

# Scrutiny Report

## Developer-Funded Highways Infrastructure Scrutiny Task Group

draft

# Scrutiny Task Group Membership

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draft

# Foreword

In recent years Worcestershire has seen a lot of new development with thousands of new houses being built each year across the County. However there has been concern from residents and Councillors that the supporting Highways infrastructure such as junctions, roundabouts, pedestrian crossings or traffic lights that were supposed to be built by the developers as part of the planning have not been built or taken far too long to be built. The Task Group set out to establish why.

An example was the roundabout on the junction Elm Rd/Offenham Rd in Evesham that was eventually built in February 2017, but the process started in 2012 when planning W/11/02836/RM was approved and stated the junction needed to be built before the 150<sup>th</sup> dwelling was occupied. This planning condition was not met; the vast majority of the 508 new houses were built and occupied before the roundabout design was even approved. This led to severe congestion at this junction for nearly 18 months adding 20-30 minutes to journey times.

To build on the Worcestershire's Highway Network, a developer needs to submit technical drawings of the proposed infrastructure which Worcestershire County Council officers have to approve; this is called "Technical Approval."

Since 2016 the Economy & Environment Overview & Scrutiny Panel has been monitoring the number of days to obtain Technical Approval and had several presentations from the department that deals with them on 1<sup>st</sup> July 2016, 15<sup>th</sup> Sept 2017, and 1<sup>st</sup> Feb 2021. After receiving the Q4 2020 performance monitoring figures, the panel flagged that the performance of WCC section 278 in approving developers' technical drawings was poor and deteriorating; *Days to Approve is going in the wrong direction – average time to approve technical drawings was 325 days in 2019/20, (in 2018/19 it was 213 days)*

As a result of these concerns, and the recognition that delays in completing key highways infrastructure impacts on local communities, road users, and businesses, the Overview & Scrutiny Performance Board agreed to set up a Scrutiny Task Group to investigate further and to suggest recommendations for service improvements, as necessary.

The terms of reference state; -

- How to get developer-funded Highways Infrastructure built quicker for the benefit of residents and road users?
- How can WCC help ensure the planning conditions imposed on developers to build certain highways infrastructure by certain key times are met?

The Task Group acknowledge that a record number of new houses have been built over the last 8 years and so the demand on our Technical Approval services has been high. The Group recognise the professionalism and expertise of those working within Section 278/38 department and congratulate them on the improvements made since the Scrutiny Group started.

Unfortunately, as the Task Group was formed, the arrival of Covid-19 meant that the work had to be paused and did not actually commence until October 2021. Once it was able to start work, the Task Group undertook a programme of evidence gathering by speaking directly to Developers, Local Planning Authorities, key personnel within Worcestershire Highways and at our Technical Consultants. Members were also able to speak to staff

## **Worcestershire County Council Overview and Scrutiny**

working in a similar Section 278/38 service in several other County Councils to compare and contrast ways of working and be in a position to consider whether a different approach to provision may lead to service improvements. As a result of these meetings, the Group widened their research to include Contractors that worked for other Councils and could offer a design and build service. The Group also interviewed a company that had built a software package that Hampshire County Council were using to manage their Section 278/38 processes.

I wish to take this opportunity to thank each Task Group Member for the invaluable part they played in bringing together a most comprehensive report. I would also like to thank all our Scrutiny Officers, Deborah Dale, Samantha Morris, Emma James and Jo Weston for their help and support with all aspects of the Task Groups work. I must give a special mention and thanks to Sheena Jones for her guidance when we were writing our recommendations, and to Ian Bamforth who was parachuted into the s278/38 department when the Scrutiny Review began and introduced some important measures. I must also express my gratitude to all the witnesses who gave up their time to share their experiences of what is a complex subject.

**Councillor Alastair Adams**

**Lead Member of the Developer-Funded Highways Infrastructure Scrutiny Task Group**

# Background and Purpose of the Scrutiny

1. Developer-funded highways infrastructure is any infrastructure paid for by a developer which involves permanent changes made to the public highways maintained by the Council. A Section 278 agreement (or S278) is part of the Highways Act 1980 that allows developers to enter into a legal agreement with the Local Highway Authority, in this case the Council, to make alterations or improvements to a public highway, following the grant of planning approval. Examples include housing or community developments with new or changed access into the site (i.e., a bell mouth, roundabout, signalised junction, right turn lane or a simple priority junction). A Section 38 Agreement (or S38) is similar to a S278 but relates to highways and associated infrastructure **within** a development which will be adopted by the council if it meets agreed standards. A S38 follows the same process as the S278 (see Appendix 4).
2. During its performance monitoring process, the Council's Environment Overview and Scrutiny (O&S) Panel (previously known as the Economy and Environment O&S Panel) expressed concern about the length of time taken for developer-funded highways infrastructure works to be completed. Specific areas of concern included the length of the overall process and the time taken for the Council to approve technical drawings from developers (as detailed in Step 4 of the 10 Stage Section 278/38 process shown in Appendix 4). According to the Council's website, detailing the overall S278 process (Appendix 2) step 4 should take 8 weeks = 56 days but was taking on average 325 days in 2019/20.
3. The delay in completing developer-funded highways infrastructure works impacts on local communities, road users and businesses, therefore this area was identified as a priority for further scrutiny. The Task Group's main area of focus was housing development delays as they were of public interest and of most concern for the Council.
4. In January 2021, the Overview and Scrutiny Performance Board (OSPB) agreed that a Scrutiny Task Group should be set up to look at this area. Due to the Covid-19 pandemic, and subsequent impact on scrutiny priorities, this work started in October 2021.
5. The Terms of Reference for the scrutiny exercise were to investigate:
  - How to get developer-funded highways infrastructure built quicker for the benefit of residents and road users
  - How the Council can help ensure the planning conditions imposed on developers to build key highways infrastructure by certain deadlines are met.
6. Two teams in the Economy and Infrastructure Directorate are involved in the process to sign off elements of a Section 278 agreement. The department names have been changed since the Task Group review was started.
  - The Highways Development Control Team (HDCT) was called Section 278 & 38 Development Control Team. This department deals with the process of approving the design of the developer-funded infrastructure and seeing it is built correctly ie Steps 3 to 10 of the 10 Stage Section 278/38 process

and

- The Transport Planning and Development Management Team (TPDMT) which was called Development Control. This department is a consultee to all planning

applications on matters relating to highways so liaises with the 6 local planning authorities (LPA's) before planning is approved ie Stage 1 – 2 of the 10 Stage Section 278/38 process.

7. The Task Group sought to clarify the roles and relationships of the two teams, especially whether there was consistency in their approaches.
8. When the Task Group was formed, their first request was for a list of all section 278 and 38 agreements in the system. Consequently, a Master Spreadsheet was produced. The Master Spreadsheet lists all 278/38 agreements at the 10 different steps in the 10-stage process and colour codes them as per Appendix 4. There were 334 S278 and S38 at various stages with 36, S278 at Technical Submission (step 4) and Registration (step 3). The Task Group found this very useful and was informed that the Master Spreadsheet is now being used as a management tool to monitor progress with every S278/38 application.
9. The original thought of the Task Group was to focus on the Step 4 “Technical Approval” as that is where the delays seem to occur, and the Council’s Environment O&S Panel had been monitoring the performance of this area with quarterly performance data (Appendix 8). However, as the review progressed, other areas were identified that could speed up the process of getting developer-funded infrastructure built quicker.

