

Procedure

Before you can enter into a Section 278 Agreement, you need to obtain full planning permission for the development from the local Planning Authority. This must include approval of any reserved matters relating to the highway works

If you intend commencing any works before planning consent is granted, you must agree to refund all of our costs in the event that planning consent is not granted or the development does not proceed for any reason.

We must be protected against the risk of unforeseen expenditure if the highway works are unfinished for any reason.

Before commencing work on the highway you must arrange for an appropriate surety equal to the calculated cost (which requires submission of a fully costed Bill of Quantities for the Section 278 works).

Planning and highways agreements

Planning and highways agreements including Section 106 Agreements, Section 278 Agreements and Section 38 Agreements.

Section 278 Agreements - Highways Act 1980 - Developer Funded Improvements Works to the Existing Highway

Where highway objections to proposals can be overcome by improvements to the existing highway, developers can enter an agreement that requires them to pay for or undertake such works. These works may include minor highway realignments, roundabouts, traffic signals, right-turning lanes, passing bays.

Prior to the commencement of construction, developers are requested submit full construction drawings for approval and enter into a Section 278 Agreement with a Bond to cover the full road construction. Developers are advised that without such an agreement in place they may not commence any works within the public highway.

The Surety, Scheme Design and Safety Audits

The Surety may be in the form of:

- A bond with a recognised financial institution; or
- The equivalent sum of monies lodged with us.

The scheme design must comply with the Design Manual for Roads and Bridges and the Specification for Highway Works as extended and amended by us.

We require that Safety Audits to HD19-03 are carried out for all highway works covered by Section 278 Agreements.

An accredited Safety Auditor, independent from the design consultant, is required to undertake the safety audits. You will be responsible for commissioning and paying for any work associated with the safety audits.

You must comply with all aspects of the Construction (Design and Management) Regulations 1994, and indemnify us (protect us from legal responsibility) against all claims, liabilities and actions if you fail to do so.

Feasibility Stage

You must agree the need for any off-site highway works and their general nature with us before submitting a planning application.

We must be satisfied that any proposed highway works:

- Will off-set the highway and transportation impacts of the development; and
- Are possible within the land constraints of the development.

These requirements are necessary before we recommend to the local Planning Authority that the development is acceptable.

You will be required to supply key information at the feasibility stage in order that we can be satisfied that the proposed highway works are possible.

Preliminary Design Stage

When we have agreed the general scheme layout at the feasibility stage, the approved consultants will be required to submit a preliminary design. This should minimise the need for a lot of design changes at the detail design stage.

When Stage 1 Approval has been granted the Highways Engineer will seek Members' approval to enter into a Section 278 Agreement with you (this process usually takes between 4 to 6 weeks). Work on preparing the legal agreement cannot commence until Members' approval has been obtained.

Detailed Design Stage

When the scheme has received Members' approval for Stage 1, it will be necessary for you to submit the detailed design.

The legal agreement will state that we must approve the detailed design before any construction works commence.

Technical Approval Checks

A Stage 1/2 safety audit (to HD19-03) must be submitted with the design package.

We will only issue technical approval after:

- A satisfactory design package has been submitted;
- Stage 1 and 2 safety audits have been satisfactorily completed; and
- Any additional or amended details required have been submitted and approved.

Technical Approval Checks

Before carrying out any technical approval checks, we require you to pay an advanced sum (deposit) to cover our costs for checking the design, preparing the legal agreement and any general management issues relating to the scheme.

Construction Works Procedure

You will not be permitted to start work on the highway until:

- The Section 278 Agreement has been completed by our Legal Section and the Bond is in place or the equivalent sums of monies has been paid;
- You have been given Stage 2 Technical approval and Safety Audit approval;
- You have consulted highwayapplications@manchester.gov.uk on the co-ordination of your works with other works on the local highway network;
- Your contractor has been approved by us including their Public Liability Insurance (£10 million cover, minimum) - Note that the insurer must be a member of the ABI (Association of British Insurers);
- The programme and traffic management proposals have been approved;
- Advance notification has been e-mailed to the local Council Members and TMU Representatives; and
- All necessary fees have been paid to us.

The site supervision engineer will keep the Highways Engineer informed about the progress of the works and will confirm when they are substantially complete so that the First Certificate can be issued.

It is essential that all street lighting and illuminated bollards are fully operational and have gazetteer references on them prior to the First Certificate being issued. All units are included in our street lighting maintenance contract and will be subject to the lighting contractor's patrolling regime.

When the First Certificate is issued, a copy will be sent to our Legal Section with an instruction to proceed with the land transfer.

The Highways Engineer will issue the Second Certificate upon expiry of the maintenance period providing you have:

- Paid all fees and payments to us;
- Completed all remedial works to the satisfaction of the site supervision engineer;
- Submitted the Health and Safety file and adoption drawings to us; and
- Completed the land transfer (where necessary).

When the Second Certificate is issued, a copy will be sent to our Legal Section with an instruction to release the Bond or performance security.

Contractor Approval

All road works carried out on the existing highway must be done by a contractor (including any sub-contractor) that has relevant experience and competency for this kind of work. The contractor and sub-contractor must be approved by us prior to commencing work on the existing highway.

Public Liability Insurance (PLI)

You must indemnify us (protect us from legal responsibility) against any claims by third parties arising from any work included in the Section 278 Agreement.

You must also provide us with a copy of your contractors and sub-contractor's PLI certificate for a minimum of £10 million liability insurance with no limit on the number of claims.

