

# **CONSTRUCTING THIRD PARTY (S.278 AGREEMENT) HIGHWAY WORKS**

**06.07.2021**

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## BEFORE YOU BEGIN

For further information please refer to the Council website.

[www.birmingham.gov.uk/](http://www.birmingham.gov.uk/)

Where works are being carried out under a Section 278 agreement, the highway works shall not be permitted to commence until, but not necessarily limited to, the following items have been resolved:

1. The Section 278 agreement has been completed and signed and an appropriate surety is set in place;
2. There is a cash bond in place (where applicable) for the full cost of the works
3. You have provided us with written confirmation that you have notified the Health and Safety Executive (F10), where applicable, that you are client for the works for the purposes of the Construction (Design and Management) Regulations;
4. All necessary fees have been paid to us; and
5. The following requirements have also been satisfactorily completed
  - a) **Notification of start:** You must normally give us notice in writing of your intention to begin construction work or begin it again. Please see below regarding streetworks notices.
  - b) **Approving your contractor:** Your highway works must be constructed by a contractor ((including sub-contractors, e.g. who is responsible for the design, implementation and management of the temporary traffic management)) who has relevant experience and capabilities. You must not start construction of the highway works until we have approved your contractor. So, you must supply information about the contractor you want to use. Where you are unable to supply us with satisfactory details, or where we have previously experienced problems with a contractor (for example with quality of workmanship) we will not approve that contractor.
  - c) **The contractor's insurance:** You must indemnify us (protect us from legal responsibility) against any claims by third parties arising from the highway works. Before we will approve your contractor, they must provide us with written evidence that they have, as a minimum, £5 million public liability insurance with no limit on the number of claims;
  - d) Details in relation to the **Principal Designer** (CDM2015, as applicable), **Engineer** (supervising, as defined in S278 agreement) have been provided;
  - e) **As appropriate**, all communications / press publicity required to ensure that those affected by works within the existing highway are suitably forewarned and informed of impending works. This must be undertaken in a timely manner to give reasonable advanced notice of the nature of the works and potential effect.
  - f) The **site construction management plan** (including neighbour consultation, liaison with adjacent sites, working hours, development site arrangement plans including staff parking provision, noise and vibration mitigation, dust mitigation and air quality) has been submitted for review by the council;
  - g) Details of the Construction Phase Plan (**risk assessments, methods statements**) have been received by the S278 project officer;

- h) Pre-start meeting: You must arrange a 'pre-start' meeting (see typical pre-start agenda in appendix B).

## **SUMMARY – TRAFFIC MANAGEMENT APPLICATION PROCESS / WORK TYPES / COORDINATION AND NOTICING OF WORKS**

On 31 March 2020 Amey Local Government Limited exited the 25-year maintenance and management contract that began in June 2010, following an agreement with Birmingham City Council and the Birmingham Highways Ltd (BHL) shareholders in June 2019. Kier Highways became responsible for the city's traffic operations, planned and reactive maintenance, inspections and winter services from 1 April 2020.

The Interim Services Contract between BHL and Kier Highways Ltd has been extended and it is anticipated that this interim arrangement may end by 31 August 2023.

**If Notices are not correctly submitted and do not have supporting information attached in order to check and approve the proposed works, the notice will be challenged. This may delay and/or disrupt the timing of works and could result in the issuing of Fixed Penalty Notices.**

Provide a traffic management plan to show proposals and demonstrate that it is required.

1. Complete TMP2 request for temporary traffic management approval. Send as attachment to works notification with supporting information.
2. Applications will be processed & copies sent to the appropriate sections within Birmingham City Council.
3. Works Promoter will receive response from the Birmingham City Council's Streetworks Authority – Kier Streetworks via the notification return path confirming the decision, or a request for further information.

The Kier streetworks team check for works clashes on the streetworks register. If there are no clashes it is then forwarded to Traffic Management Services (TMS) in the council to assess for approval or rejection.

If a works clash is identified the applicant is asked to resolve or resubmit a revised application if the clash cannot be resolved. Once the applicant confirms they have resolved the clash or clashes the application is then forwarded to TMS.

Kier Streetworks lines of communication are as follows:

<b>Email / Webpage address</b>
Temporary Traffic Management Requests (e.g. TMP2 form in accordance with the Traffic Management Protocol)  <b>Online application form:-</b>  <a href="https://app.smartsheet.com/b/form/8894ca38a198408390e7c713d436b0a4">https://app.smartsheet.com/b/form/8894ca38a198408390e7c713d436b0a4</a>
<b>Significant queries only to</b> <a href="mailto:TMAapprovals@birmingham.gov.uk">TMAapprovals@birmingham.gov.uk</a>
Streetworks Notice (NRSWA notice) Early Start Requests <a href="mailto:BHM_Streetworksregister@Kier.co.uk">BHM_Streetworksregister@Kier.co.uk</a>
Extensions/Error Corrections/Restriction Permissions <a href="mailto:BHM_Streetworksregister@Kier.co.uk">BHM_Streetworksregister@Kier.co.uk</a>

### **Work Types and Minimum Notice Periods**

From 6<sup>th</sup> April 2021 the application process for works notices and temporary traffic management approvals changes.

Whilst streetworks notifications are still submitted to Kier Highways, changes include the definitions of Work Types and the way in which applications are submitted for the approval of temporary traffic management (**TMP2 process**, in accordance with the council's [Traffic Management Protocol](#)).

**The TMP2 Form web link for all temporary traffic management applications is now,**

<https://app.smartsheet.com/b/form/8894ca38a198408390e7c713d436b0a4>

From 6<sup>th</sup> April 2021 the work types and minimum notice periods are defined as those given in the following tables.

