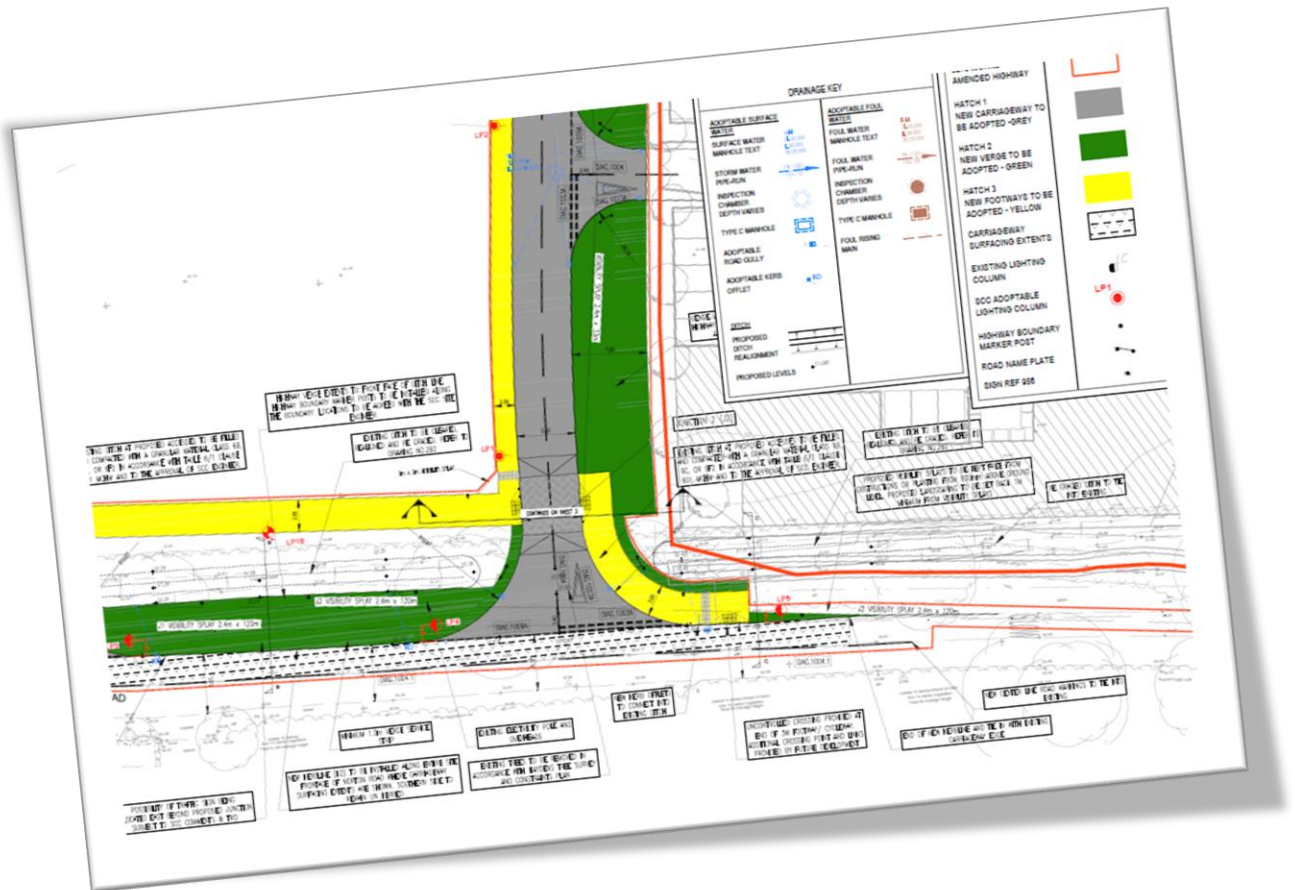


Guidance for S278 Agreements - Application



A. Introduction

Please read this guidance in conjunction with the relevant with the Full and Abridged S278 Application Forms. Please note, this guidance should be adhered to because any missing or incorrect information may result in delays to the agreement.

Suffolk County Council (SCC) has two types of S278; Full and Abridged. Criteria for an Abridged S278:

- No safety audit required (no safety impact on highway)
- Highways Works value is under £30,000
- No Structures, Street lighting or Traffic Signals involved
- No Compensation bond or noise assessment required

All works that does not meet the above criteria are to be a full s278.

B. General

SCC as highway authority, is responsible for ensuring the safe alteration of the public highway roads required by developers to facilitate new developments.

Section 278 of the Highways Act 1980 allows for the carrying out of works to the existing public highway for the benefit of a third party, on behalf of the Highway Authority. It is a structured robust procedure for the technical approval of the works, regular inspections, and mechanisms through which the works are completed to an appropriate standard and other Council requirements.

