

Comments from the City Development & Transport Group

Taken from the Topic Registration Form

Set out briefly the purpose of any scrutiny review of your proposed topic. What do you think it should achieve?

Across the City there are a number of recently built estates that have not been adopted by the Council, mainly due to the developer not completing 'Conditions' in the Planning Permission that must be satisfied before the Council will take ownership/management.

Comments from the City Development & Transport Group

Highway Adoption

Strictly speaking the timescales for adoption of streets, footways etc within new developments are not solely controlled or governed by planning conditions or indeed the planning process. Whilst it is common practise for planning authorities to impose 'standard' conditions, relating for example to the provision of a new road (to a certain level) prior to the occupation of a dwelling served from it, the reality is that satisfactory completion of a new and prospective piece of publicly maintainable highway, is governed by highway legislation, primarily the Highways Act 1980.

The majority of developers opt to enter into a Section 38 Agreement (this being voluntary) with the council, as Highway Authority. Such an agreement establishes the specifications and standards, which the new streets will need to meet before they could become the responsibility of the council to maintain. Agreements allow of course for a phased development to take account of the actual building timescales and permit that roads and footways are at least finished to base course (tarmac surface), together with street lighting, in tandem with occupation of newly constructed properties. Such arrangements are standard practise across England and Wales.

Within many S38 agreements in York, a standard clause is included which seeks to secure the full completion of the prospective highway in parallel with the completion of the final dwellings. This procedure relies significantly upon the developer coordinating both the build works (on houses) and associated infrastructure (roads etc). When the later are completed in full including the top (wearing) course, they would, subject to satisfactory approval by the highway authority, be placed on what is termed a maintenance period. This period lasts for 12 months and during such time; the developer is responsible for the maintenance of the works. At the end of this period, the streets will become public highway, providing they continue to meet the required criteria (for example surface condition) and additionally that the foul and surface water sewerage systems, have been approved and adopted by Yorkshire Water, all adoptable street lighting has been approved and the developer has provided a layout drawing 'as constructed' to take account of any alterations deemed necessary during construction.

The legal procedures followed with highway adoption are specifically set out to protect the local authority, such that it does not take on the responsibility of maintaining roads, which have been inadequately constructed and completed.

Presently, within the City of York Council area, there are 86 housing developments and 12 commercial/office developments, which are governed by a Section 38 agreement and a further 10 known developments, such as Derwenthorpe, which have not yet started.

Further Comments

- Resourcing of this project will make it difficult to deliver on the extensive work load programme of the City Development & Transport Group
- In principle the topic seems worthwhile, as it would look to how other Local Authorities approach the matter. However, it is difficult to indicate whether the findings would help us deliver our service in an improved manner, due to the fact that many aspects of highways adoption do not fall within the direct control of the local authority.
- The option of providing a specific briefing/training session on highway adoption is something we can see benefit in.