	<b>1. Minor Works</b>	<b>2. Minor Works</b>	<b>3. Standard Works</b>
<b>Description</b>	Work on footway/verge with no impact on traffic movement	Work on the carriageway with no impact on traffic movement	Carriageway works with lane restrictions that allow through traffic in both directions (non-traffic sensitive streets)
<b>Min. Advance Notice Period</b>	10 working days	10 working days	10 working days

	<b>4. Standard Works</b>	<b>5. Major Works</b>	<b>6. Major Works</b>
<b>Description</b>	Carriageway works requiring 2-way traffic control / shuttle working (non-traffic sensitive streets)	Carriageway works with lane restrictions that restrict traffic flow in either direction (traffic sensitive streets)	Carriageway works requiring 2-way traffic control (traffic sensitive streets)
<b>Min. Advance Notice Period</b>	15 working days	26 working days	26 working days

	<b>7. Major Works</b>	<b>8. Major Works</b>
<b>Description</b>	Carriageway works requiring a road closure or temporary traffic regulation order (non-traffic sensitive streets)	Carriageway works requiring a road closure or temporary traffic regulation order (traffic sensitive streets)
<b>Min. Advance Notice Period</b>	Major works requiring TTRO for up to 5 days duration <b>35 working days</b>	Major works requiring TTRO over 5 days duration <b>45 working days</b>

### Early Start Requests

- a. Early starts can only be applied for once approval has been given for application.
- b. The absolute minimum notice period for an early start is 10 working days.
- c. Early starts can only be applied for if all aspects of the application have stayed the same apart from the date. Working days and duration must be the same, like for like.
- d. If anything alters apart from the date this will be classed as a new application and the process for a new application must be followed.
- e. No early starts for an application that has a temporary traffic regulation order (TTRO) such as a temporary road closure and the original dates set must be adhered to.

Works Promoters will need to carefully plan their works to ensure notices are submitted correctly and comply with the noticing periods. Early starts and extensions will only be considered if the works promoter can clearly justify the need for a change to the notice period and programmed works. Early starts and/or extensions may also be granted if there is a benefit to the coordination of works and a reduction of the impact to the movement of traffic.

If there are any significant issues please contact [TMAApprovals@birmingham.gov.uk](mailto:TMAApprovals@birmingham.gov.uk)

### **Traffic sensitive streets**

Under section 64 of NRSWA a street authority may designate certain street or parts of streets as traffic sensitive. The designation highlights that works in these situations are likely to be particularly disruptive to other road users, but it does not necessarily prevent occupation during traffic sensitive times. The sensitivity applies to all works taking place in the street. Highway authorities and undertakers should not work in the carriageway of traffic sensitive streets at sensitive periods unless there is no alternative.

Traffic sensitive streets are identified on the street gazetteer together with other additional street data.

The streets designated by Birmingham City Council as part of its winter maintenance programme, requiring the treatment of any part of it with salt or other chemicals when low temperatures are expected, to prevent the formation of ice are traffic sensitive from 07:00 to 19:00 hours, 7 days a week.

Work may be restricted on street where traffic has been displaced to as a result of major works taking place on nearby streets or other parts of the strategic network. For example, major works on Bristol Road would be restricted while major works are being carried out on the Hagley Road. These restrictions will be site specific.

### **City Centre Work Restrictions**

Working restrictions in the city centre is aimed at minimising the impact on the highway network while there is increased demand due to shopping etc. ***Due to the increase in vehicular and pedestrian movements during Christmas period and the adverse effect highway restrictions will have on trading during that period the Council impose restrictions in the City Centre on defined sections of the highway network.*** The restriction period starts at the end of October and runs through to the end of the second week in January.

If essential works are required agreement must be sort from the streetworks authority before starting except for emergency works.

### **Definition of Information Required from the Works Promoter for the Work Notice**

Information required from works the promoter:

1. Details within the TMP2 submission – Should include contact details of works promoter, location of works, timing of works, reason for works, type of temporary traffic management, traffic management contractor details etc.

2. Location plan – Should include area of highway to be occupied, length of excavations to be open at any one time, site access points, pedestrian routes, site compound etc.
3. Method statement – Should include details of how work is to be carried out, working hours, resources to be used, extent of excavation, material storage, removal of spoil, access to site, site contact details, phasing of works and TM proposals. Methods of works need to be submitted for agreement and approval in such a way that there can be no confusion or misunderstanding. The works promoter should be able to clearly demonstrate that the proposed planned works can physically be implemented.
4. Traffic management plan - Should be submitted for agreement and approval in such a way that there can be no confusion or misunderstanding. The works promoter should be able to clearly demonstrate that the proposed planned works can physically be implemented. This can be demonstrated in the following way:
  - Traffic Management Plans (in addition to standard chapter 8 signage) are to show:
    - The working area, safety zones etc.
    - Position of trench excavations etc.
    - Working area, safety zone, traffic lane widths and pedestrian walkway widths should be measured, and dimensions shown on the plan
    - The length working areas and lane restrictions should be shown on the plan
    - Advanced warning signage
    - Diversion routes
    - Alternative routes
    - Site access arrangements
  - Phasing of works plan.
  - Location of Site compounds and other site facilities.
5. Programme of works – should consider, noticing dates and durations, time taken for approvals, implementation of TROs and other restrictions and must be realistic. The programme should clearly detail phases of works and highlight areas where road closures, restrictions, temporary traffic lights etc are required.
6. Statement to demonstrate the least disruptive method of working – should provide details of the nature of works, complexities and limitations of working. The statement should also show that other methods of working and temporary TM has been considered and investigated and proved to be less effective.



## **WORKS IN PROGRESS**

### **Changes to proposed methods of working**

Any changes to the proposed methods of working should be sent as an attachment to the notification via the 'Notice Management System' and the Birmingham City Council's Streetworks Authority – Kier Streetworks will respond via the return path.