Health and Safety

You must comply with all aspects of the Health and Safety at Work Act 1974 and the Construction (Design and Management) Regulations 1994 and indemnify us (protect us from legal responsibility) against all claims, liabilities and actions from third parties arising from any of these matters.

Commencement of Works

You are responsible for arranging a 'pre-start' co-ordination meeting with us to ensure that everybody involved in the works understands the following:

- The agreed drawings that have been issued;
- All testing procedures;
- All inspections of the works;
- Emergency telephone numbers;
- Agreed dates;
- Programme of works;
- Method statement; and
- The H & S Plan.

The 'pre-start' co-ordination meeting should be, at the very least, be attended by your representative, our supervising engineer, the contractor's representative and our representative.

You are advised to meet our site supervising engineer to take photographs of the site prior to commencing works, so that any damage to the existing highway can be assessed where necessary.

Site Inspection

You are responsible for the day-to-day supervision of the road works until they are adopted. Our site supervising engineer will only inspect the works to check that they are being constructed in accordance with the approved drawing and any other requirements.

You must ensure that the works are supervised by a competent site engineer who is experienced in supervising highway works. They must be included on our approved list of consulting engineers for site supervision.

The level of supervision required will depend on the nature and scale of the works. For larger schemes, supervision must be provided at all times. We will agree with you, but it will still be your responsibility to instruct your contractor and ensure that the works are satisfactory completed in accordance with the agreement.

Our inspection of the works does not absolve you from any responsibility for supervising the work and making sure that they are carried out in a proper and safe manner, and in line with the specification.

Timescale for completing the highway works

As soon as the works on site have begun it is your responsibility to complete them to our satisfaction. You must also ensure that the works are completed within the period state in the agreement to minimise any potential disruption to the highway users.

Fees payable to us

We charge for the work involved in:

- Preparing and managing the Section 278 Agreement (£1,500 deposit for a Minor section 278 and £3,000 deposit for a Full section 278 – note these are deposits only and any time over will be charged on a monthly basis);

- Checking the design of the highway works, any associated structures and any highway drainage;
- Safety Audit design checks;
- Inspecting the works on site;
- Conducting surveys for inventory information; and
- Solicitor's fees are charged separately and are usually circa, £3,000.

Before commencing work you must:

- Take out a bond with a Bank or other financial institution approved by us for the full cost of the work. This will include Statutory Undertakers' works, consultant's supervision costs and any other payment required by us; or
- Alternatively you may deposit a sum of money (the Performance Security) with us for the same amount.

Commuted Sums

We will charge commuted sums to cover maintenance in certain circumstances.

Commuted sums allow us greater flexibility to adopt non-standard materials and other items, without placing undue burdens on our maintenance budget or council tax payers.

Where we are prepared to adopt them, commuted sums are required for:

- Structures;
- Soakaways (those defined as non-structures);
- Traffic signal equipment;
- Additional adoption areas exceeding those that are required for the safe functioning of the highway;
- Materials not included in our Specification (eg. York Stone Paving etc.)
- Non-standard or additional street furniture or street lighting;
- Landscaping within the proposed highway, including trees; and
- Sustainable drainage systems (SUDS), for example, flow-attenuation devices, swales and storage areas.

Completion Certificates and Bond

Normally two certificates will be issued under the Section 278 Agreement. The exception is where soft landscaping works are included, in which case three certificates will be issued

First (Substantial Completion) Certificate

We will issue the First (Substantial Completion) Certificate after:

- The highway works have been substantially completed;
- All street lighting units have been installed and are operational;
- All landscaped areas, planting, grassed areas, trees and shrubs are fully established;
- The works (including any existing and/or new landscaped areas) have been jointly inspected (that is by all parties) and no significant defects have been identified, or where there are, you have agreed to remedy them;
- The Stage 3 Safety Audit has been completed and all changes required have been satisfactorily completed; and
- Information and drawings have been supplied.

You will remain responsible for maintaining the highway works for a minimum period of twelve months after the first certificate is issued.

Second (Final) Completion

We will issue the Second (Final) Certificate after:

- You have arranged a joint inspection of the highway works (including any landscaped areas, planting, grassed areas, trees and shrubs) with us at the end of the maintenance period. A list of any outstanding remedial works that are required will be sent to you which must be completed to our satisfaction;
- All highway works have been maintained during the maintenance period to our satisfaction;
- You have paid us any commuted sums that are required;
- Any required land has been transferred to us;
- You have provided information and drawings; and
- You have provided us with the Health and Safety file.

After the Second (Final) Certificate has been issued the outstanding bond or performance security (or where soft landscaping is included a relevant proportion) will be released.

When all of the above matters have been completed to our satisfaction, the works will be adopted and maintained at public expense (other than the soft landscaping works).

Third (Landscaping) Certificate

We will issue the Third Certificate after:

- All existing and/or new landscaped areas have been maintained during the maintenance period to our satisfaction; and
- You have arranged a joint inspection of the soft landscaping works with us, at the end of the extended (two/three year) maintenance period. A list of any outstanding remedial works that are required will be sent to you, which must be completed to our satisfaction.

When the Third Certificate has been issued, any outstanding bond or performance security will be cancelled or released.

After the above matters have been completed to our satisfaction, the soft landscaping works will be adopted and maintained at public expense.

Timescales

- Stage 1 Approval: 1-2 weeks
- Green Report (authorisation to enter into a Section 278 Legal Agreement): 4-6 weeks
- Stage 2 Approval: 1-2 weeks
- Section 278 Legal Agreement: 3 -6 months (project with no TROs)

6-9 months (project with TROs)