

The Essex County Council Environment, Sustainability & Highways

Highway Authority Development Management Service Level Agreement with District & Borough Local Planning Authorities

1.0 Introduction

- 1.1 Each year the Highway Authority receives several thousand planning applications for consultation. The Highway Authority needs to ensure that future development permitted through the planning process creates a safe and sustainable transport system that is accessible for all.
- 1.2 Essex County Council (ECC) as the Highway Authority is a statutory consultee to Local Planning Authorities. The Highway Authority considers all planning applications in line with National, Regional and Local Policy together with the County Council's own Highway Development Control Policies.
- 1.3 The scale and nature of the proposed development determines which office of the Highway Authority will deal with the application, as follows:
- Large scale applications are dealt with at County Hall.
 - Other applications on County Routes and Local Roads are dealt with at the Highway Authority's Area Offices.
 - Minor applications on Local Roads may be dealt with under the de minimus code of practice by the Local Planning Authority (LPA).
- 1.4 The service aims to be professional, efficient and of a consistent high quality regardless at which office the application is considered.

2.0 Responding to Planning Applications

2.1 The Highway Authority recognises that Local Planning Authorities have an obligation to meet targets set by Central Government and understands that in order to determine major planning applications within 13 weeks and other applications within 8 weeks consultees need to respond within certain timescales. Therefore:

- Mindful of the significance of all development on the highway network, the Highway Authority will respond within 21 days of being notified of an application in order to give Local Planning Authority officers & Members sufficient time to fully appreciate the nature and impact on the highway network.
- The Highway Authority will provide a formal response to the Local Planning Authority within 21 days even if this target cannot be met with a detailed response. This may take the form of a recommendation of refusal if consideration has not been possible because of a lack of required information within the application.
- In order to achieve these challenging timescales, the Highway Authority encourages pre-planning application discussions and will work with Local Planning Authority officers as and when necessary.

2.2 It is essential that when registered by the Local Planning Authority, applications are dispatched to the Highway Authority without delay; applications supported by copies of all relevant documentation will ensure that the Highway Authority can provide the best possible service to Local Planning Authorities.

2.3 It is anticipated that more consultation in an electronic format will occur in the future and Local Planning Authorities will work with the Highway Authority to ensure that this process is fit for purpose and allows the Highway Authority to fulfil its role as statutory consultee in the most efficient manner. To ensure this, the Local Planning Authority will undertake to provide scale plans to the Highway Authority in each case.

3.0 Promoting Partnership Working

3.1 In order to promote an efficient partnership between the Local Planning Authority and the Highway Authority both parties should adhere to the following procedures:

- Highway Authority Area Office staff will visit the local planning office on a weekly basis to discuss planning applications and share information. Local Planning Authority staff should use this opportunity to raise urgent matters.
- Highway Authority staff will be invited to attend pre-planning application meetings as applicable.
- Local Planning Authorities will be mindful of the Highway Authorities requirements in relation to an application (as contained in both national and local validation requirements) prior to registration taking place.
- Local Planning Authorities should inform the Highway Authority when the Planning Application is to be considered at Planning Committee.
- Highway Authority officers will where possible, attend relevant Planning Committee meetings when requested.
- Where insufficient information is included with an application, the Highway Authority will request further information as soon as possible and/or issue a recommendation of refusal (this is more likely on larger planning applications).
- The Local Planning Authority is to provide the Highway Authority with a copy of the relevant committee resolutions and planning decision notices if these are not posted on the Local Authority's web site.
- The Local Planning Authority will undertake to respond to queries regarding applications from the Highway Authority in a timely manner.
- The Local Planning Authority will undertake to provide explanation to the Highway Authority if recommendation content is not taken forward to planning committee.
- The Highway Authority will undertake to use previously agreed Standard Conditions within its recommendations, where applicable.

4.0 Allocation of Applications within the Highway Authority

4.1 Strategic Development Team based at County Hall:

Will respond to all planning applications proposing or having:

- Residential development over 50 dwellings.
- Other development that triggers the thresholds for a transport assessment, as detailed in “Guidance on Transport Assessment” published in March 2007 by Communities and Local Government/Department for Transport. Further details can be found in Appendix 1 of this document and the Highway Authority will be happy to provide guidance for this on a case by case basis.
- All Essex County Council Planning Applications

4.2 Area Office Teams based at Mid, West, East and South Area offices:

Will respond to all planning applications other than those identified above that have an impact on:

- A County Route (defined on the County Functional Route Hierarchy within the current Local Transport Plan 2006-2011)
- Any local road planning application that falls outside of the de minimus code of practice.

4.3 Local Planning Authorities:

Planning applications that fall within the de minimus code of practice can be dealt with by the Local Planning Authority following agreement and training from the Highway Authority.

- It is for each Local Planning Authority to formally request where they wish to operate this code of practice. In cases where the Local Planning Authority chooses not to operate the de minimus code, applications will be dealt with by the Highway Authority’s Area Office teams.
- The full code of practice, produced by the Highway Authority, indicates the scope of proposals and provides technical guidance to allow Planning Officers to consider minor highway issues on certain types of road. Copies will be supplied where operation is agreed by both parties.

- The Highway Authority must provide appropriate training for those Borough/District Planning Officers prior to operation of the de minimus code of practice.
- A suitable financial contribution should be sought for specified local area transportation needs as identified by the Highway Authority and in compliance with Central Government Circular 05/2005.