### **Unforeseen issues**

All unforeseen issues that may have a minor impact to the agreed method of working can be agreed with the NRSWA Inspector. Unforeseen issues that have a major impact must be addressed by the works promoter and proposals sent as an attachment to the notification via the 'Notice Management System' and the Birmingham City Council's Streetworks Authority – Kier Streetworks will respond via the return path.

### **Changes to traffic management proposals**

Any changes to traffic management proposals that will have an impact on the movement of traffic must be sent as an attachment to the notification via the 'Notice Management System' and the Birmingham City Council's Streetworks Authority – Kier Streetworks will respond via the return path

## **TEMPORARY TRAFFIC MANAGEMENT AUDIT**

As part of the assessment process the proposed temporary traffic management is considered and approved by Birmingham City Council (BCC) Traffic Management Services.

Temporary traffic light proposals are considered and authorised by Kier Urban Traffic Control (UTC). All temporary or existing permanent traffic light enquiries should initially be sent to Permits or Streetworks as applicable.

### **General requirements**

The temporary traffic management audit is to be maintained and retained with supporting information by the owner/promoter of each scheme. The traffic management information may be required for:

- Audit purposes at any time.
- Evidence to refute third party claims.
- Supporting information for scrutiny.

The type of information to be retained is as follows:

- Contractors to produce Risk Assessments, Method Statements, drawings and operatives' qualifications.
- Copies of traffic management approvals TMP1 and TMP2 with supporting information.
- Copies of traffic regulation orders/notices
- Copies of permits and authorisation to work on the highway
- Copies of temporary traffic light approvals etc.

### **Specific Precautions to be taken by Traffic Management Companies**

- All operatives to have undergone site induction.
- All operatives should have undergone Manual Handling Training.
- All operatives will wear High Visibility clothing (or higher specification) that complies with the legislation for the type of road i.e. to B.S EN 471 Class 3 for work on Motorways.
- Operatives will be briefed and have a working knowledge of Temporary Traffic Management on High Speed Roads & Dual Carriageways A Good Working Practice.
- All operatives will either be trained in the process of being trained to the relevant standard for work on that type of road, i.e. Sector 12D or the New Roads and Street Works Act Unit 002 (Unit 010 for supervisors)
- The appropriate ratio of T.M Foreman, Registered T.M Operatives & Unregistered T.M Operatives MUST be adhered to on all occasions.
- No work is to be carried out without the Operatives being instructed on the approved Method Statement for the work activity.
- Equipment should only be carried across the live carriageway at times of low traffic flow.
- All crossing of carriageways on foot should be done in accordance with HSE/CIS No. 53.
- All signs MUST be secured, using sandbags, so that in the event of an accident the sand will be dispersed thus avoiding a more serious accident.

- All signs MUST be secured using sandbags to reduce the risk of them being blown into the live carriageway.
- In the event of traffic management being erected for periods longer than 2 weeks all signs will need to be securely fixed to new poles or existing street furniture and maintained accordingly unless otherwise agreed.
- Where traffic flow is high, convoy control or a rolling roadblock, provided by the police, may be required (Traffic Signs Manual, Chapter 8, Part 2).

## **GENERAL REQUIREMENTS – CONSTRUCTION**

### **PRE-CONDITION SURVEY OF PUBLIC HIGHWAY (Dilapidation Survey)**

It is strongly recommended that the contractor carries out a pre-condition (dilapidation) survey of the highway. In the absence of evidence to the contrary, it will be assumed that the highway, its drainage, structure and street furniture are damage free. The contractor will be liable for any repair costs to the highway caused by any consequential damage resulting from the site activities.

A dilapidation report should be a full and provable record of the existing condition of the relevant infrastructure in case unforeseen or unintentional impacts occur as result of the works. All parties can then reference detailed information about the pre-construction state of the relevant infrastructure and say with relative certainty whether the damage or defects of an asset were caused by the construction works.

### **PARKING FOR SITE STAFF (Construction Traffic Management Plan)**

There is no legislation in place to confer a right to park on a public road, pavement or verge. If the Highway Authority is required to carry out remedial works, it may seek to recover any expense incurred and prosecute persistent offenders.

Prior to the commencement of the works, the Developer should provide adequate parking facilities within the site boundaries for all site personnel vehicles. The Developer should ensure that all site personnel use the parking facility and that they do not park on the public highway when attending the site. These stipulations may be required by a planning condition.

Prior to any works on site, including demolition, a site management plan (such as a Construction Management Plan) shall show where the vehicles of staff, workmen and visitors are to park during the duration of the works with a clear indication of how this will work.

Some work operations may require a temporary change to the way in which a section of highway is used. This may be to enable safe working, to further protect the public and/or to expedite the works and reduce the inconvenience to the public. For such a temporary change, a Temporary Traffic Regulation Order (TTRO) or Notice (TTRN) is application to the Council is required.

TTRO's and TTRN's are not to be used for the storage of materials, skips, or the parking of any contractor vehicles other than those specifically being used for undertaking the highway works. The contractor is required to make alternative arrangements for site vehicle parking at a separate location.

### **PARKING ON HIGHWAY GRASS VERGES**

Parking vehicles on the highways grass verges causes damage that is expensive to repair. It is an offence under the Highways Act to cause damage to highway verges (or other parts of the highway).

- Under the Highways Act 1980 s137 it is an offence to wilfully obstruct a highway (Punishable by Fixed Penalty Notice)
- Under the Highways Act 1980 s131 it is an offence to damage a highway without lawful authority or excuse (punishable by claim for damages)

- Under the Highways Act 1835 s72 and the Road Traffic Act 1988 s34 it is an offence to drive on any footpath or causeway alongside any road (punishable by fine)

## **TEMPORARY SIGNS**

TSRGD 2016 includes a requirement for temporary signs to diagrams 7032, 7014.1 and 7014 and their variants, to have a date on their reverse by which they should be removed. This is to enable any person to report to the local authority any signs that have remained in place beyond the three-month limit specified in TSRGD.

