

# Application process

Transport Development Management (TDM) plays a vital role in the planning process fulfilling a statutory duty to respond to planning proposals that will:

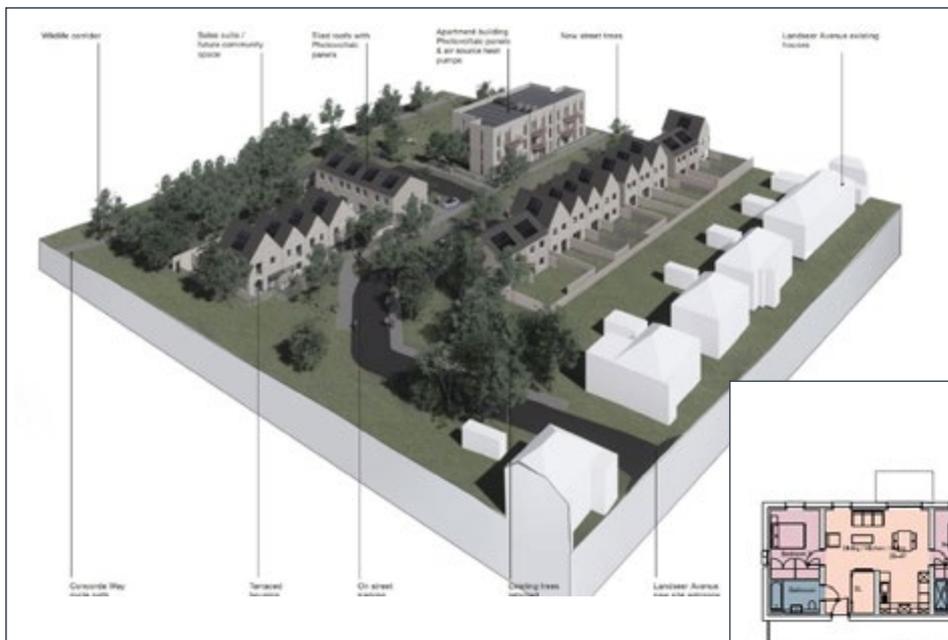
- have an impact on existing movement networks and infrastructure;
- involve the construction of new movement infrastructure, or
- require the enhancement of existing movement infrastructure

Transport Development Management (TDM) provides comments on between 1,100 and 1,400 pre-application enquiries, planning applications, discharges of condition and other consultations each calendar year. We are also involved in

planning appeals and inquiries and undertake the Highway Authority's technical approval and inspection remit for developer-delivered highway works under sections 278 and 38 of the Highways Act.

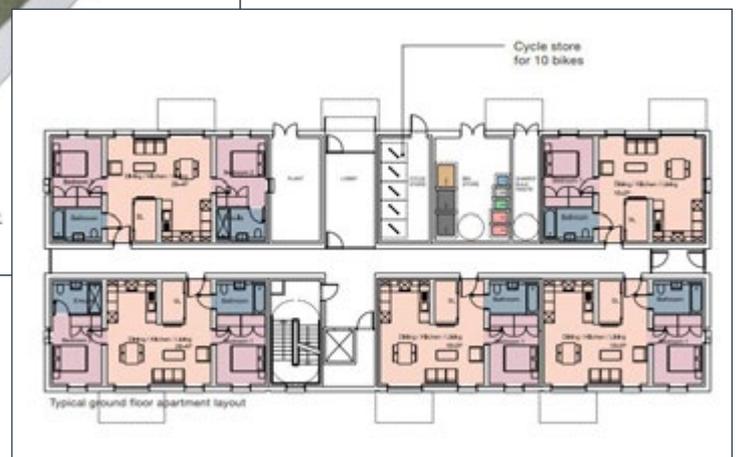
## Registration and Consultation

On receipt of a planning application the proposal will be allocated to a Planning Case Officer (PCO) for determination within 8 or 13 weeks, depending upon the scale of the application. The PCO will circulate the submitted details of the application to TDM for our consideration where he / she feels that a transport response is necessary. As a statutory consultee TDM is required to respond to the PCO with our comments within 21 days.



**Fig 1: Extract from Design and Access Statement, Housing development, Lockleaze**

**Fig 2: Ground Floor Layout incorporating cycle parking and refuse store, Lockleaze**



## Transport Development Management assessment

We may respond to a planning consultation in a number of ways:

- **No Comment** – we do not consider there to be any issues which require TDM’s input
- **Standing Advice** – on minor applications where standard procedures and conditions can be applied, we refer to Standing Advice.
- **Direct Response** – TDM provides a response following brief or minimal dialogue with specialist colleagues
- **PAM (Planning Application Management) Process** – On major applications, the submission is circulated throughout the Transport, Traffic and Highways teams for comment in view of the size of the development and its likelihood of impacts upon a number of transport and highway concerns. Once comments from transport / highways teams are collated, it is normal to hold an internal meeting in order to set out what requirements we have from development before responding to the PCO.

