

London Borough of Croydon

S278, Minor S278 and S38 Application Guidance notes

Highways Development Control
Highways Act 1980



June 2024

CROYDON
www.croydon.gov.uk

1.0 Introduction

1.1 Purpose of the guidance document

Where public realm, highway improvements or highway layout changes are required in association with a development, the developer is requested to enter into an agreement pursuant to a section 278 of the highways act 1980 with the London Borough of Croydon to secure the works and delivery arrangement.

The London Borough of Croydon has a duty of care for the public and has a desire that all schemes are delivered efficiently and in accordance with highways standards, the Croydon Public Realm Design Guide and agreed masterplans within the Borough. In order to provide a consistent approach, all developments are required to enter into this process and the works will be undertaken by our principal contractor using London Borough of Croydon's term contract.

This Guidance document provides developers with:

- Advice and information on our process and requirements
- Advice on the delivery of highway and public realm projects
- Activities including statutory, procedures and consents that must be undertaken when designing and implementing projects.

1.2 The Public Highway and what is included

For the purpose of this guidance, the public highway comprises of streets, carriageways, footways, bridges, subways, street furniture, drainage, planting, public gardens, and public lighting that are maintained by the London Borough of Croydon as the local highway authority.

1.3 Other relevant guides and sources

All highways designs in the London Borough of Croydon should take into consideration (but not be limited to) the requirements and guidelines set out in the following documents.

- Croydon Public Realm Design Guide
- Croydon Local Plan (core strategy) 2018
- Croydon Public Realm Masterplans
- Vehicular Crossover Guidance
- Transport for London Streetscape Guidance London 2022

2.0 Application

The following section sets out the application process and options available to the developer when applying for a section 278 agreement. In all cases, appropriate costs including application, design or review, consultant, construction, administration and legal fees must be met in advance of any agreement or construction works being undertaken. In some cases, public realm improvements may be secured by means of a capped financial sum. In these circumstances, costs for design, reviewing, approving, legal administration/management cost will still apply and will be funded separately.

2.1 The Application Submission

Please note that applications can only be made after permission for a development has been granted. On initial contact with Development Control the developer should provide the following information.

- A completed application form
- Highway engineering drawings (see 3.1 for more details as these can be provided at cost)
- Signed planning decision notice
- Approved planning layout
- Evidence of Land Title
- A completed invoicing information form.

The application process incurs a non-refundable application fee of £2000. This covers the cost for officers to initially review the submission, visit the site, organise enabling works (construction of enabling works are costed separately), prepare a design review and/or design fee proposal and complete any associated administration tasks. This will be payable along with any subsequent review or design fees, as explained in the following section. An invoice will be provided for a combined total and details on payment will be provided during the application process.

Applications should be submitted to highwaysdevelopment@croydon.gov.uk. Following a submission of an application, the developer will be assigned an officer that will be the point of contact until the conclusion of the project.

2.2 Application review

The assigned officer will review the application and provide the developer with information regarding the next steps of the process. During this initial project review Development Control will ascertain the requirements of the project and decide if the scheme can be undertaken as a S278 minor works or a Full S278 agreement. Under certain circumstances there will be a requirement for a full section 278 agreement. These circumstances include but are not limited to:

- A requirement for land to be adopted by the London Borough of Croydon or the Developer
- A requirement to secure covenant over third party land
- The works involve a structure
- The works are subject to any commuted sum payments
- A requirement for a traffic regulation order
- Stated as a planning permission requirement or a Section 106 Requirement
- Any other matters that in the reasonable opinion of the London Borough of Croydon Engineer that require works to be secured through a S278 agreement

London Borough of Croydon is entitled to recover the costs relating to the completion of Section 278, Section 38 agreements and site monitoring.