## **SITE INSPECTION**

Under the terms of the S278 agreement access to the works shall be permitted at all reasonable times to persons authorised by the Council including representatives of the Highways Maintenance and Management Contract Service Provider, Kier Highways, to inspect the works (including traffic signals and works related to the Council's urban traffic control and management system).

It is the developer/contractor's responsible for supervising the highway works construction. We will only inspect the works to check that they are being constructed in accordance with the approved drawings and our requirements. Any inspections made of the works on behalf of the Highway Authority are made solely for the purposes of that Authority who will not accept any liability for defects in the construction works due to the standard of workmanship or materials used, howsoever arising.

It is in everyone's interests that a competent engineer who is experienced in site supervision of highway works supervises the works. The level of supervision you must provide will depend on the nature and scale of the works. For larger schemes, you must provide supervision during all work periods. We can discuss and agree the level of supervision you must provide at the pre-start meeting.

## **INSPECTION OF STREET WORKS – Statutory Undertakers**

Undertakers (mostly utilities) carrying out works in the highway are required by law to have regard to the needs of road users, particularly those with disabilities, when signing, lighting and guarding their works. The Safety at Street Works and Roadworks Code of Practice sets out the specific obligations in detail.

The New Roads and Street Works Act makes the statutory undertakers wholly responsible for the management of their street works. This responsibility covers the signing, lighting and guarding of the works and the proper reinstatement of the street upon completion of the works.

The highway authority is only empowered to monitor the undertaker's work, not to undertake its supervision.

## **ENERGY SUPPLY FOR LIGHTING APPARATUS**

The developer is responsible for all charges or costs relating to the maintenance or energy of the lighting equipment installed under a developer agreement (S38 or S278, Highways Act 1980) until the council confirms partial or full adoption. The developer will liaise with the distribution network operator (DNO, Western Power Distribution, WPD) to ensure that all energy charges are covered and paid for in full

until the adoption has been completed and as asset has been transferred to the council.

**For further information go to the council guide entitled Guidance on Unmetered Electricity Connections.** Also, information on how the competition in connections process works is available from Western Power.

No disconnections or connections shall take place without the council's number (by authorisation for the work. This process was agreed between WPD and the council to control unauthorised connections/disconnections by third parties without our knowledge or permission.

Where there is already highway street lighting the highway scheme designer or promoter must, at all stages of the contract, maintain a standard of road lighting in accordance with Birmingham standards.

## **PROTECTION OF THE PUBLIC**

The Developer shall guard, fence, light and maintain all obstructions within or adjacent to an existing highway resulting from or in connection with the site works in accordance with the current requirements of Chapter 8 of the Traffic Signs Manual – Traffic Safety Measures for Roadwork's (DfT) and Safety at Street Works and Roadworks – A Code of Practice (DfT).

**“What's going on?”** - The Safety at Streetworks and Roadworks Code of Practice says that an **information board** must be displayed at every street and road works site except mobile works, short duration works and minor works that do not involve excavation.

The information board is to be placed on the highway so that it does not obstruct footways or carriageways but can be clearly read by pedestrians, and any drivers who have stopped close to the board.

**Emphasis on the stability of barriers** - The Safety Code now includes a requirement that barriers correctly erected can withstand certain levels of wind. This is based on the wind classes set out in Table 2 of BS 8442 Miscellaneous road traffic signs and devices - requirements and text methods, as calculated in Annex B of that standard. This is to help increase the stability of barriers.

### **What are the penalties for failing to adhere to the safety code?**

Failure to adhere to the safety code may under section 65(4) of NRSWA (New Roads and Street Works Act 1991) result in a summary criminal offence which at a Magistrates Court has a maximum penalty of £5,000, but which is unlimited at Crown Court.

## **PROTECTION OF EXISTING STRUCTURES, WALLS, FENCES ETC.**

For all works within or adjacent to the public highway the Developer shall, during the progress of the works, make provision for the safety, protection and stability of all structures, walls, fences, hedges, trees, land drains, sewers and apparatus. The Developer shall also be responsible for rectifying or repairing, at their expense, any damage to private or public property that may have been caused by his operations. It shall be the responsibility of the Developer to satisfy himself as to the accuracy of

any information, which may be made available by the Highway/Drainage Authorities and Statutory Undertakers.

## **PROTECTION OF WATER COURSES**

The Developer shall be responsible for keeping existing watercourses clear and unrestricted where such operations interfere or have interfered with them in any way and shall be held responsible for any flooding and damage caused by his failure to carry out these requirements. The Developer shall take all necessary precautions to prevent tar, oil, bitumen, cement or other polluting substance entering any watercourse or surface water sewer.

BCC has responsibility for consenting works that affect the flow of an ordinary watercourse under the terms of the Flood and Water Management Act 2010, Land Drainage Act 1991 and Water Resources Act 1991. An 'ordinary watercourse' is a watercourse that is not part of a main river and includes rivers, streams, ditches, drains, cuts, culverts, dikes, sluices, sewers (other than public sewers within the meaning of the Water Industry Act 1991) and passages, through which water flows.

If your watercourse is part of a main river then you will need to apply for consent from the Environment Agency and not BCC. To identify whether your watercourse is a main river, visit the Environment Agency's website and view their flood maps.

## **PROTECTION OF GULLIES AND SEWERS/HIGHWAY DRAINS**

Residue must never be washed into nearby gullies or drains. During the development works, any gullies or drains adjacent to the building site must be maintained to the satisfaction of the Highway Authority. If any gully is damaged or blocked, the applicant will be liable for all costs incurred.

For example, if a concrete pump lorry is operated from the public highway, the surface of the highway and any gullies or drains nearby must be protected with plastic sheeting. When mixing concrete or mortar, cover plates laid on plastic sheeting must be used.