## TDM Planning Application Management (PAM) Process

The impacts of major developments once built are permanent, and it is the highway authority that may in the future be required to call upon public funds to address any negative transport impacts that the new development has failed to address at the planning stage. This is why we must ensure each team within our department has sufficient oversight of major proposals given that it may affect their work area. TDM therefore represents a considerable remit of transport and highway concerns, all of which can be either negatively or positively influenced by land-use planning. This remit (and the scope of TDM’s responsibility) is summarised in *Section 2.1* of our website.

Depending upon the extent to which a development proposal changes over the course of a pre-application submission and in the run up to a formal application, it may be that a second PAM process (at the application stage) is unnecessary.

## Transport Development Management Formal Response to Planning

Where we have elected to respond formally to a planning application consultation, we will respond in any one of the following five ways:

- **Initial Response** – this constitutes a holding response and is normally issued on major applications. Within this, we will inform the case officer that due to the size / scale of development and the number of different inputs we will require from within our department, it will take some time to provide detailed and specific comments. We will aim to confirm within an initial response the likely timescale for confirming the transport / highway authority position.
- **Further information required** – insufficient information has been provided in order to allow TDM to provide a final written recommendation. This could be down to a number of factors that may still require to be discussed or new issues that have arisen following submitted assessment work. It is completely normal on major applications for TDM to provide several ‘tranches’ of comments given that many of the issues will require an iterative process of assessment and discussion before they can be resolved and our position confirmed. The issuing of a ‘further information required’ recommendation should not be interpreted either as an acceptance or rejection of the development proposal and indicates that the application is not ready to be determined.
- **Approve, subject to conditions** – the majority of applications we respond to formally will require planning conditions. Planning Conditions are

required to ensure that transport and highway requirements are fulfilled in the interests of highway safety, the protection of the public assets (in our case the highway), the promotion of sustainable travel and the avoidance of nuisance to future occupiers and neighbouring interests. A summary of the council's standard planning conditions, reasons and advices can be accessed [here](#).

The timing of conditions is very important and the majority of conditions required by TDM are predicated upon the need to ensure the development benefits from the internal and external transport infrastructure it will rely upon from the point of occupation. Conditions are commonly timed to be required to be discharged prior to commencement, prior to occupation or are required to be adhered to post-occupation.

It is common for further requirements to be made in the form of accompanying Planning Advices, including recommending the prohibition of parking permits in Residents' Parking Schemes (RPS).

- **Approve, subject to a section 106 Agreement and planning conditions** – as above, but with the inclusion of financial contributions towards the delivery of transport interventions by the council. Financial obligations from development are secured through a section 106 agreement (we do not combine section 106 and section 278 agreements) and are commonly requested for items such as: Travel Plan monitoring and delivery, Bus stop upgrades, the delivery of improved walking, cycling and public transport infrastructure, traffic calming, Traffic Regulation Orders or other parking restrictions. Further information on planning obligations is provided in our [Planning Obligations Supplementary Planning Document \(SPD\)](#).
- **Refusal** – In these circumstances, we consider the development as proposed to be unacceptable. A recommendation of refusal can comprise one or any number of reasons, with the most common

issues summarised below, alongside the local planning policies to which these relate. In the case of where a development fails to deliver high quality and permeability for sustainable and active travel we consider this to be as much a transport as an urban design issue.

**Reasons for Refusal and Local Plan policy references:**

- The applicant has failed to demonstrate the impact of the development in the absence of a robust or acceptable supporting Transport Assessment and/or Travel Plan. **DM23**
- The proposed development jeopardises the delivery of strategic transport priorities and schemes. **BCS10, DM24**
- The proposed development is located in an area where sustainable travel patterns cannot be achieved. **BCS10**
- The proposed development fails to minimise the need to travel by private car and/or does not maximise opportunities for the use of walking (including the protection and enhancement of Public Rights of Way and Greenways), cycling and public transport and / or fails to provide adequate changing, shower, storage and drying facilities for cyclists. **BCS10, DM23, DM25, DM27**
- The proposed development fails to ensure the provision of safe access to the highway and the safety of surrounding streets for all sections of the community. **BCS10, DM23**
- The proposed development has failed to take into account the access needs of pedestrians, cyclists, public transport and/or access for commercial vehicles for servicing and loading and/or cars, including short-stay car visits. **BCS10, DM23**
- The proposed development would result in negative impacts such as excessive traffic volumes, fumes and noise. **BCS10**