## The Task Group’s approach

10. From the outset, it was recognised that the process of approving developer-funded infrastructure is, by its nature, complicated. Applications to alter a public highway involve planning and highway law, yet schemes need to work for residents and the local area.
11. It was therefore important for the members of the Task Group to understand which parts of the process were causing delays.
12. The Task Group has met with Officers from the Council and District Councils. The six District Councils are the Local Planning Authorities (LPAs), who are the determining body for granting planning permission. The Task Group also met with housing developers, other county councils, a construction engineering company and the Council’s current Highways Professional Services Technical Contractor (HPSTC).
13. During the initial overview of the Council’s role in developer-funded highways infrastructure Schemes, the Task Group was advised in October 2021 that the Directorate had started reviewing this area, with an aim to make improvements and that progress was already being made. Appendix 5 shows the overview given to the Task Group detailing the steps being taken at that time to improve the situation.
14. The Task Group has spent over 12 months interviewing witnesses and collecting data and has identified a number of areas where it believes improvements could be made to current arrangements in place in Worcestershire, which would reduce delays in developer-funded infrastructure being built.
15. A full Schedule of the Task Group’s Activity is attached at Appendix 1.

# Recommendations

## Culture and purpose

16. The Task Group felt that the S278 team had generally focused on being custodians of the Council's highways standards and would indicate when the developers' drawings did not meet these. The process that is followed is set out in Appendices 2 & 6 of the report. A long iterative process can take place where drawings are rejected, revised and resubmitted multiple times. The Task Group learned that the longest process had taken 12 submissions over 5 years, and the drawings are yet to be finally approved.
17. When the Task Group reviewed several older schemes with the officers, potential solutions were identified by members of the officer team, but it was not clear whether these were routinely proposed to the developer. The Task Group noted that in recent months the officers have improved communications with developers and now most developers have the telephone numbers of key members of staff. This has been highlighted as a tangible improvement by the developers we spoke to. The following recommendations seek to promote such improving practice to become embedded.

### **Recommendation 1: The Mission Statement of the Section 278 Team has to be clearly defined as follows:**

**'To be laser focused on outcomes and getting the highways infrastructure built as fast as possible to the required highways standards for the benefit of residents and users of the highways in Worcestershire'.**

**This should build on a constructive working relationship with developers, identifying and addressing issues at an early stage whilst maintaining required highways standards.**

**Recommendation 2: To prevent multiple submissions of drawings which delay the building of infrastructure, a routine process be introduced whereby after 2 failed submissions a senior manager in the Section 278 team meets with the developer with the aim of resolving issues, aiming to achieve success with a maximum of 3 submissions of drawings.**

## **Management and Oversight**

18. At the start of the Task Group Review, the previous Highways and Public Rights of Way Manager was seconded to the Section 278 Team to look at ways to improve the process. He helped develop the 'master spreadsheet' which listed every S278/38 application and where they were in the 10-stage process. This manager retired in April 2022, and during the 12 months that the Task group was collecting evidence, they only saw the master spreadsheet on 2 occasions. Evidence from other authorities showed they had a similar management spreadsheet, and it was used dynamically through weekly meetings to review progress and to drive performance. These recommendations aim to reinforce the use of such tools to support a better management grip on performance.

**Recommendation 3: More robust management oversight of the Section 278/38 Team, ensuring there is a performance management approach using appropriate management tools. Examples of such tools might include:**



- Using KPI's monitored on a weekly or monthly basis to drive performance
- Using timescales set by the department with close monitoring and management oversight of targets and deadlines, and
- Making better use of the master spreadsheet or similar management tools

**Recommendation 4:** Agree milestones with the Council, developers and any other relevant partners. These milestones and dates should be agreed formally to ensure everyone knows what is expected by whom and by when.

Milestones need to be agreed so that the planning conditions can be achieved and monitored by using, for example, a Gantt chart. Feedback from talking to other councils indicates that meetings to agree these milestones seems best practice and could take place either by Zoom or Teams to include the Council, LPAs, developers and developers' consultants.

**Recommendation 5:** To ensure timescales are met, regular meetings to take place between all parties throughout the process to keep progress on track towards the milestones. Each job should be allocated to an accountable person who would be the liaison point with all parties.

**Recommendation 6:** That the Strategic Director for Economy and Infrastructure (Strategic Director) reviews the resources applied to the delivery of S278/38 agreements to ensure the workload is managed effectively across the in-house team, and the Council's technical consultant contractor.

## **Planning**

- At the beginning of the Task Group, there were several examples mentioned where the planning was approved with input from TPDMT but when the technical drawings were submitted to HCDDT, it was identified the infrastructure could not be built as outlined at planning. This resulted in some developer-funded infrastructure never being built. Various reasons were given, such as the difference between 2-dimension plans which were used at planning, and 3-dimension plans required for construction. However, there were other issues such as tracking for turning of lorries showed the junction was dangerous, or there were land ownership issues which meant that the infrastructure could not be built that way.
- TPDMT have to deal with a very high number of requests from the 6 LPA's, over 3000 per year. See below Planning Application numbers for 2020 and 2021

	<b>2020</b>	<b>2021</b>
<b>Bromsgrove</b>	350	400
<b>Malvern Hills</b>	700	737
<b>Redditch Borough</b>	200	190
<b>Worcester City</b>	450	530
<b>Wychavon District</b>	1000	1100
<b>Wyre Forest District</b>	470	490

- The LPA's have their own design guides for developers, but sometimes this information is contradictory to the County Council Streetwise Design Guide. For example, many LPA's encourage the planting of trees along the road verge, but for maintenance purposes, this is currently not seen as a good thing by the Council.

22. The following recommendations focus on the relationship between the 2 Council departments, TPDMT who give planning advice to the 6 LPAs on highway matters, and HCDT who approve the construction drawings

**Recommendation 7:** The Task Group recommends that the Strategic Director reviews the management arrangements for the TPDMT and HCDT to maximise opportunities for closer working between departments to achieve clarity and consistency. For example, this could mean a senior manager over both departments, or closer training together, or both departments working in the same office. There were examples from other councils where individuals between these 2 teams were seconded to the other for 1 or 2 days a week.

**Recommendation 8:** Planning Conditions (for example – a roundabout must be built before the 150th house is occupied) must be acknowledged, met, and enforced. As most of the planning conditions are proposed by the TPDMT in the first place, it should be possible by closer working between the Council's departments to achieve the deadlines written in the planning conditions.

**Recommendation 9:** The wording provided by TPDMT to the LPA's which are subsequently used in the planning conditions should be stronger and more robust to support the ability to enforce them.

