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# Information for Developers

## Major Works Agreement Pack

## Introduction

This guidance pack is designed to give Developers and their agents, information on how to correctly construct highway improvements within Staffordshire (but excluding Stoke-on-Trent) with permission from the Local Highway Authority, Staffordshire County Council, following the successful conclusion to a planning application.

The highway works secured under the Planning Permission will be carried out under a Major Works Agreement, ("Major WA"), either in the form of an agreement under Section 278 of the Highways Act 1980 ("S278 Agreement"); or an agreement under Section 111 of the Local Government Act 1972 and Section 130 of the Highways Act 1980 ("S111 Agreement").

## **CDM AND HEALTH & SAFETY**

Prior to submitting the application for highway works the developer has undertaken key tasks in relation to the wider project and is responsible for the concept, planning, programming, funding and delivery. As a consequence and by completing the application for a highway works agreement it is agreed that the developer has already adopted the duties of the Client under the CDM Regulations 2015 and that they will continue with this role throughout the project.

All works are to be carried out in accordance with all applicable Health and Safety requirements and legislation including those of the Construction (Design and Management) 2015 Regulations. A copy of the Pre-Construction Information (as prepared by the Principal Designer appointed under those Regulations) shall be submitted to the County Council prior to the commencement of the highway works. Upon completion of the highway works the Health and Safety File shall be delivered to the County Council.

## Criteria for determining Major Works

There are many types of proposals that may be required as a result of development that can be covered by a Major WA, e.g. a signalised junction, a new roundabout, junction improvements, etc. Figure 1 below shows general practice when reviewing works types to determine whether a Major or Minor Works Application will be required. Further information on Minor Works Agreements is available from the link for the Network Management Unit in Appendix 1.

