

# CONSENTED DEVELOPMENT ~ WORKING ON THE HIGHWAY REPORT BY AREA HIGHWAY MANAGER – ESSEX COUNTY COUNCIL

## Background

Any housing development, whether it is the building of one house or a housing estate of 100 properties, is required to make a planning application to Epping Forest District, as the Local Planning Authority.

Notification will be received by the Essex County Council, as the Highway Authority if:

- The development within an urban area is for 5 or more properties
- Or the Planning Department feel the development may have significant impact on the highway.

## <5 Properties

Typically, a development of 5 properties or less will not be notified to the West Area Office. There are no statutory requirements for the developer to contact the Highway Authority, unless the development specifically needs to carry out works in the highway.

Should the developer need to work in the highway (for example, to change the vehicle crossover) they are required to contact the Highway Authority to seek formal agreement.

Where defects or other problems have occurred on the highway through the works carried out on such a development, these are normally identified either by the Highways staff in the course of their normal duties or through enquiries received from members of the public.

Members should note that because the developments are small in nature, Officers may not have been aware of their commencement, given that they are often 'stop/start' in nature. Additionally even though Officers may have been made aware of the site via lists of planning applications where permission has been granted, this does not mean the development has commenced. Officers are looking at ways to improve this system with colleagues at Epping Forest District Council.

## >5 Properties

In larger developments of 5 or more properties and where work is required in the highway to necessitate the scheme, approval must be granted by Essex County Council, through a Section 106 agreement under the Town and Country Planning Act 1990 or a Section 278 agreement under the Highway Act 1980.

### Section 106 agreement

Section 106 of the Town and Country Act, in conjunction with Department of Environment Circular 5/05, allows for Essex County Council and persons interested in land to agree contributions, arrangements and restrictions as Planning Agreements or Planning Obligations. Applicants can offer such agreements unilaterally or negotiate and agree them as support for their application to make it accord with local planning requirements, but without some of the rigorous controls of Planning Conditions under s 70(1).

Monies are paid by the developer to Essex County Council in order to offset the costs of the external effects of development. For example, if a developer were to build 100 new houses, there would be effects on local schools, roads etc., which Essex County Council would have to support. In that situation there might be a Section 106 agreement as part of the granting of planning

permission. The developer might agree to make a contribution towards the provision of improving the footway or road network.

### **Section 278 Agreement**

The Section 278 agreement is a facility to allow private developers to either pay for or carry out off-site works to public highways (for example, creating junction improvements or the introduction of pedestrian crossings).

Developers building these many properties are typically public and community responsive. Through experience they contact Officers prior to any works, to discuss the scheme and to carry out pre-condition surveys. They are pro-active to ensure site safety and are receptive to issues raised throughout and after the construction process. For example, carrying out temporary repairs throughout the projects life span and then undertaking permanent repair works once the development is complete.