

# Highways and Transport: Post-Planning Processes

Part 2: How to Deliver Associated Highways and  
Transport Measures



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 **Norfolk** County Council

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# Norfolk County Council

Norfolk County Council (NCC) is the Local Authority for the whole of Norfolk. We provide a range of services for people who live, work, do business or visit here. They include education, social services, highway maintenance, waste disposal, libraries, museums, fire and rescue, economic development and trading standards.

For further details of our services please visit [www.norfolk.gov.uk](http://www.norfolk.gov.uk).

Most planning applications are determined by the relevant Local Planning Authority (LPA), which is the District/Borough/City Council or the Broads Authority. The County Council (CC), as County Planning Authority (CPA), grants permission for specific developments including minerals extraction, waste management and disposal together with NCC's own development, such as schools and libraries.

In instances where development is likely to affect the transport network, the LPA's consults NCC as Local Highway Authority (LHA). Following detailed assessment we may request conditions and measures to be undertaken to mitigate the impacts of development.

**This document is divided into two parts and sets out information on the following: -**

**Part 1:** Interpreting highway conditions and how to satisfy the relevant requirements of your planning permission.

**Part 2:** The processes to complete highways and transport measures, such as off-site highway improvements, on-site requirements, public transport interventions, travel planning, etc.

Within the document where the term LPA is used, this also includes reference to the CPA.

If you need this document in large print, audio, Braille, alternative format or in a different language please contact Highways Development Management on 0344 800 8020, text relay 18001 0344 800 8020 or [developer.services@norfolk.gov.uk](mailto:developer.services@norfolk.gov.uk) and we will do our best to help.



# Foreword

In order to provide an inspirational place with a clear sense of identity and community, NCC recognises that not only is the quality of buildings around us extremely important but so too is the quality of place in which those buildings are situated.

Highways connect communities and play a vital part in the overall quality of life, affecting the way in which we access services and opportunities. They also play an essential part in the economic vibrancy and strength of our economy.

**This document offers guidance on how planning requirements can be timely and effectively delivered; it should be read in conjunction with our Aims and Guidance publication *Safe, Sustainable Development (SSD)* which offers advice to stakeholders prior to the submission of a planning application.**

Please visit [www.norfolk.gov.uk](http://www.norfolk.gov.uk) for further information.



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## List of Abbreviations

<b>ADEPT</b>	Association of Directors of Environment, Economy, Planning & Transport
<b>CC</b>	County Council
<b>CPA</b>	County Planning Authority
<b>DfT</b>	Department for Transport
<b>DMRB</b>	<i>Design Manual for Roads and Bridges</i>
<b>EHA</b>	Eastern Highways Alliance
<b>LHA</b>	Local Highway Authority
<b>LLA</b>	Local Lighting Authority
<b>LPA</b>	Local Planning Authority
<b>NCC</b>	Norfolk County Council
<b>RSA</b>	Road Safety Audit
<b>SSD</b>	<i>Safe, Sustainable Development</i>
<b>TRO</b>	Traffic Regulation Order

# 1. How to Deliver Highway Works



## **1.1 How to deliver your highway works**

This section covers not only the different forms of Agreement that are required for work to be undertaken in the highway but also looks at street works notice periods and access works.

## **1.2 Delivery of works/street works and notice periods**

It is not possible to work in the highway unless authorised to do so by the LHA.

It is important that Developers/their Contractors undertaking work contact and liaise with the Street Authority's local Network Co-ordinator as early as possible to discuss possible network impacts (such as road closures), in order that they are assessed, programmed and expedited so to minimise disruption and meet the co-ordination requirements of Traffic Management Act (2004).

The Traffic Management Act (2004) places a network management duty on NCC to keep traffic, including pedestrian traffic, flowing. The Act provides a regulatory framework within which utility companies - gas, electricity, water and telecoms - are permitted to dig up local roads and has significant implications for the way in which development is constructed or serviced.