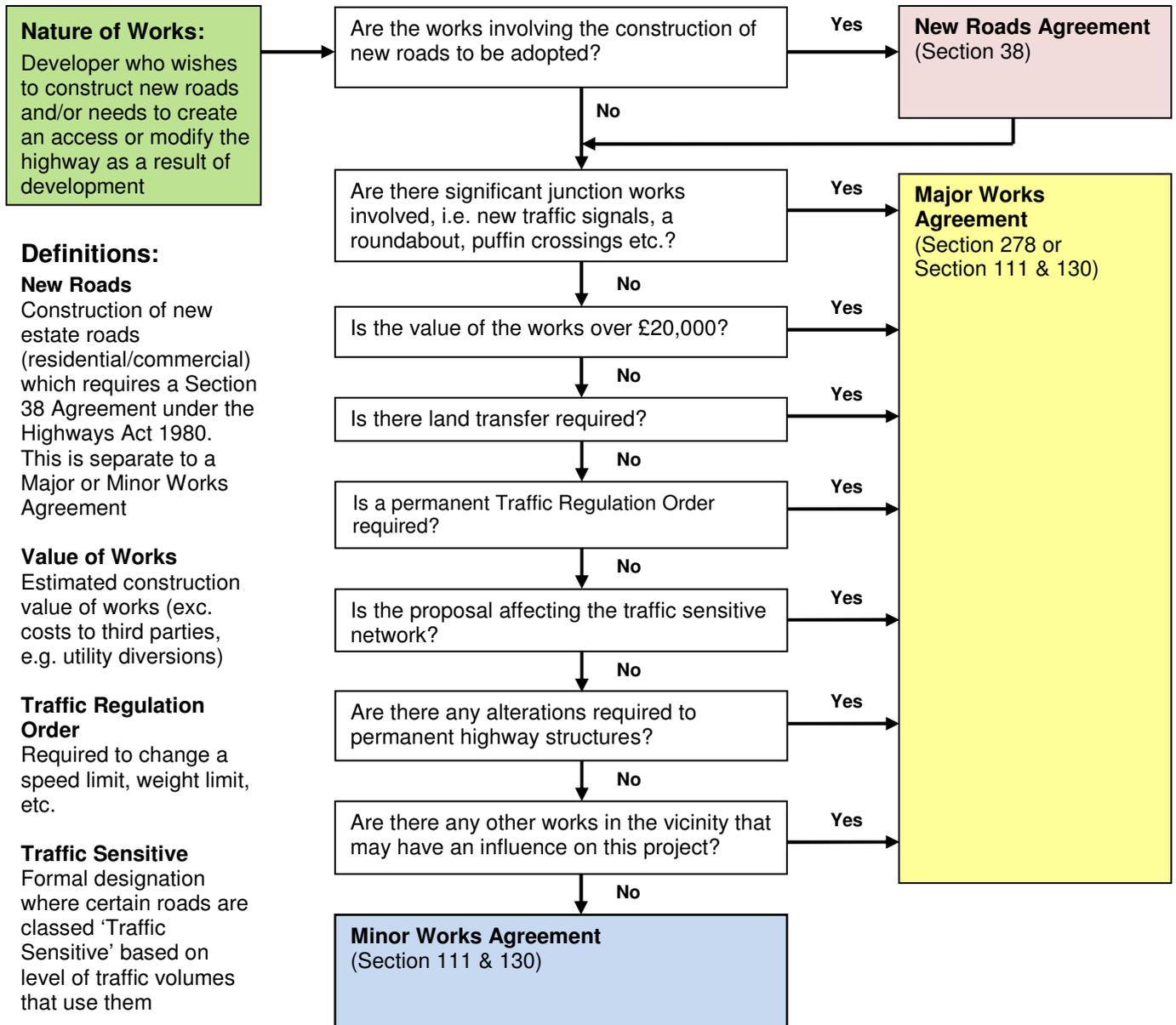


Fig. 1

## Types of Major Works Agreements

The normal forms of contract are the New Engineering Contract (NEC3 – April 2015) Engineering and Construction Contract (ECC); Options A or C as determined by the County Council.

### Section 278 Agreement

Under terms of a S278 Agreement, **the County Council is the employer** under the construction contract and is responsible for letting the contract once technical approval to the design and contract documents has been given, and the legal agreement and land transfer (if any) has been completed. The Developer will be required to pay all of the County Council's estimated costs including commuted sums and estimated Part 1 claims (of the Land Compensation Act 1973), and the estimated works costs (including contingency), prior to completion of the Agreement.

### Section 111 Agreement

Under the terms of a S111 Agreement, **the Developer is the employer** under the construction contract and is responsible for awarding and managing the contract once the Agreement has been completed. The County Council will monitor the works; agree completion and the end of the defects period. The Developer will be required to pay all of the County Council's costs including commuted sums and estimated Part 1 claims (of the Land Compensation Act 1973), and provide a cash deposit or a bond equivalent to the estimated works costs (including contingencies) in advance of the completion of the Agreement.

Developers should be aware that for both agreements contractors who are proposed to carry out the works will need to be approved by the County Council; following reference to Construction Line and financial and technical references may need to be provided, as required.

### Commuted Maintenance Sums

Provisions shall be made within either Agreement to secure, where appropriate, commuted maintenance sums in respect of:

- On-street car parking;
- Traffic signals where these are necessitated to accommodate the development;
- Highway retaining walls/structures etc;
- Unconventional materials (at the discretion of the County Council);
- Landscaping, as appropriate. Please note that in cases where landscaping includes amenity planting, the County Council will look for a District or Borough Council to take responsibility for future maintenance under a licence.

### Section 38 Agreements

In developments where there will be a new section of highway created, a separate Section 38 Agreement may be required, dependant on the situation. This agreement is independent of S278 or S111 Agreements; and certain design criteria concerning detailed engineering design of the roads and footways, street lighting and drainage is also required to be met before a Section 38 Agreement can be undertaken, as governed by Section 7 of the Staffordshire Act 1983. If you would like further information on this specific type of agreement, please contact [road.adoptions@staffordshire.gov.uk](mailto:road.adoptions@staffordshire.gov.uk) or call 01785 276645.