**Recommendation 10:** On receipt of planning applications from the LPAs, TPDMT should grade and allocate them for processing in accordance with the complexity of the scheme, and where appropriate involve HCDT. However, the involvement of HCDT should not slow down the process.

**Recommendation 11:** Some Councils have standard formats for developer-funded Highways Infrastructure minor works planning applications. The Task Group recommends this is explored for this Council so agreement with the LPAs can be reached where it is not necessary for the Council to be a statutory consultee for certain scenarios.

**Recommendation 12:** It is recommended that the Council's TPDMT liaises with all LPAs to request that only relevant applications are sent to the Council. The Task Group discovered that there was an existing protocol where LPAs should not send planning applications to the Council if there were no Highways implications. This protocol should be enforced.

**Recommendation 13:** The Task Group recommends an agreement of standards for Design Guides to be established between the Council and the 6 LPAs.

### **Performance Monitoring**

**Recommendation 14:** The Environment O&S Panel should be supplied each quarter as part of their Quarterly Performance Monitoring, with sufficient information to show how each S278/38 application is performing, including at which stage they are at and performance against the milestones.

**Recommendation 15:** The Task Group recommends that a focus group concentrates on completing an urgent review of the backlog of schemes to identify, resolve and complete them. During the Task Group's work, members were made aware that out of 12 submissions some were outstanding by 1,386 days.

**Recommendation 16:** The Cabinet Member with Responsibility for Highways and Transport and the Strategic Director should be invited to Scrutiny on an annual basis to provide an update on the recommendations agreed from this Scrutiny Report. The Council's OSPB should determine the most appropriate body to carry out this scrutiny and accordingly, should be added to the appropriate Scrutiny work programme.

### **General Recommendations**

**Recommendation 17:** During the scrutiny, the Task Group investigated a development control software package which could automate and manage the process from start to end and provide management information and reports, as necessary. However, the Group strongly recommends that purchase of such software is not pursued until the above recommendations 1 to 13 are fully implemented.

**Recommendation 18:** The Task Group recommends that if compliant with the current contract, a review of the fee structure applied by the Council to its technical consultant contractor is carried out, with a view to simplifying the process. At such time as the contract is retendered, consideration be given to introduce specifications which incentivise efficient finalisation of the drawings for schemes and expediate S278/38 applications.

**Recommendation 19:** The Task Group recommends that the Council considers the development of a service level offer for Developers. For example, a choice of service; Technical drawing approval only as currently, or an enhanced service such as design and build. Another council offer a full service of design and build.

**Recommendation 20:** The Task Group recommends the local Councillor and residents is/are kept informed of progress with S278/38 agreements and where necessary involved as local knowledge can help resolve issues.

**Recommendation 21:** In order to minimise the risk of delays, that legal agreements are prepared in parallel with the technical approval process.

## **Findings**

23. The recommendations have been developed following an extensive scrutiny exercise which has involved obtaining evidence and information from a wide range of professionals and service users, the key findings of which are shown below.

### **The Technical Approval Process**

24. The Task Group was keen to seek clarification on the process of a developer registering a scheme, gaining technical approval, the technical submissions required and the escalation process, when it was needed.
25. At the time of the Scrutiny, the Economy and Infrastructure Directorate was working on an Improvement Plan to reduce delays in the completion of S278 schemes. The Improvement Plan flowchart (attached at Appendix 2) detailed the Section 278 Technical Review process. The Improvement Plan aimed to reduce the number of submissions required, make communication more effective and incorporate greater pre-planning advice. In Members' view, success with the Improvement Plan requires proactive work on behalf of the Council.

26. The Officer responsible for managing the HDCT explained that before taking on the role, the S278 process had appeared unnecessarily complicated, however, the complexity involved was now appreciated and it was highlighted that planning applications often lacked detail in respect of S278 requirements, which created problems later.
27. The main steps of the Technical Approval process detailed in Appendix 4 are:
  - Registration (Step 3)
  - Technical Submission (Step 4)
  - Technically Approved (Step 5)
28. The time taken for a developer to complete pre-registration forms could be weeks or months, depending on what was involved, for example the need to approach a utility company. The HDCT offered to liaise with developers at this first stage if there were problems and staff were now more proactive in terms of communication and support to avoid long email trails. As part of the Improvement Plan, a more formal escalation process was being introduced, and local members were often involved in this.
29. The average technical approval duration for S278 was 256 calendar days in January 2021 and this reduced to 115 in December 2021. The average number of submissions in the same time period reduced from four to three.
30. It is hoped that a jointly funded Planning Liaison Officer between the Council and Wychavon and Malvern District Councils would help with liaison between developers and planners. However, although this position has been funded, it is still vacant at the time of writing this report.
31. The S278 Registration Form set out the formats accepted for the application of S278 Schemes e.g., AutoCAD, drawing file, which were standard and did not generate problems. The first technical review is not undertaken until all information is received. Once the submission was deemed acceptable it would be recommended for technical approval.
32. Members of the Task Group thought that the abundance of information on the Council's website was overcomplicated and suggested that it would be helpful to have separate, specific sections which could be sent to developers to address specific needs.
33. The technical review should take 4 weeks, and the developer would be contacted about any identified problems. However, each time a submission failed, the new re-submission would enter a new 4-week cycle, although a third fail would trigger a meeting with the developer to understand what they were struggling to resolve. Generally, at this point it would be clear what the problem was and speaking with the developer directly was the best way forward.
34. When asked whether the developer could be advised about issues earlier in the process, officers advised that this did take place on occasion, but the sheer volume of work made this difficult for every application when each officer may be dealing with 20-30 schemes. Also, piecemeal conversations made version control tricky when discussion about one aspect of a submission often affected other aspects of it.
35. Relationships between developers and consultants may vary. Some developers may not wish to consider issues where the plans they had submitted departed from the design guides. This may have implications for further land or funding requirements. Technical approval required a fastidious approach to avoid issues further down the line which may only come to light through safety or maintenance issues once a scheme was complete.

36. The HDCT Manager was keen for there to be greater input from the LPAs at the pre-planning and planning stage, therefore more staffing resources were being introduced to achieve this. Vacancy management was of concern as positions were hard to fill. Of note, over 50% of submissions were for development in Malvern Hills and Wychavon Districts.
37. The Council's HDCT dealt with the technical approval unless specialist knowledge of a particular aspect was not available. It was estimated 30-35% of workload was passed to the Professional Consultant firm for Technical Approval
38. The Government Design Manual and the Streetscape Design Guide dictated the design of S278 Schemes. These guides were on the website, were national guidance and something developers would be familiar with.
39. The Task Group asked about the demands on staff resources from the different stages of development control processes. Information provided in January 2022 where there were 138 schemes at pre-agreement and 334 post-agreement, indicated that 10% of time was spent on administration, 26% on pre-planning/agreement (prior to signing the legal agreement) and 64% on post-agreement, during construction.
40. The Council offered an option of early technical approval (ie pre-planning approval) if a developer wanted to pay early for S278 approval and there had been positive feedback about this option from developers on a working group who met with the Council. Although there had been very little take-up to date, this choice was being promoted, which the Task Group agreed was sensible.
41. The idea of incentives within the submission process would be explored as part of the Directorate's review and discussions with developers, although it would be important to balance a potential effect on quality. This is reflected in Recommendation 18.
42. Regarding the budget for Development Control, during 2021/22 there was £888,000 expenditure, £722,000 income, resulting in £166,000 net budget requirement.