Developers should give three months notice of proposed works within the highway and will be required to complete and return a copy of a Notice of Works in the Highway application.

A Traffic Management Plan is a requirement of the noticing process as it informs the Network Management Team what implications the Traffic Management for the proposal will have on the Network and its users, and what mitigation needs to be put in place. It is the Contractors responsibility to produce the Traffic Management Plan.

In addition, in order to assist the co-ordination and management of significant works, Developers of larger sites are expected to submit a brief statement setting out the likely utility infrastructure requirements.

It is also the Developers' responsibility to actively participate in prior community consultation and liaison, with customer contacts and attendance at public meetings. Again the local Network Co-ordinator is best placed to advise on this.

Please note that road closures require extensive prior local consultation, particularly with the local business community and public transport co-ordinators, and take approximately 6 weeks to process from receipt by the LHA of the completed application. More information is available at [www.norfolk.gov.uk](http://www.norfolk.gov.uk).

Under Section 58 of New Roads and Street Works Act (NRSWA) (1991), NCC as Street Authority, has powers to restrict works following substantial highway works such as resurfacing, for periods of up to 5 years.

If, as part of the off-site works, private apparatus (including drainage) is to be laid within the highway then a Section 50 Licence will be required. This may take up to 4 weeks to be issued. Further information is available at [www.norfolk.gov.uk](http://www.norfolk.gov.uk).

### 1.3 Vehicle access works affecting the highway

It is not permissible to allow vehicles to drive over a pavement or verge unless a vehicle crossing has been authorised and constructed to an agreed specification. To ensure damage is prevented to the highway NCC has powers under the Highways Act (1980) to serve a notice on offenders and recover its reasonable costs

Further information is available in our guidance note *Vehicle Access Crossing: - Guidance*, which is available to download at [www.norfolk.gov.uk](http://www.norfolk.gov.uk).

An application for a vehicle access crossing can be made online direct from NCC's website at [www.norfolk.gov.uk](http://www.norfolk.gov.uk). Applications can also be made using the *Application to Construct a Domestic/Light Duty Vehicular Access (Footway Verge Crossing)* form, which is available to download from our website at [www.norfolk.gov.uk](http://www.norfolk.gov.uk). Alternatively a request can be made by telephone on 0344 800 8020 (during office hours) for the application form to be sent to you by post. The completed application form should then be returned to NCC at the address given on the form.

On receipt of your application, an officer will be instructed to assess your application and if suitable prepare an estimate to construct the access crossing. NCC will then send you a letter with the estimate together with full terms and conditions. On receipt of your signed confirmation an officer will contact you to discuss possible implementation dates. If you are a leaseholder or do not own the property, you will be required to provide written permission from the Freeholder or Owner of the property prior to a vehicle access crossing being provided.



## 1.4 Developer funded highway works

When planning permission has been granted and improvement works are required to be carried out on an existing public highway and/or a Traffic Regulation Order (TRO) is to be made, the LHA will not allow such work to start until a binding legal agreement has been entered into.

Works to improve or alter the highway usually come forward under Section 278 of the Highways Act (1980) by agreement or under a short form of the standard Agreement.

### Abortive Cost Agreements

All Section 278 Agreements (other than the shortened pro-forma Small Highway Works Agreement) will require an Abortive Cost Agreement to be completed and a deposit paid before any work by the LHA (including meetings, design checking or initiating design work) can be undertaken. The Abortive Cost Agreement is simply an agreement that a Developer will cover NCC's reasonable costs in considering or taking forward a proposal. A financial deposit is required on signing the Abortive Cost Agreement and reasonable costs incurred by NCC will be deducted from the deposit. Account details are made available and if at any time it is decided not to progress the Works for any reason, all unspent monies will be returned with a full and final account.

### Types of Agreement

There are a number of agreements (and/or licenses) which the LHA may use to enable works to improve or alter the highway. This section describes in general terms, the scope and nature of Agreements made under Section 278 of the Highways Act (1980). Separate details are provided in respect of new, or alterations to, simple vehicle accesses and Small Highway Works Agreements which cover highway works estimated to not exceed £20,000 in value.