3.0 Design/Design Review

With all development works within the borough, Development Control requires a highways design pack to be submitted for approval. There are two available options. Either the developer agrees for the London Borough of Croydon to undertake the design on their behalf and supply the design pack at cost or the developer will submit a design pack for review. Both options are at a set fee and a fee proposal outlining the cost and activities will be provided. Please be advised, the Croydon Council as the highway authority retains the right to adjust fees payable to reflect the complexity of projects. In this event, a bespoke fee proposal may have to be provided.

3.1 London Borough of Croydon to undertake the design on behalf of the developer (option 1)

Development Control will provide an approved design pack for construction. The pack will include the following information:

- Site location plan
- Works agreement plan
- Site clearance drawing
- General arrangement drawing
- Standard details
- Pedestrian and vehicular visibility splays
- Swept path analysis (if required)
- Construction cost estimate
- C2 Statutory undertakers' utility search
- Pre-Construction Information (PCI)
- Design Risk Register (DRR)
- Trial Hole location plans and results

If the C2 search highlights any services within the construction area, trial pits will be dug to confirm the depth and ascertain if these services are affected. The cost of the trial pits in option 1 are included within the price. Consultation will be provided up to the C3 stage, after which, it will be the responsibility of the developer to continue the process and pay the associated costs directly to the utility owner.

Development Control will require the planning approved landscape drawing and topographical survey to reference the planning layout and check threshold levels. These will need to be in DWG format.

3.2 Developer to submit pack for a design review (option 2)

The developer will be expected to submit a full drawing pack for review to Development Control. The Pack will need to include the following information:

- Site location plan
- Works agreement plan
- Site clearance drawing
- General arrangement drawing
- Standard details
- Pedestrian and vehicular visibility splays if requested.
- Swept path analysis if requested.
- C2 Statutory undertakers' utility search
- Subsequent evidence of contact with the effected service providers (C3-C4)
- Design Risk Register (DRR)
- Traffic management order application and associated drawing (if applicable)
- Section 38 Adoption plan (if required)
- Any other information as requested by Development Control

Trial pits are not included in option 2 but can be undertaken at cost. Details of the trial pit fees can be provided if requested by the developer and if agreed in writing, the cost will be added to the construction cost estimate. If the C2 utility search identifies a buried service, it will be necessary to continue the statutory undertaker's process to its conclusion. It is highly recommended that trial pits are undertaken to ascertain the depth of buried services as it could negate the requirement for the C3 onwards and could avoid costly utility diversionary works.

The drawing pack must be provided by an engineer with highways design experience and to a suitable standard. Planning drawings will not be accepted and evidence of the designers' experience may be requested.




Option 2 will incur further iteration charges if the review is incomplete after its 3rd iteration.

The drawing provided will need to be separate PDFs. These drawings should be titled as the following:





- Site location plan
- Works agreement plan
- Site clearance
- General arrangement (can include visibility splays)
- Standard details
- Swept path analysis (if required)
- Section 38 agreement plan (if required)

To aid the submission and ensure uniformity, the drawings submitted should follow the colour regime highlighted in the table below.

Colour regime for agreement plan and site location plans

Colour	Index no.	Description
	141	Private demise / Area of development
	10	Highway Boundary
	50	Works area hatched with black lines at 45 degrees

Colour regime for existing features

	251	Existing kerb to remain
	255	Existing lining to remain
	3	Existing grass verge to remain
	94	Existing Tree










Notes:

Additional references may be required. These should be identified within the key along with quantities.














Index colour 250 should be used for dimensions.

Site location, agreement plan, site clearance and general arrangement to be shown on separate drawings.