5.0 Policy, Practices and Standards

- 5.1 All staff working within the Highway Authority development control function will apply highway and development control policies and will adhere to ECC working practices and standard procedures.
- 5.2 The Highway Authority development control policies, which are at present part of the Local Transport Plan, are currently being reviewed and prepared for consultation so that they can be adopted as an Essex County Council Supplementary Planning Document (SPD). This will afford them greater weight when being used by both the Highway Authority and Local Planning Authority to justify refusal.
- 5.3 In addition to this, the Highway Authority will work with the Local Planning Authority to ensure that emerging Local Development Frameworks contain appropriate transport policies.

6.0 Legal Agreements

- 6.1 All legal agreements that relate to Highway Authority matters will be required to use ECC standard agreements. Within the highways legal agreement there are standard clauses that are non-negotiable to the Highway Authority (these will be highlighted on the draft) and final decision on transportation wording lies with ECC Legal Services.
- 6.2 The Highway Authority must be a party to all legal agreements relating to the provision of highway works.
- 6.3 All legal agreements with highway and transportation related works or that have transportation related financial contributions will be monitored by the Highway Authority.
- 6.4 All financial contributions held by the Highway Authority will be spent in accordance with the requirements of the legal agreement.

7.0 Planning Appeals

7.1 When a recommendation of refusal on highway grounds has been made by the Highway Authority:

- The Highway Authority will present and defend the highway case at any subsequent appeal.

7.2 If a situation arises when the Local Planning Authority has refused an application on highway grounds against Highway Authority recommendation or an instance when the Highway Authority was not consulted:

- The Highway Authority will not be required to provide evidence or appear at any hearing/inquiry to support the refusal.

7.3 In line with the recently published DCLG consultation to revise the Circular on Costs Awards in Appeals and other Planning Proceedings, the Highway Authority will not normally pay towards costs that may be incurred by the Local Planning Authority if a case is lost at appeal on highway grounds; this view is taken for the following reason:

- Although the Highway Authority is a statutory consultee on planning applications it has no power of direction.
- The Highway Authority provides advice and this can be adhered too or overridden by the Local Planning Authority or its Members.

7.4 Notwithstanding the above position, this does not preclude discussions regarding cost sharing, on a case by case basis, where highway matters would be the only reason for objection and subsequent appeal. Any agreement would need to be reached prior to the appeal hearing.

7.5 Where the Local Planning Authority has refused an application within the guidelines of the de minimus code of practice, the Highway Authority will undertake to provide support and assistance in the preparation of any subsequent appeal.

8.0 Discharge of Conditions

- 8.1 The Highway Authority will operate the same protocol for response on requests for the discharge of conditions to that outlined above for the original planning applications.

9.0 Enforcement

- 9.1 Where development takes place without the benefit of planning permission and enforcement action is required, the Highway Authority commit to working with the Local Planning Authority to assist with the successful resolution of such issues.
- 9.2 The Local Planning Authority will provide copies of the relevant enforcement notices to the Highway Authority where their support is required.
- 9.3 Mindful of the need for the Local Planning Authority to take swift action on unauthorised development sites, the Highway Authority will respond promptly to requests for information.
- 9.4 Where appropriate, the Highway Authority will attend hearings or appeals to defend their position with regard to enforcement notices issued on unauthorised development.

10.0 Declaration:

On behalf of the Highway Authority

Name: Keith Lawson

Position: Development Management & External Funding Manager

On Behalf of the Local Planning Authority

Name:.....

Position:.....

District or Borough Council:.....

Appendix A

Split between County Hall and Area Offices based on Traffic Generation

Use Class	Area Office	County Hall (and provision of a Transport Assessment*)
A		
A1 Food retail	Less than 800m ²	Greater than 800m ²
A2 Non-food retail	Less than 1500m ²	Greater than 1500m ²
A2 financial and professional services	Less than 2,500m ²	Greater than 2,500m ²
A3 restaurants and cafes	Less than 2,500m ²	Greater than 2,500m ²
A4 drinking establishments	Less than 600m ²	Greater than 600m ²
A5 hot food takeaway	Less than 500m ²	Greater than 500m ²
B		
B1 business	Less than 2,500m ²	Greater than 2,500m ²
B2 gen industry	Less than 4,000m ²	Greater than 4,000m ²
B8 storage and distribution	Less than 5,000m ²	Greater than 5,000m ²
C		
C1 Hotels	Less than 100 bedrooms	Greater than 100 bedrooms
C2 residential - hosp, nursing homes	Less than 50 beds	Greater than 50 beds
C2 residential -education	Less than 150 students	Greater than 150 students
C2 residential - institution hostel	Less than 400 residents	Greater than 400 residents
C3 Residential	Less than 50 units	Greater than 50 units
D		
D1 non-residential institutions	Less than 1000m ²	Greater than 1000m ²
D2 Leisure and assembly	Less than 1500m ²	Greater than 1500m ²
Others	Discuss with LHA	Discuss with LHA
Stadia	Discuss with LHA	Discuss with LHA
Cinema and conference	Discuss with LHA	Discuss with LHA
Primary and secondary education	Discuss with LHA	Discuss with LHA
Higher and further education	Discuss with LHA	Discuss with LHA

* Requirement for a Transport Assessment relates to CLG Circular Guidance 02/07.