**Some charges may be subject to VAT and the Development Management Case Officer will be able to advise in that respect.**

The CC does not permit Developers to prepare detailed design, or construct works on the public highway that include traffic signals. Such schemes would require a Highway Authority Design and Build Agreement (see below).



Where improvements are to be carried-out on roads forming part of The Strategic Route Hierarchy and the works are not considered to be complex, the CC may permit the Developer to prepare the detailed design and/or carry out the works. Each proposal will be considered on an individual basis.

For these purposes the Strategic Route Hierarchy is defined as all Principal and certain Main Distributor roads together with those roads defined under the New Roads and Street Works Act (NRSWA) (1991) as 'Traffic Sensitive', 'Street with Special Engineering Difficulty' or 'Protected Street'.

The available Section 278 Agreement types are: -

- Highway Authority Design and Build (**HADBA**)
- Highway Authority Design and Developer Build (**HADDBA**)
- Developer Design and Highway Authority Build (**DDHABA**)
- Developer Design and Build (**DDBA**)

Highway Authority Design and Build Agreements (**HADBA**) offer a 'one-stop' shop with the CC doing all of the work for you. Duplication of effort is avoided and you will save any costs associated with the CC checking the scheme that you have paid a Consulting Engineer to produce, or any additional fees payable for the CC to oversee your Contractor.

The Agreement types comprise permutations of the following.

### **Highway Authority Design**

The CC prepares the detailed design of the works, providing the required documentation to enable work procurement.

The LHA will routinely involve its Environment Team, together with that of the relevant District or Borough Council who are able to guide and assist on relevant environment issues.

## Developer Design

The Developer, or their consultant prepares the detailed design for the works. The design will need to be vetted by the CC and may require alterations to achieve technical approval.

Safe methods of construction and traffic management must be considered by the designer, and the Construction (Design & Management) Regulations (2015) complied with where applicable. Early Contractor involvement in the design process is strongly recommended.

**To enable the CC, as the LHA, to have confidence that buildability issues have been considered during the design process, the designer will be required to submit a statement to confirm that safe methods of construction and traffic management have been considered.**

## Highway Authority Build

The CC will procure and supervise the construction of an approved design on the Developer's behalf. It is often possible for this to be either through our Strategic Partner, or through the Eastern Highways Alliance (EHA).

## Developer Build

The Developer arranges construction of the scheme by an approved Contractor, in accordance with the approved drawings and under supervision of CC staff. However, ultimate control of the highway works will rest with the CC via the procedures set out in the legal Agreement.

**PLEASE NOTE: If contractual difficulties are to be avoided, it is recommended that the names of potential main Contractors are submitted to the CC, for approval using a Pre-Qualification Questionnaire (PQQ), before tenders are sought. Contractors need to supply evidence of a minimum £5m Public Liability Insurance and Supervisor & Operatives' Street Works Accreditation.**

## Safety Audit

All schemes regardless of delivery mechanism will require a Road Safety Audit (RSA) in accordance with *Design Manual for Roads and Bridges (DMRB) GG 119*. The regime comprises audits at three stages: -

**RSA1** Completion of preliminary design.

**RSA2** Completion of detailed design.

**RSA3** Completion of construction.

This process is necessary to ensure that the built scheme does not introduce safety hazards to users of the public highway.

The outcome of the RSA3 may require additional works even if the scheme has been built in accordance with the drawings as designed and/or approved by the CC.

A fourth stage (RSA4) is defined in *DMRB GG 119* and relates to post-opening monitoring. This stage audit is not routinely applied to Section 278 Agreement schemes.

