

NORTH LINCOLNSHIRE COUNCIL

**HIGHWAYS AND NEIGHBOURHOODS
CABINET MEMBER**

EXEMPTION OF ROAD CHARGES

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To delegate authority to the Director of Places to consider under limited circumstances the exemption from charges under the Advanced Payment code (APC) of the Highways Act 1980 (HA1980).

2. BACKGROUND INFORMATION

- 2.1 On a number of sites, situations occur where in planning and highway safety terms it would be acceptable for a private driveway to wholly serve more than five dwellings. However, current legislation requires that the highway authorities has had to advise refusal of planning applications.
- 2.2 A private drive can only serve a maximum number of five dwellings. This is in accordance with the HA1980 and our current policy. However, it is not always unreasonable to consider accepting more than this number of dwellings on a private driveway. An appeal could overturn a planning refusal on highway grounds.
- 2.3 An adopted road should serve six or more houses to comply with our current policy. After completion, we would normally adopt and maintain the new road.
- 2.4 Sometimes it is not possible to improve an existing private driveway to a suitable standard. In this instance, the Cabinet Member could consider an exemption (by delegated powers) under Section 219 (subsection 4) of the Highways Act 1980.
- 2.5 Any exemption would include a clause that would indemnify the council from any future claim under the private street works code.
- 2.6 The facility to grant an exemption would allow a limited opportunity to develop:
- Infill/additional plots on an existing private driveway where it is not possible to improve the existing infrastructure to an adoptable standard.

- Small parcels of land (usually brown field sites) where a suitable access is unachievable due to the sites position.
- 2.7 The Highways Act 1980 allows for the granting of exemptions from APCs. An exemption is allowed where a suitable standard road cannot physically be constructed (usually owing to existing boundary constraints).
- 2.8 The council must serve notice on the developer where new dwellings front onto roads that are not maintained at public expense. This is after receiving a Building Regulations Approval. This requires the developer to provide funds to bring the road up to an adoptable standard. This protects occupiers of the new houses and the council from having to pay for the work. The developer has to pay these charges before starting any work. Failing to comply is a criminal offence.
- 2.9 In some circumstances, the Highways Act allows the council to waive these charges. This applies in most cases where the applicant enters into an agreement to make up the whole of any access road serving more than five dwellings to an adoptable standard. However, in the case of some already existing private driveways and brown field sites, it is not possible to improve or build the road to standard due to physical constraints.
- 2.10 Sometimes a driveway/piece of land is separated from the adopted highway by third party land. In these cases, the drive cannot be adopted. This is because it cannot connect to the existing highway. Either way the council could not use any monies paid under the Advanced Payment Code for their intended or any other purpose.
- 2.11 When notified of Building Regulations Approval, and with the agreement of the Cabinet Member, the Assistant Director Legal and Democratic Services is instructed to issue a legal notice, exempting the road from Advanced Payments Code charges.

3. OPTIONS FOR CONSIDERATION

- 3.1 **Option 1** – To approve officers' delegated authority to consider in limited circumstances the exemption of developments from Advanced Payments Code charges under Section 219 4 of the HA1980.
- 3.2 **Option 2** – To refuse the exemption of any developments on existing private driveways and brown field sites from Advanced Payments Code charges under section 219 4 of the HA1980.

4. ANALYSIS OF OPTIONS

- 4.1 Adopting option 1 will allow the development of sites with over five properties and clarify the authority's stance on such proposals.

4.2 Adopting option 2 will restrict our ability to apply flexibility with regard to the development of some sites.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no significant resource implications to consider.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 Not applicable.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

7.1 The planning process will involve consultation with adjacent properties.

7.2 The Head of Legal and Democratic Services has provided advice on the issue.

8. RECOMMENDATIONS

8.1 That the Cabinet Member delegates the necessary authority to the Director of Places to consider exempting (under limited and relevant circumstances) some developments from APC payments and determines accordingly.

DIRECTOR OF PLACES

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Background Papers used in the preparation of this report

Not Applicable