## **Fees**

43. The Task Group considered the fees involved with S278 Scheme initial registration and were advised that the registration fee was a £2,000 deposit, which was non-refundable but was deducted at the point at which legal fees were paid. The process was designed to be nil cost to the taxpayer, all being funded by the developer.
44. The developer would know how much fees would be at the technical approval stage as this was the point when the amount of work involved was established, although officers believed developers would have a fair idea in any case. Fees were based on a bond scheme which was based on how much it would cost the Council to build at commercially based rates (labour, materials etc.). For context, the bond for the scheme at Copcut Rise Scheme in Wychavon was over £1million.
45. Fees were being reviewed to ensure the HDCT remained self-sufficient and were in line with other councils. Proposed fees for 2022/23 included an increase of 0.5% on each element, which was 1% lower than neighbouring areas, although caution was needed as they may have different service models.
46. Developers sometimes challenged bond rates as they may have access to cheaper building rates, for example, from a contractor who carried out the bulk of their work.

## **Examples of Schemes of Work**

47. The Task Group was keen to understand the processes involved in gaining technical approval for a scheme and were able to follow the journey of four schemes in detail between 2016 and 2020.
48. Examples of complex problems encountered were:
- land ownership issues which in one case meant there was insufficient space for turning from the housing development onto the main road. Technical approval had not yet been met and a S278 agreement was not signed even though the houses were now occupied. Residents were using the old site exit, which presented a number of issues.
  - Heavy Goods Vehicle (HGV) access to a commercial site which took large HGVs, however, this had not been considered with the planning consent. Additionally, the developer had narrowed the space available before talking with the Council's Development Control officers
  - A pedestrian crossing for a housing development where technical approval was given (after 4 submissions), but a S278 agreement was never signed as plans for the crossing needed to be moved further down the lane, and during this process various properties had claimed ownership of the land involved.
49. The Task Group learned that when planning permission had been granted by the LPAs, there was very little leverage to work with developers to resolve S278 issues, as there was nothing to incentivise them. This led to the difficult situation where houses had been built, sold and occupied, with infrastructure problems remaining and with S278 agreements not complied with.
50. Often, even when LPAs had highlighted issues with schemes, planning consent had been granted when the developer had appealed to the Planning Inspectorate. In such cases the technical approval process was subsequently incredibly difficult as there was no discretion to refuse the S278 application, no matter how poor the proposals were.
51. It was clear that communication with developers at the early stages of planning was vital to ensure that when issues were identified, there was still leverage. Local Councillor involvement at an early stage was also very important in order to capture local knowledge about any potential issues in the area.
52. The Task Group was advised that part of the problem was that the planning process did not run in parallel with the technical approval process. Planning approval generally took 9 weeks for a minor scheme and 12 weeks for a major scheme, which pushed a lot of S278 issues to the future.
53. The Council's HCDT is a consultee on planning applications, however during the process of comments being co-ordinated across the Council's relevant teams, not all comments related to S278 were necessarily included.
54. When asked what would help, earlier input from the HCDT to the planning process was highlighted, whilst there was still leverage with planning. Intervention should ideally take place at the end of the second submission of plans, and before the third. The Team was trying to have a system where communication was ongoing but acknowledged that this may need additional resources. A further suggestion for improvement was to delay planning applications being submitted to the LPA Planning Committees by one or two cycles, to give more time for issues to be discussed.

55. The Task Group was shown the volume of drawings involved in any given scheme. It was explained that if one aspect was changed, the whole suite of drawings needed to be updated, although this requirement was difficult as developers did not exercise the same quality control, which was one of the biggest problems. Members suggested a complete update was not necessary until the end of the process, however the point was made that this could lead to schemes where specific aspects did not work.
56. Whilst accepting that some of the schemes examined were several years old, and that some had been a trigger point to revisit and improve the process already, the discussions with the HDCT Manager were helpful in identifying some of the key issues and themes. These issues were then explored further in discussions with the TPDMT, developers, other Councils and the LPAs.

### **The Council's Comments on Planning Applications**

57. The Task Group wanted to understand how the Council, in its role as the Highway Authority, coordinates comments on planning applications before they are sent to the LPA.
58. The Task Group learned about the considerable work involved in the process of identifying schemes requiring Council comment. This appeared to be exacerbated by current systems. Although there were service level agreements with all LPAs which stated that the County Council should only be consulted if there was a potential impact on the highway, due to staff shortages at LPAs, electronic links to all planning applications were sent to the Council for review. Each application would then be opened individually for an officer to verify whether they required Council input, even though many would not.
59. The Task Group was pleased to hear that it was the Council's intention to procure an E-planning system which would ensure that only relevant applications come through to the Council.
60. The number of applications received by the Council from the LPAs for comment varied significantly and was estimated to be between 10-30 per week, per district area. Table 1 on page 15 shows total figures per year.
61. Permanent staffing was highlighted as a significant problem within the TPDMT. Several attempts had been made to recruit a Principal Officer but had not been successful despite an advertising campaign highlighting the wider benefits of working and living in Worcestershire. There was a regional and national shortage of highways and development engineers, and the Council was looking at other ways to fill vacancies in this area, e.g., apprenticeships and graduate schemes, which had proved to be successful in other areas such as highway maintenance. Whilst the recruitment process continued, additional support was provided by the Council's HPST contractor although at a significantly higher cost.
62. It was estimated that 80% of minor schemes were responded to within the 21-day deadline however for major schemes this would often take longer as more negotiation and discussion was required, which developers understood.
63. Ideally staff would visit a site as part of their assessment of a scheme, however the percentage of site visits had significantly reduced since the Covid-19 pandemic and were estimated to be in the region of 25-30% (April 2022). In some instances, staff would be very familiar with the area and online maps would be used instead.

64. All applications for 6 or more homes would be circulated for consultation to the relevant teams within the Council, including Development Control and others related to public rights of way, accidents, highway maintenance etc. Smaller schemes would be considered to see if they involved a new access onto the highway, and whether it was appropriate and evidenced.
65. Larger applications would be accompanied by a transport assessment and would be looked at for example to see whether the junction modelling should be reviewed. Schemes involving major infrastructure would be considered by the Council's HPSTC who work within the TPDMT as appropriate.
66. Following this, the TPDMT Manager would finalise the Council's comments on the application and may have to balance comments received from the various teams across the Council, which at times may be in conflict – this was then forwarded to the relevant Local Planning Authority.
67. The Council's Officers must be guided by the National Planning Policy Framework (NPPF). The TPDMT team also worked with all LPAs on their local plans and was involved with the South Worcestershire Development Plan regarding strategic sites at the local plan stage, as well as attending the Joint Advisory Panel and officer steering group.