### Costs

No costs can be funded by the public purse. For all Agreement types, the Developer is therefore required to meet all of the CC costs associated with this process. Namely: -

- The cost of the highway works where the CC constructs the scheme. The estimated cost (including contingencies and where required utility costs, or similar) is payable at least 12 weeks prior to commencement of works and the Final Account will follow after completion.
- An administration fee equal to 2% of the estimated cost of the highway works, or surety. This becomes payable immediately the CC Legal Team are instructed to draft the Agreement.
- All other CC actual staff costs (plus overheads) in relation to the scheme.
- The CC's costs of promoting and implementing any necessary TROs required to facilitate the works or the development.
- Any compensation that may be properly paid in relation to Parts 1 and 2 of the Land Compensation Act (1973) or Regulations made thereunder as a result of carrying out or use of the Works.
- For general highway items, a commuted sum covering a period of 30 years to cover any likely increased maintenance liability arising from the Works. The commuted sum for structures is based on full lifetime replacement in accordance with Association of Directors of Environment, Economy, Planning & Transport (ADEPT) guidance.

Should the Developer construct the scheme, a surety equal to the estimated value of the highway works (including contingencies and where required utility costs, or similar), must be lodged with the CC to guarantee the Agreement. The surety can either be a 3rd Party Bond, or a cash deposit.

The CC's actual staff costs are in addition to any fees you may pay your Consulting Engineers and Contractor associated with the design and construction of the highway works.

The costs for the design stage will either be for full design, or for checking the detailed design and specification of the works for technical approval and will require an Abortive Cost Agreement as described above.

At the construction stage, the CC's staff costs for overseeing 'Developer Build' works are a requirement of the Section 278 Agreement. The supervision and auditing seeks to ensure the works are constructed in accordance with CC requirements, but is not intended to administer the conduct of the Contract between you and your Contractor, nor act as Planning Supervisor preparing the Health and Safety File containing 'as-built' records (unless otherwise covered by the Agreement).

### **1.5 Small Highway Works Agreements**

Small scale works on non-strategic routes, the estimated value of which does not exceed £20,000, can usually be carried-out under cover of a simple agreement known as a Small Highway Works Agreement (a form of a Section 278 Agreement) which can also include the dedication of land for highway purposes. At the discretion of NCC works whose value marginally exceeds £20,000 may be carried out under a Small Highway Works Agreement but only when the deposit reflects the value of the works.

The Developer is responsible for submitting detailed drawings and where appropriate a Stage 2 RSA report for the scheme. NCC will then consider and approve the detailed design. NCC will also liaise with the Developer concerning the approval of the chosen Contractor and programme of works.

It should be noted that only Contractors approved by NCC may undertake works within the highway. In cases where the works involve land outside the confines of the highway boundary, the Developer will be asked to supply proof of title to the necessary area. This land will be dedicated as public highway on commencement of the works.

The CC requires a £1,570 administration fee to cover costs associated with this process (administration, technical vetting, supervision fees), together with an upfront refundable cash deposit based on the estimated value of the works. The value of the deposit is normally either £3,000, £6,000 or £9,000. However where a scheme is particularly complex or contentious, a larger deposit may be required. An additional fee may be required for technical vetting of structures i.e. if the works include features such as culverts, or retaining walls.

It should be noted that more complex schemes delivered under a Small Highway Works Agreement will be subject to a Stage 3 RSA which will be arranged by NCC and this could require remedial works linked to recommendations even if they have been constructed in accordance with the approved drawings.

The CC may be able to assist with design and/or delivery of the works and would be pleased to discuss your requirements if you would like a quote.

## 2. Street Lighting



## 2.1 Street lighting

Street lighting is a concurrent power of the County, District, Town and Parish Councils. Whether highway or footway lighting is required as part of any new development will be determined in accordance with NCC policy which only requires street lighting adopted by the CC where it can be demonstrated there is highway need in terms of safety.

If the LHA agrees to adopt the street lighting, a lighting plan should be provided and/or certified by the CC's Street Lighting Partner. The Certified design must be incorporated into the approved Section 38 layout.