## **PROTECTION OF EXISTING TREES AND LANDSCAPING**

The Developer shall take appropriate measures to ensure that all trees, hedgerows etc. required for retention are not to be removed or damaged by the works. Also refer to the Trees and Landscaping section in this guide.

## **CONTROL OF NOISE (WORKING HOURS)**

Further information is available on the council website – Look for "Development Activities on the Highway" (01.06.2011)

The Developer shall comply with the general recommendations set out in BS 5228 – "A Code of Practice for Noise and Vibration Control on Construction and Open Sites" when working within or adjacent to the public highway. Where relevant for certain projects the developer's nominated representative will establish background baseline noise surveys in order to formulate acceptable noise levels.

The **permitted working hours** for all works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Council, are:

Monday to Friday: 8.00 am to 6.00 pm  
Saturdays: 8.00 am to 1.00 pm

No work is to be carried out on Sundays or Bank Holidays subject to prior approval with the council's Environmental Protection Unit. Individual site requirements which differ from the above will be considered on a site by site basis.

### **Sections 60, 61 and 72 of the Control of Pollution Act 1974 (COPA)**

Section 60 of COPA gives BCC the power to serve a notice imposing requirements as to the way in which construction works are to be carried out. The Council serve such notices usually when a noise complaint has been made about activities at the site, however BCC can serve such notices before any works have started.

BS 5228 provides guidance to enable compliance with Section 60. Section 61 allows the person intending to carry out construction works to apply for consent to operate prior to any activity commencing at a site. The consent must detail the methods by which all noisy activities are to be carried out.

To mitigate noise and vibration the nominated representative will ensure that contractors and others working on the site apply Best Practical Means (BPM), as defined under Section 72 of the Control of Pollution Act (COPA) 1974, to all activities.

### **DUST AND AIR POLLUTION**

The main regulatory controls over dust are the 'statutory nuisance' provisions contained in the Environmental Protection Act 1990. Dust can give rise to a statutory nuisance if it is 'prejudicial to health or a nuisance'. Smoke can also result in a statutory nuisance.

The developer's nominated representative must ensure that all practicable measures are taken to avoid creating dust and air pollution. Measures for limiting emissions from vehicles and machinery onsite (including non-road machinery) shall also be employed, as appropriate and as far as reasonably practicable.

### **WORKING ADJACENT TO EXISTING HIGHWAYS**

At all times the Developer shall take such precautions and adopt such measures as are considered necessary to ensure the safety and convenience of the public and owners and occupiers of affected property. He shall also reduce to a minimum, interference with the use of the highway access to private property. The safe passage of vehicles and pedestrians shall always be maintained throughout the construction period unless the highway is closed with the agreement of the council and by due statutory process. No work within the existing highway shall take place without the written consent of the council and the entering into of the appropriate agreement and issuing of a works licence or permit to work.

### **SETTING OUT**



The line and level of the formation, side slopes, drains, carriageways and footways, etc. shall be carefully set out in accordance with the planning consent, to an approved method and frequently checked by the Developer to ensure that the gradients and cross sections are in accordance with the approved drawings or agreed variations.

It is the responsibility of the Developer to set out the roadworks without assistance from the Council. The right is reserved not to adopt incorrectly aligned works.

The highway boundary fronting any properties must be set out and clearly established on the ground prior to occupation.

### **COLD WEATHER WORKING**

No material in a frozen condition shall be incorporated in the works and material for use in road pavements shall not be laid on any surface, which is covered with ice or snow.

Laying of bituminous materials in adverse conditions shall be in accordance with BS EN13108 and PD6691– Guidance on the use of Bituminous Mixtures.

### **CONSTRUCTION LEVELS**

During all phases of construction, it is important that the Developer ensures that the works are constructed in such a manner that they are not liable to damage during the remainder of the works and that they do not constitute a hazard. Particular attention should be paid to carriageway construction layer levels in relation to manhole/gully covers.

**The tie-in levels between the development and the publicly maintained highway must not result in BCC's highway design standards being compromised. The Developer is responsible for any remedial works.**

### **ROUTING OF CONSTRUCTION VEHICLES**

Before the commencement of the works, the Developer shall provide the council details of all routes and the location and details of temporary road signs to be used for construction vehicles gaining access to the site. In some cases, the route(s) will be controlled by a planning condition. The routes and signage shall be agreed with the council prior to commencement of work. It is recommended that the routes, or any agreed variations, are inspected by the Developer and a BCC representative in order to establish the existing condition of the roads prior to use by the construction traffic. The Developer will be required to remedy any damage caused or increased by construction traffic.

### **HIGHWAY DAMAGE AND CLEANSING**

The contractor is responsible for all damage to the highway as a result of the site's activities, including blocked drainage, stained carriageways and damaged street furniture. The cost of all necessary repairs by the council or its maintenance service provider will be recharged to the site via a reparations process. The site is therefore encouraged to take all reasonable steps to ensure the highway and its street furniture are adequately protected.

The site must ensure that all adjacent highways are kept free of debris and materials resulting from the work being carried out, including litter left by site employees.

It is an offence under the Highways Act 1980 (Section 148) to deposit mud etc. on a public highway. In addition, the Act provides that if a person without lawful authority or excuse, deposits anything whatsoever on a highway in consequence of which a user of the highway is injured or endangered, then he is guilty of an offence (Section 161). Therefore, if a person deposits mud on the highway he runs the risk of committing a criminal offence and he may face prosecution and a fine.

Prior to commencement of the works, the Developer shall, where required by a planning condition / site conditions provide within his site boundaries, vehicle and wheel cleaning apparatus to ensure that public highways affected by the site are kept clean. The Developer shall ensure that the facility is maintained in good and useable condition and that all vehicles use it before they leave the site. Any detritus that is deposited on the public highway that has originated from the Development shall be removed at the earliest opportunity.