### **The Worcestershire Streetscape Design Guide**

68. The Council's Design Guide compiled elements of various guides, including the Department for Transport's (DfT) Manual for Streets (1 and 2). [Designing and modifying non-trunk roads and busy streets - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/442222/Designing_and_modifying_non-trunk_roads_and_busy_streets_-_GOV.UK_(www.gov.uk).pdf) and the Design Manual for Roads & Bridges (DMRB) relating to the rurality of Worcestershire.
69. It included everything a developer should include when submitting a planning application e.g. road width, parking standards, specification for roads, ecology, type of assessments required, acceptable vertical alignment etc. [Worcestershire County Council Streetscapes Design Guide \(pdf\)](#)

### **Approval of Schemes**

70. The TPDMT was involved at all stages of the planning process, including attending most district council planning committee meetings.
71. Following approval by an LPA for larger schemes involving S106 (a legal agreement between a local authority and developer, used to support transport infrastructure improvements), the Council would enter into a legal agreement with the developer and planning authority. A standard proforma is used, and included detail such as the amount of contribution, what it was for, due dates etc.
72. Liaison continued between the TPDMT and the HDCT on any S278 issues to try and ensure the scheme progressed correctly, until the point where the district council contacted the Council for discharge of conditions, at which point the HDCT took over until S278 compliance was achieved.
73. The Task Group was pleased to hear that there was closer liaison between the Council's HDCT and the TPDMT, which took place at the pre-application stage. More issues were being addressed at an earlier stage and more S278s were being approved, resulting in



less submissions being required by the developer. Liaison and communication were key to identifying and resolving any issues before schemes progressed.

### **Monitoring and Enforcement of Planning Conditions**

74. When planning applications were considered and consent was given by an LPA, in 99% of cases, the LPA retained any conditions suggested by the Council with the same wording, which was based on analysis of the potential impact on the network, for example, the access road to the development must be completed by the time the tenth house was built.
75. Regarding enforcement of planning conditions, the Managers of both relevant Council teams who met with the Task Group were clear that enforcement of planning conditions was the responsibility of the relevant district council, since in granting planning approval, the district council planning committees were endorsing the conditions requested by the Council as appropriate and enforceable. Each district council had enforcement teams to undertake this role.
76. It was hoped that the Joint Liaison Officer (for Wychavon and Malvern) would facilitate closer liaison with the Council, including where conditions were applied in planning approval.
77. From the discussions with the Council's officers, as well as Task Group members' own experiences, Members of the Task Group identified that there were inconsistencies in the monitoring and enforcement of conditions added to planning applications and that this often only came to light when the local Councillor was alerted by a local resident.
78. The TPDMT was keen to promote to developers the message that whilst planning applications may be approved in principle, it was likely that further modelling would be required to meet requirements for a S278 Scheme. The Task Group felt the wording to highlight planning conditions to developers should be more robust and has addressed this in its recommendations.
79. The Manager of the TPDMT felt that the integrated system being worked on would help, as planning applications and progress with S278 would be available in one system.

### **The role of the local Councillor**

80. Local Members have the opportunity to comment on all planning applications within their division. The Council valued local Councillor input on planning applications, however the Council's Officers who met with the Task Group reported that historically this had not always been successful. A balanced approach was needed to ensure that Councillors had the opportunity to influence within the confines of the planning application. Task Group Members were keen to see that this happened routinely.

### **Discussions with Developers**

81. The Task Group was grateful to have had the opportunity to meet with four housing developers (Avant Homes, Bloor Homes, Persimmon Homes, and Taylor Wimpey) who were currently building houses in Worcestershire. Most of these developers were also part of a working group which met with the Manager of the HDCT. The Task Group heard their views on the S278 planning application process, the challenges they faced and any suggestions or opportunities for improvements.

82. The main points arising from these discussions were:

- The developers' relationship with the Council was good and had improved over time, in particular communication which had moved away from a 'silo' approach.
- Earlier liaison would be beneficial, and an example was given about a Council which managed everything in-house which enabled S278 approval to be obtained quicker. The Task Group researched the approach of some other authorities who had in-house design teams, although there was mixed success with this particular model.
- There was a concern about the fee structure used in the Council's agreement with its HPSTC. When drawings had been submitted three times, each further submission would attract an additional fee. Developers suggested that any drawings submitted three times should automatically be escalated to Director level who should then liaise with the developer to identify and resolve the identified issues and mitigate further delays.
- The Council's fee structure and Service Level Agreement with its HPSTC should be reviewed. Developers could only use the Council's design consultants who were often more expensive than competitors.
- Lead in times as set out in Appendix 2 were frustrating, although meetings held between Council officers, developers and the design consultants did enable good discussions on planning issues and mutual solutions to be found.
- Developers suggested that they would prefer to use their own consultants or choose from a list of Council approved consultants/contractors for the design and to build the main infrastructure themselves. It was felt this would enable developers to have more control and could reduce delays.
- Each LPA had a separate design guide and a standardised Worcestershire design would be welcomed. This would also potentially reduce the number of repeat submissions.
- Developers suggested that S278/38 approval process could be improved by having a standardised legal agreement which could potentially speed up the process.
- Developers suggested a single point of contact would be helpful when escalation was felt necessary for swift resolution of queries.
- An agreed timescale for responses to developers' comments would be helpful in terms of managing expectations and providing complete clarity.

### **Discussions with other Local Authorities**

83. In order to understand how the Council's approach and processes around developer-funded infrastructure compared, the Task Group sought to meet with other local authorities. Discussions with Officers from Staffordshire County Council (SCC) and Hampshire County Council (HCC) took place whose approaches were different, and both meetings were very useful.
84. The Task Group learnt that HCC, who dealt with all applications in house, had 22 engineers in Highways Development Team, 6/7 inspectors and a Monitoring officer dealing with applications through a planning software.
85. SCC did contract out planning applications to a consultant and had less than 10 engineers dealing with applications. SCC's strategic partner under the Infrastructure + agreement conducts a technical review of application submissions from third parties, but also offers a design & build service
86. SCC reported that in some cases when the construction engineering company (CEC) received designs from the developer for S278 approval it would be passed to the SCC's

legal department to sign off and for works to commence. This process took approximately 6 to 8 weeks. SCC are the local highway authority, and it is the SCC legal dept that complete the agreements.

