

Kirklees Council

Highways Guidance Note – Requirements of New and Improved Roads and Paths

March 2019 (version 3)

<i>This guidance note</i>	1
<i>Background information</i>	1
<i>Legislative requirements</i>	2
<i>Standards, guidance, and best practice</i>	4
<i>Further information, comments, and queries</i>	5

This guidance note

Introduction

- 1 This guidance note summarizes the requirements of new and improved roads and paths. It also advises on the guidance and standards used by highways teams within Kirklees Council when reviewing development proposals that involve new highways, works to existing highways, or related matters.
- 2 This guidance note has been written mainly to help developers, but it will also be used by highways teams within Kirklees Council.

Previous version

- 3 This version replaces the previous version of this guidance note, which is withdrawn.
- 4 Significant changes from the previous version of this guidance note are highlighted with a vertical line to the left of the affected text.

Implementation

- 5 This guidance note applies to all applications for technical review submitted on or after 1 April 2019.

Background information

Objectives for new and improved roads and paths

- 6 Kirklees Council seeks to ensure that any new roads or paths and any improved highways would:
 - be safe, secure, and convenient for all members of the public
 - be safe, convenient, and not disproportionately expensive to maintain
 - support the development of thriving, liveable neighbourhoods

Reviews of development proposals

- 7 To achieve the above objectives, Kirklees Council reviews development proposals that involve new highways, works to existing highways, or related matters principally at the following occasions:
 - Pre-planning application enquiries
 - Applications for planning permission
 - Applications for the discharge of planning conditions

- Applications for agreements under sections 38 or 278 of the [Highways Act 1980](#)
- Other requests for the adoption of roads or paths as publicly maintainable highway

8 Reviews undertaken at different stages in a project's development will differ in scope and the level of detail considered. In general, later reviews will be more detailed than earlier ones. However, if matters that can have a fundamental bearing upon the principles of the project – such as vertical alignment and drainage – are not considered early on, then delays to the project or expensive reworking may result.

Legislative requirements

Introduction

10 The design of development proposals must comply with various legislative requirements. Some of the most relevant are discussed below.

Equality

11 Development proposals must comply with the [Equality Act 2010](#). Under this act, it is unlawful to discriminate against anyone on the grounds of disability and 'service providers' – including private businesses – must make 'reasonable adjustments' to remove barriers to disabled people. When applied to new residential or commercial developments this means that roads and paths should be usable by all members of the public, including those with visual, hearing, or mobility impairments or learning disabilities.

12 The Department for Transport publications [Inclusive Mobility](#) (December 2005) and [Guidance on the Use of Tactile Paving Surfaces](#) (June 2007) give advice on how to provide for members of the public with visual, hearing, or mobility impairments or learning disabilities. However, what counts as 'reasonable' will depend upon the circumstances. For example, the topography of a site or any existing development may affect what it would be reasonable to provide.

13 In addition to the above, the [Equality Act](#) requires Kirklees Council to have 'due regard to the need to advance equality of opportunity' between

Highway reviews and planning permission

9 The powers available to Kirklees Council under sections 38 and 278 of the [Highways Act](#) are discretionary. In other words, the council does not have to use them. Therefore, when deciding whether to enter into a section 38 or 278 agreement, the council must consider what would give 'best value' to the public, where 'value' includes economic, environmental, and social value. In contrast, as discussed in paragraphs 21 to 24, the council must assess applications for planning permission against the requirements of local and national planning policy. The use of these different criteria can result in different decisions.

people with disabilities and those without when exercising its statutory functions. These functions include the process of adopting roads or paths as publicly maintainable highways.

Safety and health

14 The design of development proposals must comply with health and safety legislation. This includes the [Health and Safety at Work etc Act 1974](#) and the [Construction \(Design and Management\) Regulations 2015](#) (CDM Regulations).

15 The [Health and Safety at Work Act](#) requires employers – which includes developers – to conduct their business in a way that ensures, 'so far as is reasonably practicable', that they do not expose 'persons not in their employment' to risks to their health or safety. This means that developers must ensure that their developments do not unreasonably increase the risks to the public, local residents, or people engaged in servicing or maintaining the roads, paths, and drains provided.

16 In addition, the [CDM Regulations](#) impose specific requirements on designers to eliminate, 'so far as is reasonably practicable', foreseeable risks to safety or health.

17 Kirklees Council would be responsible for the ongoing maintenance and management of any roads or paths adopted as publicly maintainable highways. Accordingly, it also has specific duties under the [Health and Safety at Work Act](#) to make sure that the working environment of anyone maintaining the roads and paths would be safe and

without risks to health. Therefore, when deciding whether to adopt roads or paths, the council has a duty to refuse any that could not be maintained safely.

Highways

18 The [Highways Act](#) contains some specific restrictions on developments that may affect highways or other ‘streets’ (roads or paths open to the public). These include:

- [Section 153](#) – doors, gates, and similar must not be openable outwards into a ‘street’ (a road or path open to the public)
- [Section 167](#) – retaining walls that would be within 4 yards (3.66 m) of a ‘street’ and more than 4 feet 6 inches (1.37 m) above the level of the street at any point must be approved by Kirklees Council, even if they were not to be adopted

Building control

19 Development proposals must comply with the [Building Regulations 2010](#) (as amended). Although these regulations generally only cover buildings, they also cover roads and paths that provide access to buildings. Therefore, they can have a significant effect on the layout of development sites.