## DEVELOPMENT PERMITS AND SECTION 50 LICENCES

### Specified Licence Team

Email [Highwayspermitmanagement@birmingham.gov.uk](mailto:Highwayspermitmanagement@birmingham.gov.uk)

The various types of permits are as follows, each of which has its own Guidance Notes: Hoarding Permit; Excavation Permit; Scaffold Permit; Crane Permit; Disposal of Materials Permit; Cart Over Permit; Section 50 Permit (Licence); Temporary Traffic Management – Request for Approval Form (**temporary road closure**).

### Further information:

- new online permit applications
- an amendment or extension to an existing licence
- guidance on how to apply for a licence

please visit our website

<http://www.birmingham.gov.uk/generalpermitrequest>

The **Section 50** Licence is granted to accredited applicants wishing to place, maintain or retain apparatus (drains, cables, ducts, water and gas pipes etc.) in the public highway. Anyone other than a Statutory Undertaker (e.g. Severn Trent Water) wishing to carry out Streetworks which includes the breaking open, boring or tunnelling under any street to place, adjust, repair, alter or renew any apparatus must be in possession of a streetworks licence. The licence is granted to the owner of the apparatus needing repair, renewal etc. or the contractor working on their behalf.

### Telephone messages and emails to the specified licence team

Target response times

- A response to your telephone messages within 3 working days.
- A response to any non-urgent emails within 10 working days.

When sending us emails please advise the nature of your enquiry in the subject line and you should quote the council licence reference number where applicable.

Please check your spam / junk mail for any emails we may have sent to you.

### Planning Permission and Further Advice or Information

If you have been advised that planning permission is required or if you need any further advice regarding planning, please contact

[planningandregeneration@birmingham.gov.uk](mailto:planningandregeneration@birmingham.gov.uk)

Tel 0121 303 1115 or you can visit the [pre-planning advice page](#)

<https://www.birmingham.gov.uk/downloads/download/333/pre-application-advice-form>

## Payments to the Specified Licences Team

- We will invoice you for the specified licence and bond (if applicable).
- If you pay via BCC Cashiers, the payment reference given by Cashiers is your receipt / proof of payment.
- Please keep the payment reference for your future use.
- We will see your payment in the system no later than 7 days after you have paid.
- **Please note** - Payments made by cheque or credit card may take slightly longer to appear on the payment systems.
- Please let us know that you have paid and the payment reference number.

## ACCESS TO FURTHER INFORMATION

There are some useful documents which can be downloaded from the council's website,

<http://www.birmingham.gov.uk/highwaystrafficmanagement>

- Traffic Management Protocol (New Highway Scheme Traffic Management Approval, Temporary Traffic Management Approval including temporary traffic signals)
- Birmingham Streetworks Code of Good Practice
- Traffic Management Road Closure Application
- Portable Temporary Traffic Signals Protocol
- Development Activities on the Highway (Developers & Contractors Guidance Notes) -
- Highway Development Protocol (Factors to be considered by Developers & Contractors at pre-planning & pre-implementation)

Further information about third party works agreements and an online **Section 278** (Section 38) New Developments **Application Form** that you can complete and submit to us. Please visit our website.

[https://www.birmingham.gov.uk/info/20111/information\\_for\\_developers/489/work\\_on\\_public\\_highways\\_section\\_278\\_agreements](https://www.birmingham.gov.uk/info/20111/information_for_developers/489/work_on_public_highways_section_278_agreements)

Birmingham City Council's Development Standard Specification for **Street Lighting** Works 2010 is available at:

<http://www.birmingham.gov.uk/highwaylighting>

## USEFUL CONTACTS

### Birmingham City Council Contacts

Due to the current situation regarding Covid-19 (Coronavirus) please note that we are continuing to respond to enquiries and permit/licence application with some changes to working practices such as officers working remotely from their normal workplace. Please be aware that the revised working arrangements may cause a delay to a response being given.

	TEL	E-MAIL / WEBPAGE
<b>Out of Hours Control Room for EMERGENCIES</b>	<b>0121 303 4149</b>	
S.278 Works		Email: <a href="mailto:PrivateDevelopments@Birmingham.gov.uk">PrivateDevelopments@Birmingham.gov.uk</a>
Adopted status of a road	0121 303 7689	Email: <a href="mailto:highways.searches@birmingham.gov.uk">highways.searches@birmingham.gov.uk</a>
Streetworks Register (Kier)	-	Email: <a href="mailto:BHM_Streetworksregister@Kier.co.uk">BHM_Streetworksregister@Kier.co.uk</a>
Permits (crane oversail, hoarding, scaffold, skip, section 50 etc.)	0121 303 6644	Email: <a href="mailto:HighwaysPermitManagement@birmingham.gov.uk">HighwaysPermitManagement@birmingham.gov.uk</a> <a href="http://www.birmingham.gov.uk/generalpermitrequest">http://www.birmingham.gov.uk/generalpermitrequest</a>
Traffic Management Enquiries [Via BCC Customer Services (Monday to Friday)]	0121 303 6644	<a href="http://www.birmingham.gov.uk/highwaystrafficmanagement">http://www.birmingham.gov.uk/highwaystrafficmanagement</a>
Highways - reporting defects Inc. highway drainage [Via BCC Customer Services (Monday to Friday)]	0121 303 6644	<a href="mailto:contact@birmingham.gov.uk">contact@birmingham.gov.uk</a> <a href="http://www.birmingham.gov.uk/streets">http://www.birmingham.gov.uk/streets</a>
Streetlighting Faults [Generally, office hours (Monday to Friday)]	0121 303 6644	<a href="mailto:contact@birmingham.gov.uk">contact@birmingham.gov.uk</a>
Footway crossing / dropped kerb requests	0121 303 7577	<a href="mailto:droppedkerbs@birmingham.gov.uk">droppedkerbs@birmingham.gov.uk</a> <a href="http://www.birmingham.gov.uk/droppedkerbs">http://www.birmingham.gov.uk/droppedkerbs</a>