## Making an application

### Application Fees

The technical approval of the design and any contract documents including preparation of the Agreement will involve a certain amount of staff time. In the event that the Agreement is not completed, it is essential that the County Council ensures that the cost of any abortive work is not borne by the public purse. As such, the County Council will require payment in advance of any costs which the County Council will incur in advance of the Major WA being entered into. An initial fee is payable on application to enable the County Council to commence the necessary work.

Payment can be made by BACS or cheque at the same time as your application is made. Details are available in Appendix 1 at the end of this document. **You must provide reference D9999Z and your planning permission number.** If paying on behalf of another company, please replace the planning number with the name of that company.

The “Works Value” on the application form should be referred to for the purpose of calculating the application fee. The application fees are as follows:

Scheme Value	Fee
Up to £50,000	£7,500
£50,000 - £150,000	£12,500
£150,000 - £1m	7% scheme value
Over £1m	Up to 7% scheme value (to be agreed on application)

Once the County Council has carried out work to the value of the application fee, the County Council will require further payment(s) on account to cover the County Council’s costs of any further work before it is carried out. The balance of the County Council’s estimated costs for the scheme will be required to be paid before the Agreement is completed.

### What is required at application?

You must read this pack and the application form in full to understand the implications of an Agreement. Blank application forms are available online at the link in Appendix 1. **Please ensure that you number your attachments appropriately as per the relevant numbers below.** The following items are **mandatory** as part of your application:

1. Details of client under CDM2015 Regulations and copy of appointment of Principal Designer under the same.
2. A copy of the design hazard management record under CDM 2015 regulations
3. Proof of payment made (BACS only), for cheque payments – attach the cheque to the application
4. Copy of the planning permission
5. A plan showing the site benefited by the planning permission (exc. the highway works) edged in red
6. Copy of the layout of the proposed highway works as approved by the planning permission;
7. Detailed engineering drawings, setting out details of proposed works including as appropriate details of any necessary calculations, drainage consents, and specification, and for S278 Agreements only, contract documentation to an NEC3 (April 2015) ECC option agreed by the County Council
8. A plan showing areas of different pavement types e.g. Areas of overlay, reconstruction, new construction, footways etc.
9. Kerb and edging details, including tactile paving
10. Road Safety Audits or a Quality Audit depending on whether the scheme involves public realm type works

11. Utilities plans showing existing and proposed works (including any C4 estimates where applicable)
12. Standard detail drawings
13. Completed application form

The following items can also be submitted if you have them at the time of application:

14. Road lighting and power supply to traffic signs etc.
15. Details of traffic signs and schedule
16. Construction details including typical cross sections through carriageway and footways indicating relationship between existing and proposed levels
17. Longitudinal sections giving details of all channels
18. Centre lines of both existing and proposed ground levels
19. Drainage schedules, drawings (showing gulley catchment areas, finished contour levels, specific details of surface water outfall) and models where applicable
20. Ecological, ground and drainage investigatory documentation
21. Detailed plans and calculations for all structures

### **What Happens When I Apply**

We will send you an acknowledgement that we have received your application within 5 working days and check all supplied details to make sure you have completed everything needed to process the application. If there is any information missing, we will contact you and halt processing until we have received all required documents.

Your application will be assessed by either a County Council engineer or will be commissioned to the Staffordshire Design Hub of the County Council's strategic partner, Amey, who will contact you directly to discuss the proposed works and arrange a meeting to discuss the requirements for the delivery of the project.

At the appropriate stage, the County Council will decide which type of Major WA is appropriate (i.e. S278 or S111 Agreement) and will instruct its legal department to commence the legal process.

### **GDPR**

For further details on the policy GDPR, please visit the following internet address

<https://www.staffordshire.gov.uk/transport/staffshighways/highwayscontrol/GDPR-privacy-notice/GDPR-General-Data-Protection-Arrangement-agreement.aspx>

### **'Infrastructure Plus' Design & Build Service**

Through the County Council's strategic partner, Amey, the design and build of the highway works can be delivered under the Infrastructure Plus (I+) contract. Using this end-to-end service can bring efficiencies and savings whereby, Amey Consulting can undertake the design and Amey Highways can undertake the construction of the works with both being fully aware of the Council's specification, requirements and expectations. Selecting this option removes the need for a separate technical design check, significantly reducing time and costs for Developers through a more streamlined process.