20 The government has issued [Approved Documents](#) to give practical guidance on complying with the [Building Regulations](#). At the time this guidance note was prepared, the ones most relevant to roads and paths within proposed developments were:

- [Approved Document B – Fire Safety](#)
 - Volume 1: Dwellinghouses*
 - Volume 2: Buildings Other than Dwellinghouses*
- [Approved Document H – Drainage and Waste Disposal](#)
- [Approved Document K – Protection from Falling, Collision and Impact](#)

- [Approved Document M – Access to and Use of Buildings](#)

Volume 1: Dwellings

Volume 2: Buildings Other than Dwellings

Planning permission

21 Applications for planning permission must be determined in accordance with the local development plan. In Kirklees, this is the [Kirklees Local Plan](#). This includes several policies that relate directly to highways and other roads and paths and to the layout of development sites.

22 Kirklees Council has also prepared a draft ‘supplementary planning document’ (SPD) on highway design. The [Highway Design Guide SPD](#) is intended to provide more detailed advice or guidance on policies in the [Kirklees Local Plan](#).

23 When considering planning applications, the council must also take into account the government’s [National Planning Policy Framework](#) or [NPPF](#) and any other ‘material considerations’.

24 Developers must bear in mind that Kirklees Council only assesses the equality, safety, and health aspects of planning applications to the extent that these are material considerations or are covered by the [Kirklees Local Plan](#) or the [NPPF](#). In addition, when considering planning applications, the council does not check for compliance with the [Building Regulations](#), neither does it consider in detail how any roads or paths in the development would be maintained. Accordingly:

- The granting of planning permission does not mean that any proposed road or path meets the criteria for adoption at that stage; this would be determined during the technical review of the detailed design.
- Developers applying for planning permission without adequately considering the above factors run the risk that additional applications may be required once the development has been appropriately redesigned.

Standards, guidance, and best practice

Kirklees Council guidance**Highway design guide and guidance notes**

25 Kirklees Council's adopted highway design guide is the former West Yorkshire Metropolitan County Council's *Highway design guide* issued in 1985. Although this is now out of print, digital copies are available from the highway adoptions team.

26 As the West Yorkshire design guide is now over 30 years old, parts of it are out of date. Accordingly, Kirklees Council has produced a series of [highways guidance notes](#) that give advice on highway adoptions and requirements for new roads and paths.

27 Where there is a clash, the requirements of the [highways guidance notes](#) shall apply instead of those in the West Yorkshire design guide.

Waste collection, recycling, and storage

28 Kirklees Council has issued a *Good Practice Guide for Developers* on waste collection, recycling, and storage facilities. Digital copies of this are available from the highway adoptions team.

National guidance and standards

29 When reviewing submitted designs, Kirklees Council also seeks to apply the requirements of the following national guidance or standards:

- [Manual for Streets](#), Department for Transport and Department for Communities and Local Government
- [Manual for Streets 2](#), Chartered Institution of Highways and Transportation

Best practice and other sources of advice

30 Even if they conformed to legislative requirements and published standards or guidance, Kirklees Council would only adopt roads and paths as publicly maintainable highway if they were well designed and constructed and complied with current best practice.

31 When assessing whether prospective publicly maintainable highways were well designed and constructed and complied with current best practice, Kirklees Council will also have regard to published guidance and advice on the design of developments available from a number of sources. This includes the following publications, which contain useful advice but may not be directly applicable to local roads in Kirklees:

- The [Design Manual for Roads and Bridges](#) (DMRB), issued by Highways England (formerly the Highways Agency) and others
- [Local Transport Notes](#) (LTNs) and [Traffic Advisory Leaflets](#) (TALs) issued by the Department for Transport
- [Streets and Transport in the Urban Environment](#), Chartered Institution of Highways and Transportation publication

West Yorkshire Fire and Rescue Service guidance

32 West Yorkshire Fire and Rescue Service has produced a series of [safety leaflets](#) that give advice on fire precautions and compliance with relevant legislation. The one most relevant to roads and paths within proposed developments is [FS-PAN010 – Access for Fire Appliances](#).

Further information, comments, and queries

Kirklees Council highways standards and guidance

Highways guidance notes

- Existing Roads and Paths Affected by New Developments
- Gradients
- Highway Adoption Drawings
- Highway Adoptions and the CDM Regulations
- Highway Adoptions Criteria
- Highways Technical Approval
- Highways, SuDS, and Private Drainage
- Introduction to Highways and Adoptions
- Operation and Maintenance Manuals for Adopted Highways
- Requirements of New and Improved Roads and Paths
- Requirements of Submitted Documents
- Section 38 Agreements for Highway Adoptions
- Soakaways
- Technical Approval of Surface Water Flow Attenuation Tanks and Pipes

Other highways documents

- Kirklees Highways Standard Details

Comments and queries

Kirklees Council welcomes comments and queries about this guidance note

Although Kirklees Council is not responsible for the content of external websites, please report any broken links

- Huddersfield (01484) 22 1000 – ask for ‘Highway Adoptions’
- Highways.Section38@kirklees.gov.uk
- www.kirklees.gov.uk/highwayadoptions
- Kirklees Council
Highway Adoptions
Flint Street Depot
Flint Street
Fartown
Huddersfield
HD1 6LG

© Kirklees Council 2019