- The proposed development fails to provide or contribute towards the provision of measures to mitigate its impact and overcome unsatisfactory transport conditions. **BCS11, DM23**
- The proposed development fails to promote accessibility and permeability by creating places that connect with each other and are easy to move through and/or fails to promote legibility through the provision recognisable and understandable routes. **BCS21**
- The proposed development would fail to deliver a durable and well-managed built environment or well-maintained public realm that integrates different modes of transport, parking and servicing. **BCS21, DM27**
- The proposed development fails to maintain or enhance public connections to/from and adjacent to waterways for walking and cycling. **DM22**
- The proposed development fails to provide an appropriate level of safe and secure car parking, including disabled and Electric Vehicle (EV) charging. **DM23**
- The proposed development prejudices the existing and future development of potential adjoining sites and/or fails to progress a comprehensive and co-ordinated approach to deliver a coherent and interconnected built form. **DM27**

The above reasons refer to specific policies contained within the [Bristol Core Strategy](#) and the [Development Management and Site Allocations Policy](#) documents.

We will also seek to include national and subregional policies in a reason for refusal, making reference to the [National Planning Policy Framework \(NPPF\)](#) and the [West of England Joint Local Transport Plan \(JLTP\)](#), in addition to the [Bristol Transport Strategy \(BTS\)](#) and the [Bristol Urban Living SPD](#).

## Response to applicant

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The Planning Case Officer (PCO) will collate the responses of his / her statutory consultees, including those of TDM and will respond directly to the applicant. Until this has taken place we are unable to forward our comments directly to an applicant or their consultant team. The reason for this is that the Planning Case Officer has to consider a wide remit of different viewpoints before presenting a joined up and consistent response from the council. Where this occurs we will insist that internal discussions take place before we are able to liaise directly with an applicant or their consultant.

On larger developments, it may be necessary to arrange for a number of regular meetings with you in order to make progress on specific matters. This may necessitate separate topic groups or workshops. Given that it is considered best practice to have ironed out all major issues at the pre-application stage, we would prefer that by this time the manner of discussions is centred around conditions and obligations, as opposed to fundamental changes to a scheme during the planning application stage. This situation would most likely serve to delay determination and can sometimes result in the withdrawal or refusal of an application.

## Negotiation

The need for a development to mitigate its impact on the local area whilst investing in healthy travel alternatives are not mutually exclusive and we expect these interventions to work together to deliver the best outcome.

We will discuss with you at the planning or pre-application stage what we would consider to be the most appropriate mechanism for the delivery of enhancements to transport infrastructure, whether these are part of the site, or to be delivered off-site where it has been demonstrated that the requirement arises. The four main mechanisms we consider appropriate are summarised below in very simple terms:

- **S106 (1990 Town and Country Planning Act)** – The developer pays Bristol City Council a sum of money to undertake works, monitor / provide a travel plan or deliver other commitments
- **S278 (1980 Highways Act)** – The developer undertakes works to the existing Highway following a requirement secured through a planning condition.
- **S38 (1980 Highways Act)** – The developer constructs new highway to tie into existing highway, as secured through a planning condition.
- **Unilateral Undertaking** – only in special circumstances where sums of money are very small in value would we accept this approach – i.e. for Travel Plan monitoring or Traffic Regulation Orders in isolation.

## Section 106 agreements (planning obligations)

The above document is a legal agreement between local planning authorities, and relevant land interests. They impose financial and non-financial obligations on those persons with an interest in the land and becomes binding on that parcel of land as a land charge. Planning obligations are used to make developments acceptable which would otherwise be unacceptable in planning terms. The land itself, rather than the person or organisation that develops the land, is bound by a s106 agreement, something any future owners will need to take into account.

Section 106 agreements are often progressed soon after a resolution to grant permission, so as to secure the permission and conclude a planning consent. In many cases this is a considerable time and often some years before the end developer is known and/or the development occurs.

## Section 278 agreements (highway works)

We will condition any alterations or improvements you are required to make to the highway resulting from development. For all but the most minor of works (such as a dropped-kerb), the standard condition B1B requires the submission of further drawings by your engineering consultants prior to commencement of development in the interests of avoiding delays to the opening of your development.