If a footway lighting scheme is to be adopted, its design shall be a matter between the Developer and the LLA and only passed to the CC to review as LHA before inclusion in the Section 38 Road Adoption Agreement. Lighting must however conform to the Footway Standard laid down in Section 270 of the Highways Act (1980).

Wherever possible it is recommended that the principle of street lighting provision on new development should be established as part of the planning application considerations. The CC street lighting team can provide detailed guidance on the requirements.

**PLEASE NOTE: The street lighting scheme must be constructed on site, exactly as per the signed Agreement plan, including any adoptable pads which will form part of the maintainable 'public highway'. If the approved scheme cannot be achieved on site, then a new Certified lighting plan must be agreed, and a formal amendment made to the signed Agreement, for which legal fees will be applicable.**

### 3. Road Adoption and Land Dedication



### **3.1 Road Adoption Agreements**

A legal agreement can be made with NCC, with a view to residential roads and streets becoming part of the public highway network. The main criteria are: -

- The Developer proposing adoption must prove Title to the land to be dedicated as public highway.
- The roadway must be designed and built to NCC's current design standards in terms of road layout, alignment etc. and also meet the standard construction specification.
- Suitable highway drainage must be provided, and any necessary Deeds of Easement obtained from third parties.
- Street lighting must be provided to current specification (if required).
- The roadway must serve more than 9 properties.

In the case of commercial development, road adoption is not considered to be necessary unless it can be demonstrated that the road has sufficient public utility.

### **3.2 Highways Act (1980) Section 38 Agreements**

A Section 38 Agreement may be completed to secure the adoption of new estate roads on private land owned by a Developer.

Planning permission is initially obtained in respect of an indicative layout. Following this the Developer prepares detailed technical drawings which are forwarded to NCC for approval, initially accompanied by an advance plan vetting fee of £2,000, which will be offset against the Section 38 supervision/administration fee.

Once the drawings are satisfactory, additional copies are requested which are forwarded with instructions to NCC's Solicitors to draft the Section 38 Agreement and are also used to supervise the construction works carried out by the Developer. The Section 38 Agreement must be supported by a Bond of Surety (or cash deposit), calculated as the full cost of the road works, in order to protect property purchasers from potential road charges.

Once the roads have been finished to the necessary standard, 95% of the properties proposed to front the estate roads constructed and the compulsory maintenance period successfully completed under the terms of the Section 38, NCC will adopt them as public highway.

The Developer is required to meet all of NCC costs associated with this process, namely: -

- An administration fee equal to 10% of the estimated value of the highway works, (less £2,000 plan vetting fee), payable immediately the CC Legal Team are instructed to draft the Agreement.
- Any Commuted Sums necessary for the future maintenance of any features detailed in Section 5.1.
- Legal fees (see Section 6).

### **3.3 Highways Act (1980) Section 37**

Developers are also at liberty to utilise Section 37 of the Highways Act (1980) to offer a roadway for adoption. The key stage inspections are identical to Section 38, but the process differs, in that a Developer serves notice on NCC with a suitable plan stating their intention to offer the roadway for dedication as public highway within the next three months.

NCC instigates road/street lighting inspections and carries out any necessary laboratory testing (at the Developer's expense) to establish suitable construction. Anglian Water Sewer Certificates are also required, together with the upfront submission of fees to allow any TRO for a 20mph zone to be promoted. Legal checks are also undertaken to establish that the Developer possesses adequate Title to dedicate the road as public highway.

The roadway then undergoes a statutory 12 months maintenance period before adoption can take place, subject to final remedial works.

NB: Supervision/administration fees are identical to Section 38; plus legal fees are applicable to check the Owner's Title.

### **3.4 Historic Private Streets**

Most roads are maintained at the public expense. Those which are not maintained at the public expense are known as 'Private Streets'. The term 'Private Street' is therefore related to the maintenance liability and should not be confused with the question of whether or not the public has a right of way along the road. Many private streets have deteriorated and are in a bad condition, so Parliament has given the power to CCs to make up private streets, and this is done by using the procedures laid down in Part XI of the Highways Act (1980).