Please refer to our Section 38 Guidance for **infrastructure within new developments that is proposed for adoption** as public highway.

C. Legal

SCC has a very strict sealing procedure for all agreements. Construction cannot commence prior to the agreement being signed/sealed and roadspace authorised. To do so without agreement would be unlawful and may result in legal action and / or fines. The developer is also reminded that any works completed without inspection are done so at their risk.

Once the drafting of the legal agreement for the S278 has been agreed between all parties, a final electronic draft with any plans is required so the officer instructing Suffolk Legal can check the contents. Once Suffolk Legal is satisfied that all is in order, the Director of Strategic Development will give Suffolk Legal authority to have the agreement sealed. At this stage, the applicant will be required to send the engrossed copy to SCC for sealing.

As a matter of procedure, the engrossed paper copy will always be checked against the final electronic draft received. If there are any discrepancies it is our policy to return the paper copy to its origins for amendment as SCC cannot seal any agreement if it is not in accordance with that authorised. This procedure is in place to save time for all parties. All fees in accordance with the agreement are due before SCC will seal. The applicant's co-operation is appreciated, and these procedures are strict in order to protect both parties' interests.

SCC expects applicants to:

- Construct works to the agreed drawings and specifications
- pay commuted sums where appropriate to provide for ongoing maintenance
- comply with SCC's S278 Guidance
- pay Bond, all checking and inspection fees

D. Planning or Other Consent

All works on the public highway require permission from the Highway Authority (Suffolk County Council). For the purpose of the S278 agreements, the Highway Authority role will be fulfilled by the County Council's Transport Strategy Team.

Conditions for the Permission may need to be discharged prior to commencement; we recommend the Developer investigates prior to starting on site.

Most work undertaken by third parties in the public highway requires planning permission, granted by the relevant Local Planning Authority. SCC will not permit works in the highway unless planning permission has been granted and all relevant planning conditions are discharged. It is the responsibility of the applicant to demonstrate to SCC that all necessary planning requirements have been satisfied.

E. Bonds, Fees and Sums

Bond - The works are secured by an appropriate Surety/Bond which ensures that the road works can be completed in the event of the developer defaulting. The technical details and specifications for the works must be in accordance with the requirements of the technical guidance. The Highway Authority requires payment of a bond to cover any future risks that Suffolk County Council may be exposed to, e.g. to ensure works are completed and to highway specification.

Fees – the following table shows the calculation for the required fees –

	Full S278 Agreement	Abridged s278 Agreement
Percentage of Bond	7.5%	10%
Initial checking fee	£5000	£1500

An initial fee is to be paid to Suffolk County Council **before** any application will be processed. The full fee will be payable upon completion of the agreement or prior to any works commencing on site (to enable inspections to be undertaken). The fee is to cover SCCs reasonable costs for technical approval, site inspection and other associated activities and it does not make a profit on this activity.

Committed sums – are financial contributions made by third parties to Highway Authorities as compensation for taking on the future maintenance responsibility for newly created highways or highway improvements. Committed sums for S278 agreements are where the costs of maintaining new areas of public highway. It also covers ‘non-standard’ items or construction which utilises specialist materials or exceptional items, features or specifications (traffic signals, bollards, trees, swales, special drainage features etc). and where additional street lighting is required on cycleways/footways that are not adjacent to the carriageway.

F. Design Considerations

The Developer must appoint a competent designer, either an internal team or consultant, for the duration of the design, submission and review period, to respond to any queries that may arise. It is strongly recommended that the same designer is retained during construction to assist with any changes to the design during construction and prepare the as build drawings and health and safety file.

The Construction (Design and Management) Regulations 2015 (CDM) are to be adhered to on all s3278 schemes. For avoidance of doubt, the Developer is the “Client” in terms of the CDM Regulations and cannot delegate this responsibility. In all Submissions, the CDM Client shall -

- appoint a Principal Designer who has the appropriate skills, knowledge and experience to fulfil their duties under CDM.
- The Design Consultant should be retained for the construction and the maintenance period to address any issues that arise during the construction or the Stage 3 Road Safety Audit.

Construction Standards - any works within the proposed highway must meet requirements for materials and workmanship by Suffolk County Council. For detailed information, go to Suffolk Streets Design, Standard Drawings and SCC Specification for Estate Roads.

Street Lighting and Traffic Signals - all street lighting and traffic signal designs are checked by SCC engineers (at the Developer's expense in addition to the fees detailed above) to ensure that they meet the council's specification and requirements. Developers can employ SCC to design street lighting and traffic signals; this often eases the process for S278 agreements as it avoids delays associated with the designs completed by others not meeting the council's requirements.

