not less than three months in advance of the proposed commencement date of those works.

Details of the Permit Scheme and other related Licences, including current fees can be found on the LCC webpage <https://www.leicestershire.gov.uk/roads-and-travel/road-maintenance/highways-permits-and-licences>. On the webpage you will find application forms and the [Permit Scheme Supporting Document](#) which amongst other matters sets out the PAA process and the timescales for submitting and processing applications.

You will be required to co-ordinate your works with other organisations and parties that are planning to occupy the network in the vicinity of the site. This may mean delaying or rescheduling your works to avoid clashing with other committed highway schemes. Preferably, multiple parties should work together under a single permit to reduce the overall impact on the local community. The one.network (<https://one.network/>) website has live information on roadworks across the county and shows schemes that are already committed.

The applicant must be covered by Public Liability Insurance which should be available for inspection. The minimum cover is £5 million but it is advised to have cover for £10 million.

Liaison with residents, businesses and stakeholders is crucial. You should clearly communicate the programme of works, assess individual requirements for access and servicing and provide a point of contact details for public enquiries.

## 4.2. Traffic Regulation Orders

Traffic Regulation Orders (TROs) are the legal orders which define the rules of the road network. They provide highway authorities with powers to place permanent, temporary or experimental restrictions on traffic for the purposes of safety or traffic management.

### Traffic Regulation Order (“Permanent”)

Implementing a permanent TRO requires a legal process of consultation and advertisement so that the views of all interested parties and the needs of different users can be taken into consideration.

Examples of TROs are:

- waiting restrictions
- speed limits

- one-way streets
- prohibitions of vehicles
- HGV weight limits

The full process involved in making a TRO and typical costs charged by (currently £7.5k) LCC are presented in Section 7 Appendix I of the LHDG. A TRO is a complex process involving numerous parties and can take anything from 6 months to 3-4 years to process depending on the nature of the scheme. Early engagement is critical to ensuring success during the consultation phase.

### Temporary Traffic Regulation Order

Please refer to the TTRO [Guidance Note](#) for detailed information, including the fees charged for processing applications.

A Temporary Traffic Regulation Order (TTRO) is the legal process used to implement temporary restrictions such as the closure of a road or public right of way, change to a one way system, parking, speed or weight restrictions and changes to a right or left turn only.

TTRO's are normally used to allow essential or emergency works to be safely carried out on the highway, typically installation of, or maintenance works to services such as gas, electricity and water.

A minimum of 12 weeks is required to process a TTRO. This timescale enables engagement with the appropriate organisations and make any legal arrangements for the notice to be advertised in the local press.

Please visit the national roadworks web site [one.network.org](http://one.network.org) to ensure the proposed TTRO will not affect or be affected by any other works or events in the locality. Early communication with the Network Management team is encouraged to enable the applicant to understand any restrictions and constraints that might be imposed such as the Christmas moratorium, existing special events, proximity of works to schools and acceptability of working hours depending on the location.

Where roads are being closed the application should propose the diversion to be used which must be agreed by LCC.

### 4.3. Traffic Management

It is the responsibility of the applicant to keep disruption to the highway network to an absolute minimum and to ensure that the temporary restriction is signed in accordance with all the relevant and current legislation. Proposed signing arrangements will need to be submitted to LCC and should be designed to the approved standards.

A Traffic Management Plan must be prepared in support an application. The amount of information required for inclusion in the plan can be extensive and might include:

- Type of traffic control.
- Risk assessments / site observations.
- Anticipated traffic flows.
- Scale maps showing site extents and
- Diversion routes for vehicles and pedestrians.

## 5. Construction and Maintenance

Where works are being carried out under a Section 278 Agreement, you must not begin construction unless and until all approvals, agreements and information have been provided and fees paid in line with Section WEH5 of Part 6 of the LHDG (“Working on existing highways - Section 278 and Section 184 procedures”). General guidance on materials to be used and construction methods can be found in Part 4 of the LHDG.

LCC has also produced a “Standard Conditions” document, which applies to all works that are intended to become highway maintainable at public expense. This document can also be found on the Highway Design Guide webpage.

You must comply with all aspects of the Construction (Design and Management) Regulations 2015 and indemnify us (protect us from legal responsibility) against all claims, liabilities and actions if you fail to do so. You are also required to submit full details of any traffic management proposals for the construction of the highway works for approval by the appropriate officer.

The applicant will be required to provide information about the contractor they intend to use for construction. The level of information we will require will depend, amongst other things, on whether the intended contractor has worked before on a project of a similar scale and nature in the region and whether their previous work has been completed satisfactorily.

The Agreement will state that you must carry out the highway works to our satisfaction and you must comply with any reasonable requests made by our representatives. It will also impose a time limit on completing highway works. Where works are not completed within the stated time and an extension has been agreed, additional fees may be charged by LCC.

The applicant is responsible for the day-to-day supervision of the highway works construction. LCC’s inspections are solely for our own purposes in checking that works are being constructed in accordance with the approved drawings and requirements; they in no

way diminish the applicant's responsibility for site supervision. Satisfactory inspection is dependent upon prompt notification of when works are undertaken and that the various construction activities have been completed to the necessary standard. The applicant is responsible for any changes made outside of the approved Agreement and these should be notified at the earliest opportunity.

The Highway Authority is not responsible for the arrangement of consents or wayleaves to enable the execution of any work. The applicant must arrange this directly with the owners and occupiers of affected property.

On issue of the provisional certificate of completion the applicant will be responsible for maintaining the highway works for an agreed minimum period.

A final certificate of completion can be issued once all the actions stipulated in Section WEH5 Part 6 of the LHDG are completed to the satisfaction of LCC. This includes cyclic maintenance such as grass cutting and road sweeping as well as repairs to defects and third-party damage.

In addition to the LCC's fees stated in Section 3 above, charges are made for the work involved in:

- checking the design of the highway works, any associated structures and any highway drainage
- inspecting the works on site

Other charges in relation to commuted sums, delayed construction and additional legal costs can be made and are detailed in Section WEH7 of Part 6 of the LHDG.

## 6. Appendix

### Links to useful documentation

#### Design and Construction Guidance and Regulations

1. [LHDG](#)
2. [Construction \(Design and Management\) Regs 2015](#)

#### Section 278

1. [Working in the Existing Highway Section 278](#)

#### Fees

1. Fees for highway works covered by Section 278 agreements and on commuted sums – [LHDG Part 6, Section WEH7](#).
2. [Commuted Sums](#)
3. [Standard Conditions](#)
4. [Permits webpage](#)
5. [Permits Guidance Document](#)

#### Network Management

1. [Temporary Traffic Regulation Orders](#)
2. TTRO [Guidance Note](#)
3. [TRO Guidance](#)
4. [Permits webpage](#)
5. Roadworks [one.network.org](http://one.network.org)
6. [Permits Guidance Document](#)

#### Forms

1. [TTRO](#)
2. [Permit](#) (Road Space Application)
3. [Other applications for working in the highway](#)