It is NCC's practice to operate the Private Street Works Code on roads where an acceptable layout can be achieved and only when petitioned by the frontages to make up the road at their expense, showing a significant majority in favour. The cost of the work is apportioned to each Owner according to the frontage measurement of each property. For a period after completion of the work, (usually 12 months), the maintenance of the works is the responsibility of the Contractor who is required to rectify any defects which may appear due to faulty workmanship or materials. At the end of that maintenance period, it is usual for NCC to adopt the road as a highway, which is maintainable at public expense.

### **3.5 New Private Streets (serving less than 10 dwellings)**

Private drives are not considered an appropriate form of development to serve more than 9 dwellings.

However, in exceptional circumstances, where a roadway serving in excess of 9 dwellings cannot be constructed to an adoptable standard for a valid engineering reason, the CC will require the Developer to enter into a legal agreement to provide for the future maintenance of the private roadway, (generally made under (Section 106).

This policy may be relaxed for minor developments off existing lengths of 'private road' serving existing development, as service provision will already have been made and some agreement reached regarding the maintenance of the right of access for the foreseeable future. However, proof of these points may be required by NCC, as LHA, at the time the planning application is submitted.

### **3.6 Small scale development (less than 10 dwellings)**

Planning applications for roads serving 9 properties or fewer, will be deemed to remain private and property purchasers should be advised accordingly.

### **3.7 Land dedication Section 278 & 38 Agreements and Small Highway Works Agreements**

If required to facilitate agreed works, as part of a Section 278 Agreement or a Small Highway Works Agreement land can be dedicated as public highway under the terms of Highway Authority Design & Build Agreements and Developer Design & Build Agreements, as described in earlier sections. Small Highway Works Agreements can also contain a clause to provide for the dedication of land as public highway. Every Section 38 Agreement requires land dedication as a matter of course. All documents where land dedication is required must contain a drawing detailing the area in question.

These drawings are used to document the position of any revised highway boundary. Where new highway has been constructed, a digitised adoption plan is produced based on the drawings attached to the legal agreements. These plans show the new highway land, which is generally the carriageway and the surrounding verges or footpath and also document the name of the Developer, the date of adoption and a file reference referring to the legal agreement.

### **3.8 Easements within Section 278 & 38 Agreements and Small Highway Works Agreements**

Schemes sometimes require the installation of features, most commonly soakaways and connecting pipes, on private land outside the highway. In such cases, the Agreement will need to be accompanied by a Deed of Easement. The Easement would allow for the installation and subsequent maintenance by NCC of the required infrastructure.

When the Deed of Easement is completed, it will be registered with Land Registry against the relevant Title.

The Developer is required to meet NCC costs associated with this process, but these are generally completed in tandem with the legal document and included in the fee total.

## 4. Commuted Maintenance



## 4.1 Commuted Maintenance

Where changes occur to the highway network as a result of development, NCC inherits the liability of the upkeep of any new assets. Sums are secured through the relevant highway agreement and are recovered upon completion of the work.

Where the maintenance costs lie outside of the scope of the Revenue Support Grant (RSG), NCC recovers a sum from the Developer to maintain, replace and provide energy to the additional or non-standard assets for a period of 30 years for most assets or 120 years in the case of structures such as bridges.

To assess the charges, in line with many other Local Authorities, NCC follows the principles of the guidance produced for the DfT by the Association of Directors of Environment, Economy, Planning and Transport (ADEPT) formerly the County Surveyors Society and its publication 'Commuted Sums for Maintaining Infrastructure Assets'.

In the case of Section 278 Developer funded changes to the existing highway network, NCC charges for all assets over and above those already maintained. This will include new carriageway, footways, cycleways, kerbing, bus stops and shelters, traffic signals, street lighting and road signs together with any landscaping, highway structures and surface water drainage systems.

