

# **OXFORDSHIRE COUNTY COUNCIL**

## **ADVANCED PAYMENT CODE**

An Advance Payments Code Notice (APC) will be served by Oxfordshire County Council (OCC) following the approval (Full Plans, Full Plans subject to conditions) or acceptance (Initial Notice, Building Notice) of any Building fronting a private road for all developments that have 6 or the potential for more than buildings in order to protect the frontages interests.

Within 6 weeks of the date of the passing of any required plans by the Council's Building Control Department an APC Notice will be served on all private streets whether they are being offered for adoption, or remaining a private road on all streets connecting to existing highway.

The APC sum specified in the Notice includes the estimated cost to the Council of constructing all potentially adoptable highways within the development which includes elements of future-proofing and administrative fees.

If an APC Notice is served it will be served on the Building Regulations applicant, it is this person(s) / Companies responsibility to inform all the relevant parties of the serving of this Notice. The APC Notice will also be registered on the Local Land Charges Register and is transferred with the land if the whole development, or a part of it, is subsequently sold.

### **What is an APC?**

The advance payments code (APC) forms part of the Highways Act 1980 (Sections 219-225).

Under Section 219 the code secures payment of the expenses for carrying out street works in private streets next to new buildings. This makes sure that we can complete the roadworks if the developer fails to complete them. If work is started on a building before the appropriate sum has been paid or secured, the owner may have to pay a fine. Certain buildings are exempt for various reasons. These exemptions are listed in Section 219(4) or briefly outlined in this guidance documents.

Under Section 220, the APC is not tied to planning approvals but tied to passing building plans. The District Council informs OCC within one week that they have passed the plans. If a payment is needed, OCC must serve notice of the sum that is required to be paid on the person who deposited the plans within six weeks of them being passed.

Section 222/3 states that where a street is eventually made up under the private street works code, the money deposited under the APC can be used to discharge (cancel) the liability for road charges. We will refund any excess to the person who is, at that time, the owner of the land.

Section 224 states that all transactions made under the APC must be registered in the register of local land charges.

Section 225 states that any sum paid to us must carry simple interest at the rate fixed by the Treasury under the National Loans Act 1968.

No work on any building can be started until the APC is paid, if work is carried out before the sum stated under the APC has been paid, Section 219(1) states that the owner of the land and the person carrying out the building are guilty of an offence and may be fined up to £100 (the fine applies to each building that is being constructed). Any further work carried out on the same building before payment is made is treated as a new offence. If works commence to the building/s prior to securing the APC security or the formal completion of a Section 38 Agreement then the County Council will take legal action to ensure that the security is made.

**Note:** The APC process does not apply to existing roads. No works can be carried out within the highway without our permission, contact Road Agreements Team for further information on highway works.

**An APC notice will not be served:**

On developments which are block/s of flats, with no potential for future development connectivity and no connectivity to existing public rights of way, highways maintainable at the public expense or public open spaces.

**An APC notice will be served:**

Where the highway is being offered for adoption via a Section 38 Agreement or where the Council determines that these areas are potentially adoptable (i.e. initially to remain private).

If an APC is served on potentially adoptable areas that the developer wishes to remain private either the APC monies must be secured with the Council or a Section 38 Agreement must be entered into.

Where a development falls outside of the adoptable criteria or does not directly connect to existing highway, no APC notice will be served. This does not mean that OCC may not consider the streets for adoption.

If the developer wishes the development to remain private then prospective purchasers will be made aware that the development is private and the Council holds no APC monies nor will the streets become highway maintainable at the public expense. A Private Street Agreement (PSA) is needed to discharge the APC, contact Road Agreements Team for further information on PSA.