

**Easement - Frequently
Asked Questions -
Cadent's approach to
acquiring legal rights for
pipelines**

FAQ - Cadent Approach to Acquiring Legal Rights for Pipelines

Background

Cadent has no legal right to place apparatus in private land i.e. land it does not own. However Cadent may place pipes within streets. Streets are defined within the Gas Act 1986 and New Roads and Street Works Act 1991.

This document sets out the frequently asked questions for specific circumstances in which a separate legal right in the form of an easement must be acquired before laying pipes in private land.

1. What is an Easement?

An easement gives Cadent a secure right in perpetuity (forever) to install, lay, maintain, inspect, protect, renew and replace (amongst other rights) gas mains or services within private land (not publicly maintained).

An easement is a legal right and is registered on a land title at the land registry and therefore, the right is transferred to the next landowner if sold.

2. What is a Wayleave?

This is an electricity term, and a terminable right. Cadent **DO NOT** enter into Wayleaves.

3. What is the difference between an Easement and a Wayleave?

An easement is a legally binding document, it is attached to land and exists in perpetuity (forever) or until legally surrendered. A Wayleave is a personal agreement and does not transfer if land ownership changes.

4. What is a Consent Form?

A Consent Form is used when a third party agrees to allow Cadent to enter, excavate and install a gas service within their land. Please refer to Q15 for when a Consent Form is required.

5. Why do we need an Easement?

Without an easement, it is possible that Cadent has no formal right to retain or maintain apparatus in third party land which increases the risk of future financial liability for refused access, or worse the relocation or removal of pipelines.

To protect the integrity of the gas network an easement also puts some limits about what the landowner can do within the easement strip, including preventing buildings being erected, soil being added or removed over the pipe, and prohibits certain types of trees being planted over the pipe.

6. Does an Easement help with The Pipeline Safety Regulations 1996?

Yes, as referred to in Q1 the easement transfers with the land this therefore means that the new owners are put on notice there is a gas main in the land.

7. What is the risk if we do not get an Easement?

There are multiple risks to not securing an easement, there can be a financial risk due to diversions or legal challenges or a health and safety risk such as a build over or pipeline incident.

8. What is a Freehold Title?

If you are the freeholder, it means that you own the land outright, in perpetuity. It is your name in the land registry as “freeholder”, owning the “title absolute”.

9. What is a Leasehold?

If you are a leaseholder, it means that you are granted the right to occupy the property whether it be land or buildings under the terms of a lease agreed with by the Freeholder. A lease term can vary from a few months to 999 years, depending on the circumstances of their creation.

10. What is third party land?

Third party land is land that is owned by someone other than the customer.

Example - Land in between the highway and the customers land would be classed as third party land.

11. Do we need an Easement in the Public Highway?

Public Highway are roads and footpaths that are adopted by the local authority (usually a council) and maintained at public expense (council tax). As a gas transporter, we have statutory rights to lay assets within the public highway so no easement will be required.

12. Do we need an Easement in a Private Road?

We only require an easement within a private road when the pipe is not connecting a property that abuts (touches) the private road.

13. We have received a complaint from the owner of the private road, I thought Cadent have Statutory Powers to lay mains within a Private Road connecting abutting Properties?

Even though we have a statutory power we still need to follow the New Roads and Street Works Act and serve the appropriate notices on the owner of the private road.

14. Do we require the roads to be adopted before we lay our pipes?

We do not require the roads to be adopted before the pipe is laid but we need to ensure they are protected before they are commissioned or adopted.

Example – ‘mains laid for a new development’ – In this scenario the pipework will be in the ground before the roads have been set out or constructed. Cadent should ensure that we are either protected by our statutory powers or an easement is in place before the mains are commissioned.

15. Is it just mains that need an easement or services as well?

Pipes which require an easement:

- All new mains in private land
- New ring/approach mains supplying risers for multiple occupancy buildings (MOBs)
- All services operating at pressures greater than 75 mbar in Private Land over 15m in length. This excludes Intermediate Pressure as an easement is required for any length. Anything less than 15m will require a consent form to be signed by the landowner and a copy to be sent to land services to validate.
- All services greater than or equal to 63mm diameter crossing Private Land not owned by the customer (i.e. "Third Party Land")
- All services greater than 63m in length in Private Land
- Mains and/or services to be installed within private roads/streets not dedicated to public use, that supplies a property that is NOT abutting the street i.e. where statutory powers do not apply
- For all other services crossing Third Party Land (not covered by the rules above), Cadent will require a Consent form from the landowner to be obtained prior to installation and a copy sent to the Connections team and Land Services team along with any as laid plan for Cadent's records.

