

3.4 Advance Payments Code (APC)

Under part XI of the Highways Act 1980, the Advance Payments Code requires that anyone proposing to erect a building served by a private street must pay or secure sufficient funds with the Highway Authority or its agent to cover the eventual cost of making up the street to adoptable standard. This aims to relieve house buyers of road charge liabilities under the private street works code if the Developer defaults. New roads are considered private streets for the purposes of the act.

The Highway Authority or its agent will serve the appropriate Notice setting out the sum required under Section 219/220 of the Highways Act 1980 within six weeks of Building Regulations Approval being granted, either by the Council or notified by an approved private agency. It is an offence to start constructing the building before depositing funds or completing an Agreement under S.38 of the Highways Act 1980.

The sealing of a S.38 Agreement secures exemption from the need to provide surety for the roadwork's in advance of building operations in accordance with the APC. However if the Developer wishes to construct dwellings before a S.38 Agreement is signed, it is necessary for the required APC security to be made for the appropriate site. This surety (together with accrued interest where cash deposits are made) will be returned to the Developer upon signing the Agreement, or used as part of the required bond and/or supervision fees.

There are certain exemptions to the obligations of the Advance Payments Code, details of which are given in Section 219(4) of the Highways Act 1980.