87. Although the process for dealing with applications may differ, both Councils had good monitoring and governance in place, enabling any issues to be identified early in the process and a system which clearly showed submissions and response times.
88. Issues regarding planning conditions were escalated to the Senior Management Team to ensure any enforcement was applied and the message was clear that conditions were to be complied with.
89. The Task Group's discussion with HCC centered mainly around the planning software they used, which is outlined in the 'Planning Software' section of this report.
90. Having learned that one local authority used a CEC to design and build its S278 schemes, the Task Group arranged to meet a company which provided this facility.
91. The CEC would receive designs from developers and arranged early involvement meetings between the designer, developer, and Infrastructure Manager to discuss the specifications of the design and how it was to be built. It was agreed that early contractor involvement (ECI) was vital and reduced the time it took for drawings to be approved.
92. Discussions identified that it was acceptable for developers to use their own contractors for design and delivery which would be monitored by the contracts manager acting as a conduit to the developers' contractors.
93. The Task Group learnt that if the Council used their own contractors to build the infrastructure, the project would automatically be adopted and there would be no wait for a maintenance period.
94. However, speeding up the S278 process could incur increased costs for developers and this extra expense could be viewed as a negative by developers.
95. With different levels of infrastructure development, one CEC confirmed that developers, with more in-depth infrastructure developments, would come through the CEC and where developers did not have the workforce, the CEC would then go on to build the infrastructure.
96. The Task Group agreed that feedback from the developers suggested a developing theme for categorising or grading the complicated nature of each project to small/medium/large which would reduce the workload of the HDCT.

### **Discussions with Local Planning Authorities (LPAs)**

97. The Task Group met with the Planning Officers from Worcester City Council, Bromsgrove District Council, Redditch Borough Council, Wychavon District Council, Malvern Hills District Council and Wyre Forest District Council (the six Local Planning Authorities in Worcestershire). These meetings gave the opportunity to talk through the issues and themes which had emerged, including systems for requesting comments from the Council, and concerns around enforcement of planning conditions.

98. Some LPAs advised that enforcement of planning conditions was the responsibility of the LPA Highways Officers and developers to resolve. The level of formality applied by LPAs varied according to each individual case.
99. Currently, the Council informed each LPA which condition should be applied and in their discussions with the Task Group, the LPA accepted that, but did not always enforce against it, depending on the circumstances.
100. The Task Group believes that improved enforcement of planning protocols and conditions should be in place, as not all conditions were being monitored by the LPA unless they were flagged to indicate a delivery time slippage. This is reflected in the Task Group's recommendations.

### **Planning Application Numbers**

101. The table below shows the total number of planning applications received by each district council over a two-year period. (Note- These are the number of planning applications that have been consulted on and comments provided)

**Table 1.**

	<b>2020</b>	<b>2021</b>
<b>Bromsgrove District Council</b>	350	400
<b>Malvern Hills District Council</b>	700	737
<b>Redditch Borough Council</b>	200	190
<b>Worcester City Council</b>	450	530
<b>Wychavon District Council</b>	1000	1100
<b>Wyre Forest District Council</b>	470	490

**Table 2. Standalone S278 applications received by year**

<b>District</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Total</b>
<b>Bromsgrove</b>	2	5	6	<b>13</b>
<b>Malvern Hills</b>	7	6	3	<b>16</b>
<b>Redditch Borough</b>	4	4	3	<b>11</b>
<b>Worcester City</b>	6	5	3	<b>14</b>
<b>Wychavon District</b>	3	4	6	<b>13</b>
<b>Wyre Forest District</b>	7	2	6	<b>15</b>
<b>Total</b>	<b>29</b>	<b>26</b>	<b>27</b>	<b>82</b>

## Planning Software

102. The Task Group was advised that the Council is currently going through a process for procurement and implementation of software.
103. As part of its research, the Task Group looked at what software was being used by other councils. This focused on one specific planning software, which had been used for approximately 6 years by two LPAs in Worcestershire.
104. The Task Group received a demonstration of the planning software, during which the following advantages were highlighted:
- 24 Shire Councils are currently using the software
  - This planning software can be tailored to different authorities' requirements
  - The back-office system can be linked to GIS mapping providing the planning record, details on consultation, the road agreement application and response outline
  - Other additional packages are available such as road adoption packages
  - RAG (Red/Amber/Green) ratings used for milestones
  - Pre-approval applications can be viewed and linked to the Local Planning Authority register so all documents submitted are trackable.
105. Following the planning software demonstration, the Task Group talked to other authorities who were using it and met with a local authority who had been using this planning software for about 9 months, at the date of the meeting, to hear their views. The main points made during this discussion were:
- Everything comes in as one submission and is entered onto a blank database
  - Allowed for full integration
  - No need to sense check information coming in
  - A 'one stop shop' for developers
  - Ability to have multiple applications
  - When an application was received, developers were prompted to submit all of the required information and could not progress to the next stage until it was provided
  - The System had triggers and auto alerts should anything on the application be altered
  - Applications could be linked to show the planning history for a site as it develops
  - All posted communication could be viewed as well as documents, certificates etc.
  - The Database was a central point where everything was stored
  - It was integrated with GIS mapping so checks could be made to see if a road had been adopted etc. with key dates
  - Less complaints
  - Provided audit trail of information so it was easy to track if anything was missing.
106. The Task Group felt that software capable of supporting the S278 process was a useful tool in the planning process but acknowledged that part of the success experienced by the Council using it was having a full-time officer to monitor the system daily and who was technically very capable with computers and was a qualified highways engineer.

## Conclusion

107. Over the course of this review, the Task Group has been very pleased to hear of the progress being made with processing s278/38's. There seemed to be more liaison across the teams within the Council and with developers and our technical consultants. Also the number of days to approve technical submissions was reducing as was the number of submissions of drawings. As of December 2022, the 27 Section 278's submitted in the year 2021/22 and which have reached approval took on average 278 days and 5 submissions. The most recent schemes are averaging 90 days and 3 submissions. However there is still a lot more work to clear the old schemes and to improve the speed of approving the S38's which on average still took 327 days.
108. Members welcomed the discussions which took place with housing developers, LPAs, other councils and companies involved in providing services. The Council should continue to liaise with developers/LPAs/other councils to share best practice and to continue to find ways to improve the Council's services.

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## Appendix 1 – Schedule of Activity

Date	Event
21 October 2021	Task Group meeting to discuss the S278 process, key issues and the Directorates Review with the Council's Senior Programme Manager.
8 December 2021	Task Group meeting to discuss the Directorates Review and the technical Approval Process with the Senior Programme Manager and Development Control Manager, S278/38.
18 January 2022	Task Group meeting to review of information provided.
16 February 2022	Task Group meeting to discuss Schemes of Work with the Development Control Manager.
5 April 2022	Task Group meeting to discuss the Planning process including coordinating comments on planning applications with the Council's Transport Policy and Strategy Team Leader and the Council's Senior Programme Manager.
12 April 2022	Task Group meeting to hear the views of the Technical Directors of Avant Homes and Taylor Wimpey on the S278 process.
20 April 2022	Task Group meeting to hear the views of the Technical Director, Persimmon Homes (South Midlands) on the S278 process.
27 April 2022	Task Group meeting to hear the views of the Design and Technical Director, Bloor Homes Western on the S278 process.
6 May 2022	Task Group meeting with a specialist highways services company.
13 May 2022	Task Group discussion of emerging themes.
18 May 2022	Task Group meeting to hear the views of the Principal Planning Officers of Bromsgrove District Council and Redditch Borough Council and Planning Manager at Wyre Forest District Council
27 May 2022	Task Group meeting to hear with the views of the Associate Director of the Council's Highways Professional Services Contractor and the Council's Development Control Manager
15 July 2022	Task Group meeting with the Head of Sustainable Development, Highways and Built County and Senior Engineer, Infrastructure, Sustainable Development Team - Highways and Built County from Staffordshire County Council
18 August 2022	Task Group meeting to hear the views of the Area Planning Officer (North) Wychavon/Malvern Hills District Councils
25 August 2022	Task Group discussion about recommendations