16. What are the Easement widths?

Pressure tier / Material	Diameter	Easement Width (total)
HP Steel	900mm, 1060mm, 1200mm (36", 42" & 48")	24.4m (80')
HP Steel	750mm and 600mm (30" & 24")	18.3m (60')
HP Steel	Up to and including 450mm (18")	12.2m (40')
HP RTP	Determined on a case by case scenario	
IP Steel	All Sizes	6m plus pipe diameter
IP PE > 5.5 bar	Above 500mm (19")	30m plus pipe diameter
	356mm – 500mm	16m plus pipe diameter
	126mm - 355mm	12m plus pipe diameter
	Up to and including 125mm	12m plus pipe diameter
IP PE < 5.5 bar	Above 500mm (19")	26m plus pipe diameter
	356mm – 500mm	8m plus pipe diameter
	126mm - 355mm	8m plus pipe diameter
	Up to and including 125mm	8m plus pipe diameter
MP PE	Above 500mm (19")	12m plus pipe diameter
	356mm – 500mm	6m plus pipe diameter
	126mm - 355mm	5m plus pipe diameter
	Up to and including 125mm	4.5m plus pipe diameter
MP Steel	All Sizes	6m plus pipe diameter
MP Iron *	All Sizes	6m plus pipe diameter
LP	Above 125mm	3m plus pipe diameter
	Up to and including 125mm	1m plus pipe diameter

17. Is it the customer's responsibility to get an easement or ours?

To protect the network, it is our responsibility to ensure the easement document is completed. The customer must provide the name and contact details of any third party that we require an easement with and aid Cadent with the procurement of that easement.

18. My neighbour is not happy that we need to lay my service through his land do we need his consent?

Yes we will require their signed consent for a service where an easement is not required as shown in the easement rules in Q15.

19. What happens if there is a dispute between the customer and the party granting the consent?

It is likely that this will cause significant delays to the completion of the easement. It is also possible that connection route will need to be reconsidered if the third party objects to granting an easement to Cadent.

20. What should we do if the customer we are working for doesn't own the land?

Permission for works and easement must be sought from the freehold land owner and any other party that has a right within the land.

21. What is the maximum size of a service that doesn't need an easement?

Please refer to Q15.

22. We are focused on improving the customer's experience, how can we make sure that easements don't prevent us doing that?

An easement can be completed within 4-6 weeks from when Cadent's solicitors are instructed. If the customer or their solicitor make any significant changes to our standard easement document this can extend the timeframe to 3-6 months.

The customer expectation must be managed at the beginning of the process.

23. Does Crown land need an easement?

Yes, but often this can differ legally from our standard Easement document. These differences will be agreed by Land Services once instruction has been given.

24. Is there an easements hotline?

Yes. Any queries not able to be answered within this guidance can be directed by email to box.landservicesworkrequest.GD16@cadentgas.com. The query will be forwarded to the relevant Land Officer to answer.

25. How long does an easement last?

An easement is a right in perpetuity i.e. forever.

26. What if we already have an easement and it doesn't cover the route of the pipework exactly?

First, we need to confirm that our Maps are correct by carrying out investigations such as tracing the pipeline or undertaking trial holes. If it is confirmed that the easement does not cover the route of the pipe we would look to vary the easement to make sure the easement strip on the plan covers the pipe in the ground.

27. How do we get permission to cross land where the ownership is unclear or unknown?

Cadent should undertake all reasonable steps to ascertain the ownership of the land. This can be undertaken by the relevant Land Registry searches or affixing notices to site, please contact the land services team to assist you with this.

28. Is public ground any different? (i.e. council owned/playing fields/car parks etc?)

No.

29. Are rights of way classed as a public highway for easement purposes?

Not necessarily. Public highway are roads and footpaths that are adopted by the local authority (usually a council) and maintained at public expense (council tax). Rights of Way are not always adopted and should be assessed using the definition of 'Street' in the New Roads and Street Act. Queries should be referred to Land Services for clarification.

30. Do we have the right to lay within a verge?

If the verge forms part of the public highway then please refer to Q10. If the verge does not then this would qualify as third party land and would be subject to the rules set out in Q15.

31. Do we have the right to lay within footpath?

Yes we do have the right to lay within a footpath as it is defined as a Street under NRSWA. If there is a gate or obstruction that stops the general public from taking access, then this would not be a footpath.

32. What is the minimum and maximum size of an easement?

Please refer to Q16.

33. What if the land is leasehold as opposed to freehold?

We still need an easement granted by the Freeholder. The length of the leasehold will determine if the leaseholder needs to be a party to the easement as well. Land Services will make that assessment once instructed.

34. Can we deal with the leaseholder if it is a 99-year lease?

Yes, as long as they have obtained all the necessary consents and all parties understand that the Freeholder will still need to be a party to the easement.

35. Do we require easements for mains that approach a Multiple Occupancy Building?

Yes, approach/ring mains should be treated the same as any other main or service and should follow the rules set out in Q15.

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