Color regime for site clearance

Colour	Index no.	Description
	40	Removal of footway Additional hatching to be used to differentiate depths
	150	Removal of Carriageway Additional hatching to be used to differentiate depths
	10	Removal of kerb
	205	Removal of granite sets
	2	Removal of yellow lining
	250	Removal of white lining
	10	Removal of illuminated sign or lamp column
	6	Removal of non-illuminated sign post
	3	Removal of grass verge

Color regime for general arrangement

Colour	Index no.	Description
	41	Proposed kerb (full height)
	41	Proposed kerb (flat section) Hatched with lines at 45 degree angle (Colour 43)
	32	Proposed transition kerbs
	200	Proposed PCC edging
	252	Proposed paving with black paving hatching
	42	Proposed footway Additional hatching to be used to differentiate depths
	42	Proposed Crossover F1, F2 or C3 Hatched with lines at 45 degree angle (Colour 130)
	10	Proposed carriageway Additional hatching to be used to differentiate depths
	250	Proposed white lining
	2	Proposed yellow lining
	10	Proposed illuminated sign or lamp column
	6	Proposed non-illuminated sign post
	3	Proposed grass verge

3.3 Threshold Levels

Threshold levels are the levels at the boundary of the development and the back off the highway. In some cases, it may be necessary for the developer to change these levels. If this is the case, notification must be given as soon as possible to enable to Development Control and/or the developer to make suitable adjustments, if possible, to the designs. Failure to do so may result in unacceptable levels and crossfalls. In most cases it will be accepted and preferable that the back of footway levels will not change.

3.4 Further utility information

The highway works will not be programmed until all required utility diversionary or connection works are complete. It is recommended that the above process is initiated as soon as possible as it can be a lengthy process. For further details, please refer to **New Road and Street Works Act 1991**.

3.5 Lighting works (including illuminated road signs)

In all cases, the Croydon Council Term lighting contractor will undertake all lamp column/illuminated sign relocations or installation of any additional lighting that may be required. The Council Development Control team will obtain a lighting cost estimate and this will be added to the construction cost estimate. Lighting works will generally be undertaken before or during the highway's construction. Any lighting columns removed or relocated for the purpose of enabling works will be re-installed as appropriate in accordance with the S278/Minor works Scheme.

3.6 Traffic Management Orders (TMOs)

A Traffic Management Order application may be required when changes to parking restrictions, parking bays or formal crossing point are needed to facilitate the project. There is an additional application fee required for parking services to process the application and a separate drawing to support the application may be required. The fee for the TMO will be added to the construction cost estimate and the fees transferred to parking services to process the application. Any signage or road markings required for these changes will be added to the construction cost estimate.

3.7 Road Safety Audits (RSA)

Where appropriate, especially on larger schemes with extensive changes to the highway layout, Development Control engineer may request a RSA on the current layout and the proposed design (combined stage 1 and 2) an RSA on the constructed scheme (stage 3) and an RSA a year after the stage 3 (stage 4). The RSAs should be carried out by a competent Road Safety Auditor and proof of competence must be provided.

3.8 Design pack approval and cost estimate

The developer will either receive a design pack issued for construction (IFC) by the London Borough of Croydon or a notification will be sent via email to confirm the design pack has been approved through the design review process. A cost estimate based on these drawings and if necessary, a site visit to confirm quantities, will be provided using the London Borough of Croydon's' Term maintenance contract rates and an invoice raised for the construction works for payment. Any funds remaining from the design review (option 2) will be subtracted from the construction costs estimate.

3.9 Commuted sums

In the event that an area, road or way is to be adopted by the highway authority or there has been a significant change in the type of materials used in construction, the developer will pay a commuted sum calculated to cover maintenance over a period of 30 years.

4.0 Programming and Construction

4.1 Programming of works

To avoid the cancellation of works the following criteria must be met to provide a program date for construction.

- All utility connections have been made to serve the new development.
- Any utility diversion required have been undertaken and completed.
- Back of footway treatments have been installed by the developer. These will include any boundary walls, back of footway edging and slot drainage if required.
- The construction phase of the development has been completed
- Internal landscaping including the driveway has been installed.
- Payment for the construction cost estimate has been made and confirmed.
- If required, payment for the commuted sum has been made.
- If required, the Section 278 agreement has been signed and engrossed.

A permit to work on the highway network will have to be approved by the Streetworks team. Once agreed and approved, notice will be sent to the developer to confirm the start date.

