

Kirklees Council

Highways Guidance Note – Highway Adoptions Criteria March 2019 (version 1)

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This guidance note

1 This guidance note gives an overview of Kirklees Council’s criteria for the adoption of roads and paths as ‘highways maintainable at the public expense’.

2 This guidance note has been written mainly to help developers, but it will also be used by highways teams within Kirklees Council.

Introduction

Highways maintainable at the public expense

3 If Kirklees Council adopts a road or path as a highway maintainable at the public expense, then this means that the council would take on liability for the safe operation of the roads and paths – and any associated drainage or street lighting – and would be responsible for their ongoing maintenance and repair.

Terminology

4 For convenience, in this guidance note the term ‘publicly maintainable highway’ is used instead of ‘highway maintainable at the public expense’, which is the term used in the [Highways Act 1980](#).

Adoption and highways technical approval

5 The most common way in Kirklees for roads or paths to become publicly maintainable highways is through the use of an agreement made under [section 38](#) of the [Highways Act 1980](#). Before it would sign such an agreement, the council has to thoroughly assess the proposed highways, as it

would take on an onerous responsibility. To make sure that the proposals would be acceptable, Kirklees Council requires them to have ‘highways technical approval’.

6 As part of the detailed assessment required, the council would also carefully look at which roads, paths, and other areas would be adopted.

7 Sometimes, Kirklees Council might agree to take on responsibility for roads or paths without using a section 38 agreement. In these cases, the council might not require highways technical approval. However, it would still have to carefully decide what it would adopt.

Grounds for making decisions

8 When making decisions about what to adopt, Kirklees Council has a legal duty to consider various matters. These include:

- **‘Best value’** – what would give ‘best value’ to the public, where ‘value’ includes economic, environmental, and social value
- **Equality** – avoiding discrimination on the grounds of various ‘protected characteristics’, including age, disability, and gender

- **Safety and health** – including construction safety, occupational safety and health, and road user safety
- **Crime and disorder** – including the likely effects on anti-social behaviour and the misuse of drugs, alcohol, or other substances
- **Road network management** – in particular, the need to secure the ‘expeditious movement of traffic’ on the road network in Kirklees

Further information

9 Kirklees Council has prepared the highways guidance note *Highways Technical Approval*. As well as giving an overview of the subject, this discusses the various matters that the council has to consider when making decisions.

10 The council has also prepared the highways guidance note *Section 38 Agreements for Highway Adoptions*, which explains how to get new roads and paths adopted by Kirklees Council using a section 38 highway adoption agreement.

What would or would not be adopted

General principles

Public benefit

11 Kirklees Council will not adopt any road or path as publicly maintainable highway unless the costs associated with its long-term operation and maintenance were justified by the benefit it would give to the public.

Design and construction

12 Kirklees Council will only adopt new roads and paths as publicly maintainable highway if they have been suitably designed and constructed in accordance with standards and guidance issued by the council.

Commuted sums

13 Kirklees Council will not adopt new roads and paths as publicly maintainable highway if they would be disproportionately expensive to manage and maintain unless it has been paid in advance a ‘commuted sum’ to cover the additional costs.

Unconnected highways

14 Kirklees Council will not adopt any road or path as publicly maintainable highway unless it would connect directly to another publicly maintainable highway. This is because:

- The council cannot maintain a highway if it does not have a permanent, legal right to get to it.

- The council has legal duties under the [Health and Safety at Work etc Act 1974](#) to make sure that its employees have safe ways of getting to their places of work.

Partial adoption

15 In some situations, Kirklees Council will consider adopting only part of a street.

16 Kirklees Council will usually adopt part of the length of a street providing that:

- the adopted length would connect directly to another publicly maintainable highway
- the division between the adopted and unadopted sections were readily apparent on site and the unadopted section clearly appeared to be unadopted

17 In general, Kirklees Council will not adopt only part of the width of a street. For example, if a street comprised a carriageway and adjoining footway, it would not adopt the carriageway without the footway or vice versa. In addition, the council will not adopt a carriageway and associated footway that are separated by a verge, layby, loading bay, or similar unless that were also adopted.