31 August 2022	Task Group meeting with the Commercial Director, Software Company
6 September 2022	Task Group discussion about recommendations
13 September 2022	Demonstration of planning software with Group Engineer - Highway Development Agreements, Hampshire County Council
23 November 2022	Task Group discussion about recommendations

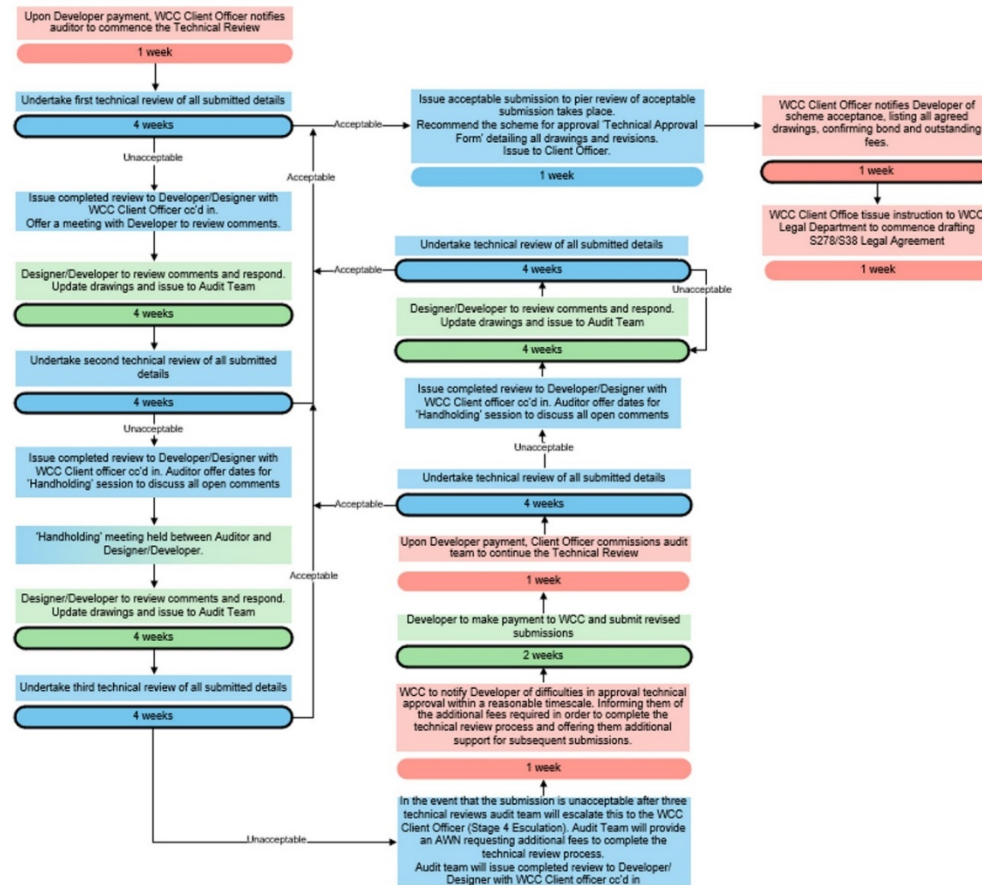
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## APPENDIX 2

### Overall Section 278 Technical Review Process

- If all parties ensure their timescales are upheld a single cycle of this process could take little as 8 weeks.
- Process relies on the Designer submitting details that are suitable for approval.



## Appendix 3 - Documents received by the Task Group

Document
Service Level Agreement (SLA) for Highways and Infrastructure Services – Birmingham City Council
Planning Performance Agreements - Good Practice Advice and FCB – Wychavon District Council
Financials for the S278 Department
Master Spreadsheet containing the performance data for scheme completions for last 8 quarters
Performance Indicators with the Council's Contractor
Highways Work Agreements Flowchart - Staffordshire County Council
Highways Development Agreement Guidance – Hampshire County Council
Developer Portal User Guide – a guide detailing how to use Developer Portal to make a Section 278/S38 application to Hampshire County Council
planning software Mastergov User Guide for the Road Agreements (Hampshire County Council)
Worcestershire County Council Design Guide Nov 2020
Streetscape Design Guide 2022 (Council website)
Blank S106 Instructions
Ten Point Improvement Plan – Environment and Infrastructure Directorate's Plan to improve the development control process
Flowcharts of technical approval and streetlighting approval processes
Developer Working Group - comments on changes and improvements being progressed
Guidance for Section 278 agreement application (Council website)

# Appendix 4 – The 10 stages of Section 278/38

## Status Definitions:

Number	Status	Definition
1	Preplanning	Documents received but planning consent not granted. I presume there will be occasions when we have not received documents, but are in discussions with a developer. This may also include Early Technical Assessment.
2	Planning	Planning consent granted.
3	Registration	Application submitted but insufficient information provided to enable technical checking to commence.
4	Technical submission	At least one or more technical submission has been made by the developer and it has not yet had technical approval.
5	Technically approved	It has now received TA, but a Legal Agreement is not in place.
6	Legal agreement S278	The developer is now pursuing the legal agreement, but until the dates for it being completed are on the register, it is not completed. The S278 agreement must be completed before commencement of any construction work on site.
7	Construction	Works taking place on the site/existing public highway associated with the development.
8	Legal agreement S38	The developer is now pursuing the legal agreement, but until the dates for it being completed are on the register, it is not completed. The S38 agreement may be completed during/after construction to help secure new road adoption by the highway authority where appropriate.
9	Maintenance	Issuing of the PCC (Provisional Certificate) will commence the 12/36-month maintenance period.
10	Adopted	The issuing of the FCC (Final Certificate) signifies (amongst other things) WCC's adoption of the S278/38 Works, but until the dates for it being completed are on the register, it is not completed.

# Appendix 5

## Scrutiny Task Group – Developer Funded Infrastructure, Section 278/38 briefing summary October 2021.

### 1. What is Developer Funded Highways Infrastructure?

Developer Funded Highways Infrastructure, relates to the Section 278 and Section 38 Agreements function of the County Council.

A section 278 agreement (or s278) is a section of the Highways Act 1980 that allows developers to enter into a legal agreement with the Council (as the Highway Authority) to make permanent alterations or improvements to a public highway, as part of a planning approval. Examples include new or changed access into a development site (i.e. a bell mouth, roundabout, signalised junction, right turn lane or a simple priority junction).

A section 38 agreement (or s38) is similar to a s278, but relates to highways and associated infrastructure within a development, which may be adopted if it meets agreed standards.