Dealing with Surface Water - details of surface water drainage must be supplied as part of the application. If you intend to connect to the public sewer system, you will require permission from the responsible utility company (in Suffolk, usually Anglian Water). Where additional surface water is drained into a highway drainage system the Developer will need to prove that the existing system is fit for this purpose and does not need additional capacity.

Applicants should note that any existing ditch or watercourse affected by the Highway Works requires consent from Suffolk County Council's Flood and Water Management Team. If applicable, a copy of their approval to your proposals should accompany the application form. <https://www.suffolk.gov.uk/roads-and-transport/flooding-and-drainage/working-on-a-watercourse>
Email: floods@suffolk.gov.uk

G. Required Drawings

The applicant is required to provide the following drawings:

- S278 Plan (General Arrangement) – this plan needs to include
 - the site's Red Line (as planning permission)
 - new adopted carriageway – coloured grey,
 - new adopted footway – coloured yellow,
 - new adopted verge – coloured green
 - New adopted drainage – coloured blue
 - New adopted street lighting (including lit signs) – coloured red
 - All signage, road marking and bollards – coloured black
 - Tactile paving and traffic calming measures – outlined in black
 - Trees to be adopted by the Highway Authority – outlined in green
 - Easements for highway authority drainage (coloured purple)
- Site Clearance Details
- Engineering drawings including kerbing details
- Setting out drawings showing carriageway and footway widths including chainages
- Drainage design showing gullies and include contours
- S104 design to be adopted by Water Authority
- Plans showing location of Statutory Undertakers apparatus
- Statutory Undertakers diversions (including depths to existing and proposed carriageway levels)
- Construction details and sections
- Long sections indicating existing and proposed levels, vertical elements etc.
- Visibility splays for all junctions
- Approved street lighting (including lit signs) *
- Approved traffic signals *
- Surface finish details
- Road markings, signs, street furniture including bollards
- Tracking analysis
- Temporary traffic management plans

H. Required Documents

The applicant is required to provide the following documents:

- Site or Pavement Investigation report relating to the areas within the S278 agreement
- Test Results such as pavement cores, CBR and LWD results to support any design assumptions (see Appendix 1/5 of the SCC Estate Roads Specification for full list of testing)
- Drainage calculations
- If a ditch/watercourse affected, Land drainage consent certificate from Floods Team

- Stage 2 Safety Audit *

* Reminder – abridged agreement is not allowed if street lighting, traffic signals or Stage 2 Safety Audit required or Land Compensation Assessment

I. Checking & Review of Application

SCC aims for respond within the following timescales:

- Initial review: within 10 working days of the latter of payment or submission of full design package. If at this stage, the design is considered to have significant omissions work will be paused.
- Preliminary Comments: within 20 working days of the latter of payment or submission of full design package subject to acceptance in the initial review
- Resolution of technical queries: This is an iterative process involving dialog between the applicant, their designer and the SCC DM team and other specialists and depends on the complexity and size of the project and the quality of the application.
- Technical Approval: This typically takes 6 weeks from initial review for most straightforward projects.

J. Technical Acceptance

Once the Technical Approval Engineer is satisfied the drawings and documents are acceptable, they will issue the Technical Acceptance Form to the Developer. The Technical Approval Engineer will instruct Suffolk Legal at this time to start the legal process.

The Technical Acceptance relates to the supplied documents and drawings only. Alterations to any drawings will render acceptance null and void unless agreed in writing with SCC.

Should the works authorised by the S278 Agreement not be completed within 24 months of the date of issue, a new Technical Acceptance must be sought as specification may have changed. This will be treated as a new agreement and another initial checking fee may be payable.

The Technical Acceptance is **NOT** the S278 agreement. Construction works are **NOT** to commence prior to the agreement being signed and sealed. Any inspections by SCC will not take place until all the Inspection Fees are paid. Any works completed without inspection are done so at developer's risk. Retrospective testing at the developer's cost may be required by SCC to confirm adoptable construction standards.

K. S278 Agreement

Following Technical Acceptance, payment of all fees, bonds and commuted sums and agreement of the legal documents by both legal teams the S278 agreement will be sealed. The Developer can, subject to applying for and receiving the appropriate NRSWA permit, commence work.

L. Post Agreement

When the contractor is appointed, The Technical Approval Engineer and Inspecting Engineer are to be invited to the pre-start meeting. (see Guidance for S278 Agreements Construction for further information).

It is the Developers responsibility to

- ensure that all contractors have the correct drawings, specifications and other information required to complete the project in accordance with the approved details.
- obtain the necessary NRSWA permits, temporary traffic regulation orders and temporary traffic signal permissions.
- Notify local residents of the works where they are affected by the works or traffic management