4.2 Construction

During the works, there may be a need to restrict access to the development to allow the crossover and footway construction to take place but disruption will be kept to a minimum. A Development Control officer will attend site at regular intervals to inspect the works. In the event of bad weather, the works may have to be postponed or re-arranged to a later date. On completion of the works, the Development Control officer will undertake a site visit to perform a final inspection.

5.0 Completion

5.1 Completion certificates

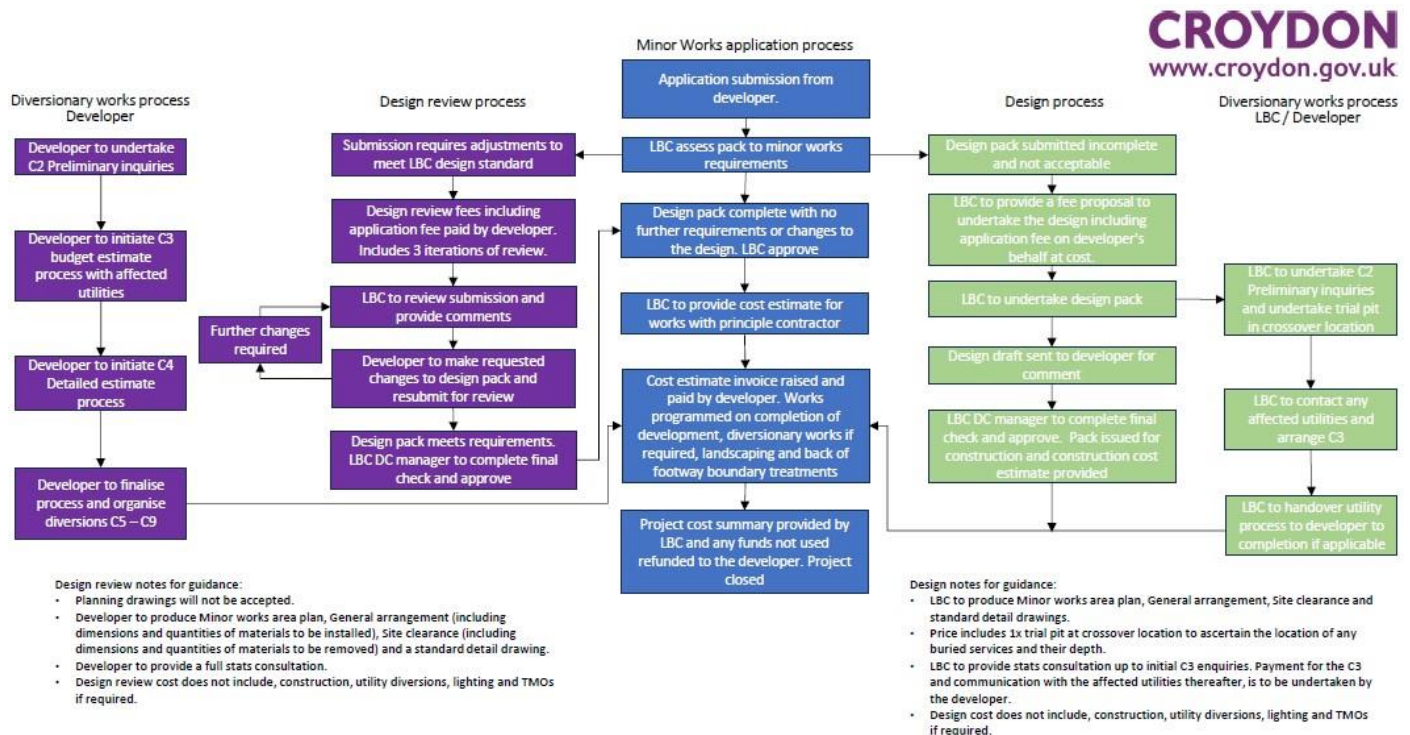
If deemed on the final inspection that the works have been completed to the satisfaction of the Development Control, the developer will receive a Completion Certificate as notification that their duty under the Highways act and any associated planning requirements have been fulfilled. The Highway authority will then enter a 12-month defect guarantee period with their principal contractor. Any defects in this period will be rectified by the principal contractor unless the defect is a result of anything other than a defect in the construction or materials used.