Roads and paths which would be adopted

General

- 18** In general, Kirklees Council will adopt:
- Roads serving more than five residential properties

- Parts of the accesses to large, individual properties – such as factories, supermarkets, or blocks of flats – where it is in the public interest for the entrance bellmouth to be entirely within the publicly maintainable highway
- In some situations, roads and paths within large industrial or commercial developments where it would otherwise leave individual properties isolated from the network of publicly maintainable highways

Paths which would usually be adopted

19 Kirklees Council will usually adopt the following new paths (including paths for cyclists and horse riders) in new developments:

- Paths that connect different parts of a development or a development to neighbouring areas
- Paths that connect a new development to the existing network of publicly maintainable highways, including public rights of way (PROWs)

Paths which would not usually be adopted

20 Kirklees Council will not usually adopt the following new paths in new developments:

- Paths in landscaped areas or areas of public open space whose principal function is to allow people to enjoy those areas
- Paths that are also used by private motor traffic, for example, paths that run across car parks or along or across farm access tracks or private drives
- Paths provided to give access to the back of residential properties
- Paths provided to give access to areas used for the storage or presentation for collection of refuse or recycling bins
- Paths that run across or along surface drainage features, such as balancing ponds and swales, unless they are also adopted
- Paths that run across or along flood defences, river walls, dams, or other water retaining features
- Paths that are supported by or pass through a building

Visibility splays and envelopes

21 Kirklees Council usually requires that all the area within a visibility splay at a junction or a forward visibility envelope at a bend is part of a publicly maintainable highway. The council will consider locally adjusting the highway boundary to accommodate this.

Drainage

Highway drains

22 Kirklees Council will usually adopt with a road or path any associated drains.

Run-off from private areas

23 Kirklees Council will not adopt any road or path where run-off from private areas would discharge onto the surface of the road or path or into an associated drain.

Unadopted sewers

24 Kirklees Council will not adopt roads or paths that contain unadopted sewers, even if the local statutory sewerage undertaker (currently Yorkshire Water) has agreed to adopt them.

Private drainage features

25 Kirklees Council will not adopt roads or paths that contain any of the following unless suitable section 106 planning obligations are in place to secure their long-term care:

- The discharge of highway drains into private drainage systems
- Private drainage apparatus in publicly maintainable highways
- High-risk private drainage features near publicly maintainable highways

26 Kirklees Council's highways guidance note [Highways, SuDS, and Private Drainage](#) gives more information about section 106 planning obligations and explains the council's requirements for them in relation to the long-term care of these private drainage features.

Cross-path channels and rainwater goods

27 Kirklees Council will not normally adopt roads or paths that contain private cross-path channels or private rainwater goods.

28 Cross-path channels are channels or pipes that convey roof water, surface water, or similar from neighbouring property across a roadside path or verge to the edge of the carriageway. Rainwater goods are pipes, guttering, and other fittings provided to carry rainwater off and away from buildings or other structures.

Structures

General

29 Kirklees Council will not adopt any structure that forms part of a building.

30 The council will not adopt only part of a structure. Where it would be desirable for only part of a proposed structure to be adopted, it should be redesigned as separate structures.

Bridges and burr walls

31 In general, Kirklees Council will not adopt a road or path that is supported by a bridge or burr wall (a retaining wall that either directly supports a road or path or supports an embankment carrying a road or path), unless that bridge or burr wall is also adopted.

Retaining walls

32 The council will not normally adopt retaining walls whose only function is to support land or properties above the level of an adjacent highway.

Underground attenuation tanks

33 Kirklees Council will not adopt roads or paths that cross underground attenuation tanks unless those tanks comply with the council's requirements for attenuation tanks in highways.

Watercourses and culverts

34 Kirklees Council will not normally adopt open watercourses, even ones that run alongside a road or path that would be adopted.

35 Kirklees Council would usually adopt with a road or path any culverted watercourses that would cross or run along it. This adoption would include taking on responsibility for both the culvert and the watercourse that it contained.

Grassed verges

36 Kirklees Council will not adopt any road or path that has a grassed verge that borders a private garden or privately-owned grassed or landscaped area, unless there is a suitable roadside or pathside fence, wall, or similar between the highway and the private area.

Visitor parking places

37 Parking places for visitors to residential developments are unlikely to remain available unless suitable arrangements are made to ensure that they would be managed and maintained.

38 Kirklees Council will usually adopt designated visitor parking places in new residential developments as long as that they are on the main carriageway or within in laybys and are obviously part of the publicly maintainable highway.

Roadside walls, fences, and hedges

39 Kirklees Council will not normally adopt roadside or pathside walls, fences, or hedges. However, if two highways would otherwise be separated by only an existing wall or hedge, then the council might consider adopting the intervening length.

Utility apparatus

40 In some situations, Kirklees Council would consider locally adjusting the highway boundary to allow utility apparatus to be placed entirely within a publicly maintainable highway.

Provision for future development

41 To assist the future development of adjoining areas, it is quite common to provide adopted highways up to the external boundary of development sites. In these situations, Kirklees Council would consider extending the area to be adopted up to the site boundary, including any walls, fences, or hedges that run along the boundary.

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