	TEL	E-MAIL / WEBPAGE
Flood Risk Management / Drainage team		Email: <a href="mailto:LLFA@birmingham.gov.uk">LLFA@birmingham.gov.uk</a> For out of hours emergency issues regarding Highways / Flooding / Transportation, please contact Birmingham City Council on 0121 303 4149 or report any flooding issues via <a href="http://www.birmingham.gov.uk/drainage">www.birmingham.gov.uk/drainage</a>
Parking Section (Inc. suspension of pay & display bays)	0121 303 7617	<a href="mailto:parking@birmingham.gov.uk">parking@birmingham.gov.uk</a> <a href="http://www.birmingham.gov.uk/parking">http://www.birmingham.gov.uk/parking</a>
Street Cleansing	0121 303 1112	<a href="mailto:streetcleansing@birmingham.gov.uk">streetcleansing@birmingham.gov.uk</a>
Environmental Protection Unit	0121 303 9900	<a href="mailto:Pollution.team@birmingham.gov.uk">Pollution.team@birmingham.gov.uk</a> <a href="http://www.birmingham.gov.uk/environmental-health">http://www.birmingham.gov.uk/environmental-health</a>

**For enquiries regarding S.278 works:**

**Private Development Team**, Highways and Infrastructure, Inclusive Growth Directorate  
Birmingham City Council

**Located at:**

1 Lancaster Circus  
Birmingham  
B4 7DJ (Navigation)

**Postal Address:**

PO Box 14439  
Birmingham  
B2 2JE

**CONTACT Private Development Team**

If you have any questions about this information or the Section 278 Agreement process, please email us ([PrivateDevelopments@Birmingham.gov.uk](mailto:PrivateDevelopments@Birmingham.gov.uk)).

## OTHER USEFUL CONTACTS

Police 0845 113 5000 <a href="mailto:Contactus@west-midlands.pnn.police.uk">Contactus@west-midlands.pnn.police.uk</a>
Fire Service 0845 5000 900 <a href="mailto:contact@wmfs.net">contact@wmfs.net</a>
West Midlands Ambulance Service 0138 415 555 <a href="mailto:enquiries@wmas.nhs.uk">enquiries@wmas.nhs.uk</a>
Gas Emergency 0800 111 999
Electricity Emergency 0800 328 1111
Sewerage, water services and emergencies - Severn Trent Water (24 hours) 0800 783 4444



## REPORTING A FAULT AND ONLINE FORMS

If you consider any fault you are reporting to be causing a serious hazard to traffic or pedestrians and needs urgent attention, please telephone

0121 303 6644 (weekdays, 8.00 am to 8.00 pm) or

0121 303 4149 (outside working hours)

### How quickly will we carry out safety repairs?

The speed of the repair depends on how urgent the problem is:

- We'll inspect within **five working days** maximum anything you report.
- Highway related dangerous defects will be made safe within **1 hour** of the report.
- All other safety repairs will be repaired within a scheduled programme of works.
- 

***You can report faults in most cases using the individual forms which can be accessed from the council webpages listed below.***

Should you need to speak to someone regarding street services and fault reporting, then please telephone 0121 303 6644 (Monday to Friday 9am until 5pm) or click on the links below to our web pages.

TYPE OF FAULT	LINK TO COUNCIL WEBPAGE (use CTRL + left click)
Traffic signals and traffic signs	<a href="http://www.birmingham.gov.uk/trafficlightrepair">http://www.birmingham.gov.uk/trafficlightrepair</a>
Footway and carriageway defects	<a href="http://www.birmingham.gov.uk/pavements">http://www.birmingham.gov.uk/pavements</a>
Faulty Streetlights or street nameplates	<a href="http://www.birmingham.gov.uk/streetlights">http://www.birmingham.gov.uk/streetlights</a>
Faulty guardrails, bollards and benches	<a href="http://www.birmingham.gov.uk/guardrails">http://www.birmingham.gov.uk/guardrails</a>
Footway and carriageway obstruction	<a href="http://www.birmingham.gov.uk/highwayorpavementobstructions">http://www.birmingham.gov.uk/highwayorpavementobstructions</a>
Highway flooding	<a href="http://www.birmingham.gov.uk/drainageonthehighway">http://www.birmingham.gov.uk/drainageonthehighway</a>
Gritting and winter maintenance	<a href="http://www.birmingham.gov.uk/gritting">http://www.birmingham.gov.uk/gritting</a>
Graffiti removal	<a href="http://www.birmingham.gov.uk/highwaysgraffiti">http://www.birmingham.gov.uk/highwaysgraffiti</a>

## APPENDIX A: REQUIRED CONTRACTOR INFORMATION

The level of information we will require will depend, amongst other things, on whether your intended contractor has worked before on a project of a similar scale and nature in Birmingham and whether we have been satisfied with the way that they have performed.

1. Company name
2. Head Office address, telephone and fax numbers
3. Local Office address, telephone and fax numbers
4. Website
5. Contact details
6. Name and address of insurance brokers
7. Employers liability insurance details
8. Public liability (third party) insurance details
9. Brief description of the firm's business
10. A statement of the company's tools, plant, technical equipment and manpower available to them for carrying out the works
11. Details of previous similar work (for each scheme give the following)
  - title of scheme and date
  - brief description
  - cost of scheme
  - state whether main contractor of sub-contractor
  - name and address of client
  - name, address and position of engineer supervising the contract from whom a reference may be obtained
12. Details of Quality Assurance Accreditation to BS EN ISO 9000
13. A banker's address for references if required.
14. Health and safety questions:
  - name and position of senior person within the company with responsibility for co-ordinating health and safety
  - copy of the most recent health and safety policy statement including the organisation in place, and a list of the arrangements in force (the contents page may suffice as a list of arrangements)
  - name, health and safety qualifications and experience of safety advisor
  - are formal systems in place to ensure that all plant, equipment and vehicles used on site are regularly inspected and adequately maintained? Enclose a recent example of an inspection/ maintenance report.
  - has the company developed permit to work systems, safe systems of works, safety procedures etc. appropriate to the work undertaken by the company? Enclose a recent example
  - are specific resources allocated for safety supervision, training and safety equipment as appropriate to the work undertaken by the company? Give details.