Additional benefits include the option to offer Early Contractor Involvement during the design stage to help value engineer the works, ensuring the scheme is deliverable, and, if Amey Highways are appointed as Principal Contractor, supervisory costs can also be reduced.

For further details on this service please email [AmeyDeveloperEnquiries@staffordshire.gov.uk](mailto:AmeyDeveloperEnquiries@staffordshire.gov.uk)

## The Legal Process

### Undertaking for Legal Costs

The County Council will require a Solicitor's undertaking to cover its legal costs in respect of the Agreement. This will be requested on first contact with the Developer's Solicitor, and will be required before any legal work is carried out.

### Form of Agreement

In the interests of fairness and consistency, the County Council operates these Agreements as standard Agreements and does not accept substantive amendments to them. These are the terms on which the County Council as the Local Highway Authority in the discharge of its statutory duty is prepared to allow Developers to carry out works on the highways for which it is responsible. Highway works carried out under such Agreements are for benefit of the development and as such, any risk, financial or otherwise, is a risk for the Developer to bear.

When the County Council and the Developer are both in a position to proceed with the Agreement, a draft will be supplied by the County Council's Legal Services Unit.

### Land Coming into the Highway



#### **IMPORTANT - PLEASE NOTE:**

Any land which is to be taken into the highway either by way of a transfer or a dedication **must** be free from **ALL** encumbrances prior to either a S278 Agreement or a S111 Agreement (as applicable) being entered into, and it is the Developer's responsibility to ensure that this requirement is met to the satisfaction of the County Council. Therefore, please ensure that your legal representative is aware of this at an early stage in order that they may make arrangements to clean the title to the land to be taken into the highway prior to the commencement of the legal process, **as this can take some time to achieve**. Failure to do so may hold up the legal process and may result in the development not being able to progress as programmed.

#### **Land associated with S278 Agreements:**

In the case of S278 Agreements, any non-highway land required to be taken to form part of the public highway upon completion of the highway improvement works, shall be transferred to the County Council free from all encumbrances in sufficient time for the County Council to be able to let the contract for the highway works.

A Land Registry compliant plan will be required indicating the area of land to be transferred (see criteria below).

Where land is to be transferred to the County Council under a S278 Agreement, the Developer will need to show that the title to the land is registered with the Land Registry by providing up to date Office Copy entries including register and title plan. If any of the land to be transferred is unregistered, the County Council will require the Developer to register the title at the Land Registry in advance of the commencement of the legal process.

#### **Land associated with S111 Agreements:**

In the case of a S111 Agreement, any non-highway land required to be taken to form part of the public highway shall be dedicated free from all encumbrances to the public for use as highway, upon completion of the highway works.

A Land Registry compliant plan will be required indicating the area of land to be dedicated (see criteria below).

Where land is to be dedicated to the public to form part of the public highway under a S111 Agreement, the Developer will need to show that they have registered title to the land by providing up to date Office Copy entries including register and title plan. If any of the land to be dedicated is unregistered, the County Council will require the Developer to register the title at the Land Registry in advance of the commencement of the legal process.

### Criteria for Land Registry Compliant Plans (Land Transfer / Land Dedication)

Any plan showing land to be transferred or to be dedicated **must**:

- Be accurately drawn to a stated scale on A3 or A4 size paper only – preferred scales are: (a) 1:1250 – 1:500 for urban properties; or (b) 1:2500 for rural properties (fields and farms etc)
- Include a north point
- Show sufficient detail to be identified on the Ordnance Survey map
- Clarify its general location by showing roads, road junctions or other landmarks
- Be based on a scale of metric measurement
- Not be marked as “for identification only” or similar wording
- Bear no statement of disclaimer used under Property Misdescriptions Act 1991
- Include a bar scale
- Show the land to be transferred or dedicated edged in **red**
- States in square metres the area of land to be transferred or dedicated

### Permit to Access the Benefited Land

In the case of a S278 Agreement, the County Council may require access to the land benefited by the planning permission in order to carry out the highway works, and as such a permit to access such land will be provided for in the S278 Agreement.