Funding to maintain new assets delivered through Section 38 Agreements are usually provided through the Revenue Support Grant (RSG). However this is based on the provision of 'standard' construction and therefore Commuted Maintenance will typically be charged for Section 38 schemes where surface water drainage systems incorporating soakaways, hydrobrakes or sustainable urban drainage systems (SUDS) are provided, or those which include landscaping or highway structures (such as retaining walls and bridges).

## 5. Legal Fees



## **5.1 Legal fees**

### **Section 278**

In order to minimise financial risk to the public purse, NCC requires a solicitor's undertaking to pay our reasonable legal fees incurred in connection with the preparation and completion of the Section 278 Agreement. Legal fees are charged on a time engaged basis and will usually be in the order of £1,500 depending on the degree of difficulty.

### **Section 38**

Similarly, NCC requires a solicitor's undertaking to pay our reasonable legal fees incurred in connection with the preparation and completion of the Section 38 Agreement. Legal fees are again charged on a time engaged basis and will usually be in the order of £1,500 depending on the degree of difficulty.

Any deviation from the approved plan encountered whilst the Section 38 construction is ongoing (including the relocation of street lighting columns), may require a formal amendment to the document, for which the Developer will be responsible for all reasonable legal costs.

### **Section 37**

NCC requires a solicitor's undertaking to pay our reasonable legal fees incurred in checking the Owner's Title to the land proposed to be dedicated as public highway detailed in the Section 37 Notice.

## 6. Planning Obligations



## 6.1 Planning obligations

Planning obligations, also known as Section 106 Agreements (based on that section of the Town & Country Planning Act (1990)) are agreements made between Local Authorities and Developers and can be attached to a planning permission to make acceptable development which would otherwise be unacceptable in planning terms. The land itself, rather than the person or organisation that develops the land, is bound by a Section 106 Agreement, something any future owners will need to take into account.

The Government's policy on the use of planning obligations is set out on the Planning Practice Guidance website. LPA's must take this guidance into account in their decisions on planning applications and must have good reasons for departing from it.

Planning obligations are used for three purposes: -

- Prescribe the nature of development (for example, requiring a given portion of housing is affordable).
- Compensate for loss or damage created by a development (for example, loss of open space).
- Mitigate a development's impact (for example, through increased public transport provision).

In April 2010 a number of measures within the Community Infrastructure Levy (CIL) Regulations 2010 came into force. All infrastructure requirements must now be compliant with the legal tests set out in the Community Infrastructure Levy Regulations 2010 (as amended) (Reg 122) and be: -

- Necessary to make the development acceptable in planning terms.
- Directly related to the development.
- Fairly and reasonably related in scale and kind to the development.

They are usually secured in connection with highways and transport measures to fund relevant services or measures that require a financial contribution or payment.

Amended regulations were laid before Parliament on 4 June 2019 (Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019) and came into force on 1 September 2019. The amended regulations follow the Government's Technical Consultation in December 2018 on Reforming Developer Contributions, which covered: -

- Lifting the pooling restrictions on Section 106 Agreements i.e. allowing more than five such Agreements to contribute towards a single piece or type of infrastructure. In particular the Government accepts the argument that lifting the pooling restriction in all areas would remove barriers to development and could in some circumstances give LPA's the ability to secure more funding through Section 106 Agreements to deliver the infrastructure needed to support development.
- To clarify how Section 106 planning obligations can be used for monitoring, specifically permitting Local Authorities to charge for monitoring obligations.
- Allowing LPA's to use both Section 106 Agreements and the Community Infrastructure Levy (CIL) to fund the same infrastructure.
- Introducing Infrastructure Funding Statements, whereby Local Authorities set out their infrastructure priorities and delivery as well as showing how monies received have been spent.

The amended Community Infrastructure Levy (CIL) Regulations are reflected in the CC's Planning Obligations Standards, which set out clearly the planning obligations requirements the CC may seek in association with new development. These Standards are available to download from our website at [www.norfolk.gov.uk](http://www.norfolk.gov.uk).