- are risks assessed, assessments recorded, and control implemented as appropriate, prior to commencement of work?
- has the company been prosecuted or served with a prohibition and/or improvement notice for any breach of health and safety in the last three years?

## APPENDIX B: PRE-START MEETING

The level of detailed to be discussed at the meeting will depend, amongst other things, on the scale and location of your proposed works.

The following list is not to be regarded as exhaustive and the submission of the details, where relevant, is not agreement to such details.

**Attendees**, representatives from: BCC PDS; District Engineer (BCC Local Services); Highways MAINTENANCE AND MANAGEMENT CONTRACT Service Provider, Kier; Consultant; Developer; Contractor (including temporary traffic management contractor if applicable); Police if appropriate

List of matters (not to be taken to be an exhaustive list to be considered for the agenda:

1. **Who's who** including site representatives - Contractors contact details, including names/telephone numbers and 24hr emergency contact details for BCC distribution.
2. **Completion of S278 agreement** and payment of fees, bond in place etc.
3. Completion of **any necessary consents, easements or wayleaves**
4. **Daytime and out of hours contacts** and phone numbers
5. Valid **public liability insurance** certificate for Contractor
6. **Sub-contractor details.**
7. **Any updates regarding approved s278 drawings**, e.g. construction issue drawings
8. Clarification of any **specification queries.**
9. Confirmation that **pre-commencement planning conditions** have been discharged.
10. The notice of intention to commence works and subsequent notices shall comply with the Traffic Management Act Part 4 (NRSWA). **Streetworks notices** and **temporary traffic management** plans are to be sent to [bhmstreetworks@Kier.co.uk](mailto:bhmstreetworks@Kier.co.uk) and the council respectively. Birmingham's Highways Maintenance and Management MAINTENANCE AND MANAGEMENT CONTRACT Service Provider, Kier Highways, are responsible for registering streetworks notices (BCC is the Streetworks Authority). Kier Highways will liaise with BCC Traffic Management Services regarding the traffic management proposals (Refer to Birmingham Streetworks Code of Good Practice).
11. **Dilapidation survey** of the existing public highway with BCC's Clerk of Works, if required. All documents to be submitted to the Highway Authority (BCC Private Development Team) for approval.
12. Results of **site investigations and tests**
13. **Date of commencement**
14. **'What's Going On' display boards** for the duration of the contract (as required by the Safety at Street Works and Road Works Code of Practice) to BCC requirements.
15. **Liaison with residents and any advance signing/notice requirements**
16. **Programme of works (including working hours)** and coordination of public utilities services diversions, lowering or protection of services, risk assessments, method statements and Health & Safety Plan for highway works.
17. **Methods of working.**

18. The location of **car parking for site and construction personnel** during the carrying out of the Highway Works.
19. **Site accesses and storage areas.**
20. **Temporary traffic management** Inc. traffic control, road closures, diversions, suspensions (on-street parking, bus stops) - Temporary traffic management (TTM): detailed layout drawings, risk assessments and method statements for installation, maintenance and removal of measures including any modification or changes to the installation / layout during the works; Details of the inspections of TTM whilst in operation; proof of appropriate training of operatives carrying out TTM. Refer to TTM Protocol Guidance Notes.
21. Approval of any proposed or specified **routes for construction traffic.**
22. **Temporary signs** within the highway.
23. Application Form TC56 for **temporary Traffic lights** or any existing signal heads affected by works
24. **Temporary traffic regulation orders**
25. **Health and Safety**
26. CDM Regs. Inc. Copy of **F10 form** submitted to HSE & Health & Safety File and as-built drawings
27. **Arrangements for inspections** – under the terms of the S278 agreement access to the works shall be permitted at all reasonable times to persons authorised by the Council including representatives of the Highways MAINTENANCE AND MANAGEMENT CONTRACT Service Provider, Kier, to inspect the works (including traffic signals and works related to the Council's urban traffic control and management system).
28. **Notification of stages of construction**
29. **Materials sampling and testing**
30. **Materials suppliers**
31. **Setting out** including visibility splays and highway boundaries
32. **Clearance of visibility splays**
33. **Effect on any existing rights of way**
34. **Mud, materials and equipment on the highway**
35. **Protection of existing trees** and other features to be retained
36. **Permits** (Birmingham Streetworks Code of Practice) – Hoarding, excavation, scaffold, crane, carting over etc.) TEL 0121 675 0273.
37. **Occupation of properties prior to completion.**
38. **Completion of development building works prior to surface course**
39. **Routine maintenance requirements prior to adoption**, Final Certificate (or Substantial Completion Certificate).
40. **Any other business.**

## Monitoring and Review of this document

This is a live document that will be updated as and when changes in policy relevant to the above process occur. All comments received will form part of a recurring review process and will be considered when preparing an updated version, as appropriate.

Legislation may change over time and the comments made are based on the information available at the time this guidance was produced. It is not necessarily comprehensive and is subject to revision in the light of further information.

This guidance is not intended to be a definitive guide to, nor substitute for the relevant law and independent legal advice should be sought if required.

## Disclaimer

The information contained in this guide is for general information only as is considered correct at the time of issue but is not intended to be definitive or binding in any way on Birmingham City Council or any other organisation referenced. If you are in any doubt regarding elements or issues covered or wish to discuss a specific circumstance contact the relevant City Council department.