### 2. Process overview

The primary role of the S278/S38 Development Control Team is to provide detailed assessment of developer proposals and designs, either for works on the existing publicly maintained highway (section 278's) or for new highways to be offered for adoption by the Local Highway Authority (section 38's) and ensure these designs meet our required specification, prepare drawings for inclusion with the legal agreement and have oversight of the implementation of the works, in relation to ensuring they are built in accordance with the agreed drawings and to the correct specification.

The Worcestershire County Council (WCC) Technical Approval process requires the developer to demonstrate through technical submissions that the designed highways they are offering for adoption meet our specification. Once the design of the highways has been technically approved, the developer enters into a legal agreement with WCC, which includes the provision of a bond for the value of the works (calculated by WCC), that enables WCC to complete the works should the developer fail to meet the obligations contained within the agreement.

Both s38 and s278 legal agreements include the issue of two certificates, firstly the Provisional Certificate of Completion (PCC) which is issued once the works as described within the agreement have been completed to the required specification, which enables the maintenance period to commence and the value of the bond to be reduced by 50%. Second is the Final Certificate of Completion (FCC) which is issued following successful completion of the maintenance period, which is normally specified as a minimum of 12 months. A key issue will be the remediation (fixing) of any defects that have occurred over the maintenance period. Prior to the issue of the FCC, the developer remains responsible for the maintenance of the highways as described within the agreement and those highways are effectively privately controlled. Upon the issue of the FCC, the highways within the agreement become publicly maintained and the remaining bond value is returned to the developer.

### 3. Key issues

There are several issues that have been identified, including:

- The timescales for the completion of the Technical Approval process for section 278/38's.
- The number of submissions it takes to achieve Technical Approval.
- Effective communication and understanding with the Developer and timeliness therein.
- The timescales for the completion of the streetlighting Technical Approval.
- Pre-planning advice.

### 4. What the Directorate is working on?

The Economy & Infrastructure Directorate is undertaking a review of the section 278/38 function in key areas. Not least to address the issues identified. The purpose of the review is:

*'To review key processes, systems and approaches to working as necessary, within the Section 278/38 Development Control area in relation to both WCC, Developer & other key parties activity. This is to ensure that key agreed identified areas are working effectively and delivering required outputs and outcomes in a reasonable timescale'.*

Key activity areas of the review and progress so far includes:

- **Establish a working group with Developers and a protocol for working together, including expectations & requirements of both parties.** Working group in place with four Developers as members of the working group. Items being covered include the review of the streetlighting design process, Technical approval process and the four submissions escalation process, early planning engagement and a joint protocol for working effectively together.
- **To ensure an effective 'Technical Approval Pipeline System' is in place with agreed timescales and key performance measures, requirements and expectations for both WCC & Developers, in relation to the Section 278/38 Development Control technical approval process and associated matters.** Process has been reviewed and the next step is to implement key elements of the revised process. Alongside this update the schemes register & ensure monthly performance figures are then produced and reviewed to provide more focus on progress and any key issues/blockers.
- **To put in place a clear 4 stage system and escalation/review process at stage 4, when key items are deemed to not be progressing at an adequate pace.** Included as a part of the process, discussed and supported at the Developers Working Group. Included as a part of the outline protocol.
- **To review the level of officer and other resource provision, to ensure it is sufficient to manage and throughput the identified number of developments and associated workload.** Resource plan agreed to ensure Section 278/38 team have adequate officer capacity to deal with the number of Developments involving section 278/38 activity. Additional contractor resource secured in the short/medium term and DC Engineer posts in process of being filled. In addition, we have created a joint officer post in partnership with Wychavon and Malvern Hills District Council's, to help coordinate progress on DC schemes within the two districts.
- **To review the Streetscape Design Guide to ensure it further enables the front-end process and effective joint working with Developers.** Internal review of Design guide underway. To be shared with the Developers Working Group to take on board their views regarding effectiveness and any other key matters from their perspective.
- **To review the Streetlighting technical approval process & put in place agreed timescales and performance measures.** Review of Streetlighting Technical Approval process completed and using this as a model for the wider Technical approval process. Monthly performance figures now being produced and meeting majority of timescale targets. Further work to escalate issues if developer does not meet agreed timescales.
- **To review the IT systems for the management and communication with Developers to ensure these are effective in providing for good communication and management of Section 278/38 Development Control activity.** In progress, have identified a Local Authority who have a good system in place and meeting held to review effectiveness of this system. Business case approved by Corporate Board.
- **To work with the Planning Development Management Team on further improving effective early engagement in planning applications with Developers & Planning Authorities.** Already

underway on a number of schemes. Resource plan, once implemented, will enable more early engagement with Developers and Planning Authorities.

- **To look at a selection of other Highways Authorities Section 278/38 DC functions, with a view to understanding their arrangements/processes and considering opportunities for learning and improvement of WCC processes and systems where appropriate, both ways.** Liaison with Midlands Highways Alliance +, regarding a number of other Highways Authorities Development Control functions is underway.

**Senior Programme Manager**

**15.10.21**

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## Appendix 6

### The suggested Technical Approval procedures as proposed as part of the Economy & Infrastructure Directorate's review

Note; the review of the technical drawings can be done in house by WCC staff or outsourced to the Council's Technical Consultants

- i) undertake first technical review of all submitted details. If unacceptable, completed review issued to Developer/designer with WCC client officer copied in. Meeting offered to Designer/developer to review comments
- ii) Designer/developer to review comments and respond. Update drawings and issue to Audit team
- iii) Undertake second technical review of all submitted details. Issue completed review to Developer/Designer with WCC client copied in. Auditor offer dates for 'handholding' session to discuss all open comments
- iv) Designer/Developer review comments and respond. Update drawings and issue to Audit Team
- v) undertake third technical review of all submitted details. If unacceptable, after three technical reviews the audit team escalate to the WCC client officer (stage 4 escalation). WCC notify Developer of difficulties in approval within a reasonable timescale. Inform them of additional fees required to complete the technical review process and offering them additional support
- vi) Developer to make payment to WCC and submit revised submissions. Client officer commissions audit team to continue the technical review
- vii) undertake technical review of all submitted details. Issue completed review to Developer/Designer with WCC client copied in. Auditor offer dates for 'handholding' session to discuss all open comments.
- viii) Designer/Developer review comments and respond. Update drawings and issue to Audit Team
- ix) undertake technical review of all submitted details.
- x) issue acceptable submission to peer review. Recommend scheme for technical approval, all details recorded. WCC Client Officer notifies Developer of scheme acceptance, listing all agreed drawings, confirming bond and outstanding fees. WCC Client officer issues instructions to WCC legal team to begin drafting S278/38 legal agreement

## Appendix 7

Link below to a copy of the current section 278 Agreement Application Form

[https://www.worcestershire.gov.uk/sites/default/files/2022-09/sec.\\_278\\_application\\_form\\_2020\\_a.pdf](https://www.worcestershire.gov.uk/sites/default/files/2022-09/sec._278_application_form_2020_a.pdf)

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# Appendix 8

Summary from the Master Spreadsheet showing the number of Section 278 & 38's days to approve and the number of submissions of drawings