### Payment of the Completion Sum

All monies payable pursuant to a S111 Agreement or a S278 Agreement must be paid in full, in advance of completion. Payment can be made by:

- BACS (details available in Appendix 1)
- Solicitor’s Client Account Cheque
- Personal/Company Cheque - **Please note:** the County Council will not complete any Agreement before such cheque has cleared. Consequently, paying by this method will lead to delays in the legal process, and may result in the development not being able to progress as programmed.

### Engrossments

The County Council requires all parties to execute all parts of an Agreement or Transfer. It is standard practice that the County Council prepares the engrossments. If a matter becomes time-critical, a Developer’s legal representative may, in certain circumstances, be permitted to prepare these, but such engrossments must be prepared in accordance with the County Council’s standard practice which will be advised.

**Please note:** that the executed engrossments must be returned to the County Council **undated**. It is for the County Council to undertake completion when ready to do so.

### Power of Attorney

A Developer will need to provide the County Council with its correct execution clause, to be included within the Agreement. If an Agreement is to be executed by a delegated authority under a Power of Attorney, we will require a certified copy of the necessary Power of Attorney Deed accordingly.

### Sealing of Documents

The County Council’s sealing days are **Tuesdays and Thursdays**. Any Agreements due in for sealing must be received by the County Council’s Legal Services Unit **by 10.30am** on either of these two days. Failure to provide the requisite documentation by such times may result in completion being delayed.

## Highway Network Management

You should also be aware of additional controls on the actual highway works. As Local Highway Authority, the County Council's duty, as covered in the New Roads and Street Works Act (NRSWA) 1991, and as amended by the Traffic Management Act 2004, is to effectively manage all works and activities on its highway network, and secure safe and expeditious movement as much as possible. The County Council's Network Management Unit (NMU) operates this management, and is presently run by the County Council's Strategic Partner, Amey, on its behalf.

### Ability to Influence Execution of Works

NMU will always aim to accommodate your work programme, but it should be appreciated that the timing of works has to be managed and co-ordinated to ensure that highway users are not unnecessarily disrupted. In aiming to reconcile Developer's aims and our statutory duties, the County Council may:

- Require an alternative agreement is sought to cover the proposal
- Request an alternative construction method
- Seek a refinement of the design in the context of the planning permission
- Restrict the timing of works

When it is necessary to impose such requirements, the applicant will be expected to bear the cost. For example, additional costs may be incurred where a proposal requires restrictions on the permitted working hours or a delay in commencement for a quieter period on the network, such as a school holiday. The applicant is required to inform the contractor of all conditions applied to the Agreement.

### NRSWA Notice Notifications

Currently, Staffordshire operates a Noticing Scheme, whereby highway works are served as Notices which book roadspace and ensure effective co-ordination. Major WAs will also require some form of Notice, dependent upon the Agreement undertaken:

- **S278 Agreements:** As the County Council is the employer, we will serve NRSWA Notices on the Developer's behalf. The timing and duration of the works will be agreed between NMU and the highway team managing the contract.
- **S111 Agreements:** As the Developer is the employer, NMU will manage the Notice procedure with the works contractor. The contractor must apply for a Section 171 Temporary Excavations (Permit to Dig) approval, which operates as a Notice to carry out the work. **Please note:** there is a lead time of 20 working days to serve a Permit to Dig.

Further details of how your contractor can apply, get registered and charges are available online at the link for NMU in Appendix 1.

### Other Permissions or Licences

Regardless of either Major WA, there may be cases where extra licences are required for works which do not form part of a S278 or S111 Agreement, e.g. the installation of private drainage would require a Section 50 Private Apparatus licence applied for by the land owner, and a Permit to Dig applied for by the contractor to undertake the work. Further information is available online at the link for NMU in Appendix 1.