The discharge of condition B1B triggers the instruction of our legal services team to prepare a section 278 agreement. Upon signing of the s278 agreement we require that you secure a bond and pay our technical approval and inspection fees in order for your drawings to undergo and obtain detailed technical approval before any works can commence. The time this takes is dependent upon the quality of the drawings. Further information on this process is provided in *TDMG Section 2.3*.

We do not combine s278 and s106 agreements. Whilst this may initially appear efficient, experience has shown this to incur significant delay and cost to developments, involving additional officer time and substantial cost to both the private and public purse to address deficient works to the highway as a consequence of the following:

- Drawings included as part of a s106 tend to be provided by transport consultants or designers involved at the planning stage and not the consulting engineers who are involved in the construction of the works. Similarly, the signatory of a s106 is not always the end developer / occupier, particularly on outline applications.
- In these circumstances the motivation of the applicant at that time may not be to consider the future detail of the works, nor is it to appoint those who are responsible for the detailed design or delivery of works. In this situation we cannot allow for the detail of excavations to the public highway to be given only cursory attention where other matters within the s106 (financial contributions, affordable housing etc) take precedence.
- Consequently, drawings submitted at this time can often fail to exhibit the necessary expertise and detail that would avoid confusion at a later date and insodoing would protect the developer and the highway authority from future disagreements and liability.
- The signing of a section 106 is often many months and in some cases years before the development is commenced. This makes the agreed drawings inflexible and unable to adapt to change, whether this is orchestrated by the applicant (or future applicant) through amendments to the consent, or the council in the event that wider strategic interventions or neighbouring developments cause the drawings to require revisiting.

- The justification of combining s106 and s278 on the basis that the detail ‘can be addressed later’ is no longer acceptable. Once the s106 is signed, incorporating a basic drawing, this has on too many occasions in the past been misinterpreted as the green light to commence works: a) without detailed drawings, b) in the absence of technical approval of those drawings and c) in the absence of a financial bond (surety) and the payment of our technical approval and supervision fees. This situation is wasteful of public funds and ultimately delays the developments that have failed to address the detail of their works at an early enough stage.

## Section 38 agreements (New highway adoption)

We will also specify where there is a need for new or internal highway infrastructure to be adopted by the council, in which case a section 38 agreement will be prepared for the creation and adoption of new highway. Further information on the delivery of s38 works and the fees and process involved are provided later in this section and in *TDMG section 2.3*.

## Unilateral Undertaking (minor contributions)

A Unilateral Undertaking is a legal document made pursuant to Section 106 where agreed planning obligations are set out. However, unlike a s106 agreement they are signed only by the applicant (owner) and are not entered into by the local authority. We only expect these agreements to be necessary where one or a small number of minor contributions are being made and where those contributions are of a size that would be equalled or outweighed by the legal fees necessary to produce a s106. These are typically provided where we request a revision to or provision of a Traffic Regulation Order or a Travel Plan Monitoring fee.

## Justifying Planning Conditions and Obligations

We will require and secure planning conditions and financial obligations (through section 106) with you in accordance with [National Planning Practice Guidance](#), where they satisfy the following tests:

- **Planning Conditions (6 tests)** – necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise, and reasonable in all other respects.
- **Planning Obligations (3 tests)** – necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

## Determination

### Planning Committee

Planning applications are determined by planning committee (made up of elected members) where: the magnitude of development is considered to be significant and/or in the public interest; where there is significant local opposition; where the local ward member has requested its inclusion on the agenda, and on occasion where the proposal represents a departure from the current Local Plan. For further information on the process of planning committee involvement decision-making, please visit our [Planning Committee webpage](#).

TDM normally attend planning committees given the need for input where elected members have questions or concerns on transport associated with land use planning proposals. On major developments with specific, complex and wide-ranging transport issues, we will give a presentation to members on these matters.

### Delegated Decision

All other planning applications are determined by the PCO under delegated powers, taking into account the comments and concerns of his / her statutory consultees as well as local stakeholders in reaching his / her decision. In each case, planning decisions must accord with the requirements of the development plan and national policy.

### Other forms of Decision

Planning proposals may also be called in by the Secretary of State where they represent departures from the Local Plan, or have a standing objection from the Environment Agency.

Where a decision of refusal is made and the applicant elects to challenge this decision via appeal, the application is subsequently determined by the Planning Inspector following the submission of Written Representations, a Planning Hearing or a Public Inquiry. TDM is involved in each of these processes to defend the council's position, where we have provided a transport reason for refusal.

Further, more detailed guidance on each of the above matters is included on our [Planning Applications](#) webpage.