5.3 Project Cost Summary (PCS)

Along with the completion certificate, a Project Cost Summary will be provided to the developer. This will outline the fees paid by the developer and the project total. Used fees will be calculated and if it is found that there are any remaining fees that have been unused in the project, a refund will be provided.

6.0 Minor Works Flow Chart

The below process map is a guide to how Development Control process a minor works project. If a section 278 agreement is required the following process map still applies but with the addition of a legal agreement.



7.0 Further information

7.1 CDM Regulations

It will be assumed that under the CDM regulations that the London Borough of Croydon will undertake the role of “Client” and “Principal Designer”. This will be for both a design undertaken by the London Borough of Croydon and a design reviewed by the London Borough of Croydon. The Principal Contractor will be London borough of Croydon’s Principal Contractor.

7.2 Design, Design review and Construction time scales

Designs and Design Reviews will be commenced as and when payment has been made. Development Control operate, in most cases, in order of payment. This also applies to construction programming. Every attempt will be made to accommodate developer's schedules and phase plans but due to various constraints, it may not be possible to complete the works when requested by a developer. To mitigate these issues, it is vital that an application is submitted as soon as reasonably practical, time between communication responses are kept to a minimum and construction works are planned at least 16 weeks in advance.

7.3 Network permits

Development Control does not approve Streetworks permits and have no influence on the approval or refusal of a permit. To apply for permits for utility connection the developer or utility contractor must apply using their usual method of application. Permits will be applied for by our principal contractor for Development Control highway construction works.

8.0 Frequent Asked Questions

8.1 Does a developer have to apply for a minor works as a crossover is only needed?

If a development has been granted planning permission, the S278/Minor works process applies. This is to ensure a consistent approach with all developments within the borough. They may be other works that are required to fulfil planning conditions and repair / remedial works / upgrades to the highway after a development has been completed.

8.2 Can a developer use a different contractor or undertake the works themselves?

Highways insist that their principal contractor is used on all development S278 / minor works. Our principal contractor guarantees highways construction for 12 months after completion. This forms part of the CDM process as a scheme is not fully complete until the 12-month maintenance period has concluded. In order for another contractor to work on the highway, the highway authority will request a bond to cover the cost of the construction works and charge additional monitoring fees to enable an officer to monitor the works as they are being constructed. It has been deemed, due to the complexity, timescales and the costs involved with allowing another contractor to work on the highway, it is an advantage for the highway authority and developers to use the principal contractor. Once funds have been provided for construction, the duty of the developer to provide these works concludes and the project can be closed.

8.3 Why a cost estimate does not show item costings breakdown?

The highway rates are set under the contract held between our principal contractor and the London Borough of Croydon. These rates are confidential and cannot be disclosed. The rates used to provide a cost estimate are the same rates the London Borough of Croydon are charged under the maintenance contract.

8.4 What standard details should be used?

To aid the submission and ensure uniformity, the standard details provided in a design pack will reference the London Borough of Croydon's standard details. The standard details to be used will be sent via email along with this guidance during the application process. Any non-standard details will be discussed during the review.

8.5 Why is resurfacing boundary to boundary requested?

To ensure that any damage caused to the highway during the construction phase is repaired. A new development will require changes to boundary treatments (i.e. a new perimeter wall or fence), new service connections, removal of hoarding. This can leave the footway scarred with patchy re-instatements. It is requested that a minimum of boundary-to-boundary resurfacing is undertaken as part of the S278/minor works. Boundary to boundary kerb works will be assessed during the construction phase and replaced where necessary.