### Statutory Undertakers Apparatus – Diversions Works and New Service Provision

Statutory Undertaker's apparatus is usually affected by development works in two ways: **diversionary works**, where the proposed new highway will be formed over the apparatus which may not then be at the correct depth requiring apparatus to be lowered or diverted; or **new service provision**, where the new development will need serving with gas, water, electricity and telecoms from the existing mains in the current highway.

Depending upon the type of Major WA, there are different ways in which the Statutory Undertakers can be consulted about their apparatus. For a S278 Agreement, subject to monies being paid in advance to cover consultations and proposed works, the County Council can manage the interface with the

Undertakers on your behalf. You must ensure you request in writing a **minimum of 16 weeks** prior to works starting for the County Council to serve any requisite notices on the Statutory Undertakers under NRSWA. For S111 Agreements, you must ensure you have served notices yourselves.

Proper consultation must take place with all Undertakers to ensure information about what apparatus may exist in the vicinity is obtained; and to allow the Undertakers an ability to assess the impact on its network and any supervision or procedures which need to be followed when working near their assets.

### Statutory Undertaker Programme and Delivery Timescales

You are advised to contact the Statutory Undertakers at an early stage as there can be delays in programming works and ordering equipment, especially in times of seasonal activity.

Undertaker works notifications are strictly controlled and it is only NMU that can agree flexibility to the timescale requirements, if they don't then Undertakers are required to adhere to the Notice periods below. Please bear these timescales in mind when programming your works.

Work Type	Work Notice	Notice Period
Significant diversionary works (11+ days)	Major	3 months
Standard excavations (4-10 days)	Standard	10 days
Minor works (up to 3 days)	Minor	3 days
Urgent/Emergency (e.g. gas main burst) * <b>Note:</b> delayed planned works are not Emergencies	Emergency	Within 2hrs

### Innovative Collaborative Working

To minimise the disruption to highway users as much as possible, the NMU will seek to identify **ALL** highway works relevant to the development in that they are co-ordinated and delivered as one package, minimising repeat occupation and excavation of new surfacing. There are numerous examples whereby all development highway works have been co-ordinated by Developers with the assistance of the NMU.

NMU has an award winning innovative culture of working with Statutory Undertakers and contractors; bringing together works and traffic management from different providers in a collaborative way that reduces network occupation, creates a positive response from utility providers in meeting programme targets and can reduce your overall costs. If you would like to discuss this further please contact [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk)

### Traffic Management Applications

It is likely that temporary traffic management will be required during your construction works which also require separate permissions. Further information is available via links in Appendix 1.

**Please note:** where a Temporary Traffic Regulation Order is needed (e.g. for a road closure, weight limit, speed limit) a minimum of 12 weeks is required to carry out the statutory process. It is strongly recommended that traffic management is determined and applied for as early as possible.

### Works Affecting Highway Structures

In situations where the construction works affect a highway structure (e.g. bridge, culvert, subway, retaining wall, sign/signal gantry, etc.), or where temporary structures (e.g. scaffolding/hoarding) could present a danger to the public, guidance should be sought from [chris.plant@staffordshire.gov.uk](mailto:chris.plant@staffordshire.gov.uk) or [dave.wymer@staffordshire.gov.uk](mailto:dave.wymer@staffordshire.gov.uk)

## Guidance and Conditions

### On Application

Whilst the application is being processed by the County Council, you are required to contact all necessary organisations to notify them of the proposal, seek objections or concerns and obtain copies of existing apparatus in the location in question. A list of these organisations is available from the NMU via [nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk)

### Agreement Validity

Once an Agreement has been completed, works should take place before the planning permission expires, which unless otherwise specified in the consent, is within 3 years of the date of the planning consent. Agreements are checked annually to ensure that corresponding NRSWA notifications recording highway works that have been registered are still required. If it is known that the Agreement is no longer required, the County Council must be told as soon as possible to avoid attracting further charges.

### Installation/Construction and Reinstatement

Once an Agreement has been completed, you must ensure that:

- The contractor is NRSWA accredited, insured (£10m public liability ins.) and applies for and receives a S171 Permit to Dig before works commence
- Works are planned correctly and carried out safely and expeditiously

### Protocol following Completion of Works

When the work as specified in the Agreement has been satisfactorily been completed and the Agreement has come to an end there is no ongoing entitlement to work on the highway, except where remedial works are required, which will attract a further chargeable Permit to Dig. Developers must ensure that adequate work quality checks are undertaken the NMU carry out 'random' inspections on the works and if defects are identified, financial charges could be attracted. Further information is available in Appendix 1

### Obligation to Indemnify the County Council

Developers are required to indemnify the County Council against all claims including injury, damage or loss arising from any aspect of the works. It is your responsibility to ensure that any contractors or sub-contractors have insurance in place and must cover a minimum of £10, 000,000 (ten million pounds) for each claim with no limit to the number of claims.

Developers will be expected to indemnify the County Council in respect of any claims made under Part 1 of the Land Compensation Act 1973 including all the County Council's incurred costs in dealing with such claims. The County Council will require an estimated sum in respect of such claims to be paid to the County Council on the signing of the S278 Agreement or S111 Agreement and this will be held for up to the 6 year claim period which commences 12 months after substantial completion.

Developers will be expected to pay the costs of insulating buildings (including any grants) incurred arising from the duty of the County Council to do so under Section 20 of the Land Compensation Act 1973 and under any Regulations made there under arising from the carrying out of any highway improvement or traffic management scheme.

## Appendix 1 – Further Information

- Staffordshire County Council Major WA application form:  
<https://www.staffordshire.gov.uk/transport/staffshighways/highwayscontrol/HighwaysAgreements.aspx>
- Email address for completed Major WA applications:  
[nmu@staffordshire.gov.uk](mailto:nmu@staffordshire.gov.uk)
- Postal address for completed Major WA applications:

*Staffordshire County Council  
Network Management Unit  
3<sup>rd</sup> Floor, Staffordshire Place 1  
Tipping Street  
Stafford  
ST16 2LP*

- BACS details for Staffordshire County Council:

<b>Bank Name:</b>	Lloyds Bank PLC	<b>Quote Ref:</b>	<b>D9999Z and your planning permission No.</b>
<b>Bank Address:</b>	Fountain Square, Hanley, Stoke-on-Trent, ST1 1LE	<b>Sort Code:</b>	30-93-83
<b>Account Holder:</b>	Staffordshire County Council	<b>Account No.:</b>	44093360
<b>Account Name:</b>	SCC County Fund	<b>BIC:</b>	LOYDGB21080
		<b>IBAN:</b>	GB55 LOYD 30938344093360

- Staffordshire County Council payment details:  
[payments@staffordshire.gov.uk](mailto:payments@staffordshire.gov.uk)
- Staffordshire County Council 'Information for Developers':  
[www.staffordshire.gov.uk/developers](http://www.staffordshire.gov.uk/developers)
- Staffordshire County Council Road Adoptions (e.g. Section 38 Agreements):  
[road.adoptions@staffordshire.gov.uk](mailto:road.adoptions@staffordshire.gov.uk)
- Staffordshire County Council Highways Network Management Unit (including permits & licences):  
<https://www.staffordshire.gov.uk/transport/staffshighways/licences/Home.aspx>
- Staffordshire County Council Traffic Management applications and guidance:  
<https://www.staffordshire.gov.uk/transport/staffshighways/licences/TempTraffic/TemporaryTrafficManagement.aspx>
- Staffordshire County Council 'Register your organisation' (e.g. for your contractor):  
<https://www.staffordshire.gov.uk/transport/staffshighways/licences/organisation-reg.aspx>
- Staffordshire County Council S171 Temporary Excavations (Permit to Dig):  
<https://www.staffordshire.gov.uk/transport/staffshighways/licences/Permit-to-Dig/PermittoDig.aspx>
- Local Planning Authority (Borough/District) Local Plans in Staffordshire:  
<https://www.staffordshire.gov.uk/environment/planning/policy/thedevelopmentplan/home.aspx>