

SECTION 38 GUIDANCE NOTES

FOR USE BY DEVELOPERS



SURREY

This guidance sets out the basic information for a new road/street adoption agreement under Section 38 agreements of the Highways Act 1980.

1. Full title of the firm entering into the Section 38 Agreement, plus their registered office address, contact name and telephone number. They must own all of the land within the red edging and state this in their initial request. The County Council may exercise its option to take title of the land, comprising the highway, at adoption.
2. Name, address and telephone number of the Developer's Solicitor, plus name of individual for contact.
3. Company name and UK Registered Office of the Surety for the Bond (a Clearing or Merchant Bank, Insurance Company or any other person or organisation considered by the County Council to have sufficient financial standing). The Bond figure will be determined accurately from the estimated cost of the works, by the Developer's consulting engineer. If, after execution of the agreement, it is determined that the cost of the work is greater than the estimate, the Bond figure will be increased to accord.
4. Name and address of the Developer's Consulting Engineer, plus contact name and telephone number. The practice is to be competent in traffic and highway design. Transport Development Planning will deal only with the developer or one agent throughout. Transport Development Planning will not deal with both or accept a change from one to the other.
5. Start and completion dates of the works.
6. An estimate of the cost of the works. An agreement fee of 12% of the agreed cost of works will be levied, with a minimum of £2,500. At least half of this fee will be paid at the outset and the balance of the 12% by completion of the Agreement. If the actual cost of the works exceeds the estimate used for 3 above an additional engineering fee will be paid.
7. The Developer will write at the outset to confirm that they understand and will comply with the terms of these Guidance Notes and Chapter 10 of Surrey Design Technical Appendix.
8. A separate charge will be made by the County Council's Solicitor for preparation of the Agreement etc. Written confirmation is required from the Developer at the outset that they will pay all County Council costs incurred to date should, for any reason, the Agreement not be signed.
9. A 1:500 scale layout plan showing carriageways, footways, service strips, drainage, lighting etc. Red edging around the area to be adopted, all must be within the Developer's Title. The highway to be adopted will extend to the boundary of the site.
10. In the unlikely event of a third party's land being involved (and acceptable to the CHA), they are to be cosignatories of the Agreement. If, after conclusion of the Agreement, it is found necessary to extend or delete any land it contains, this will be covered by a Deed of Variation. The engineering and legal costs incurred by SCC will be paid in full by the developer.
11. Longitudinal section along the centre line of carriageways.

12. Typical cross sections showing road construction, camber etc are required at 10 or 20 metre intervals. Spot levels of existing and proposed should be shown on the centre line at 20 metre minimum intervals and at the edge of road to enable accurate setting out.
13. A list of standard notes is attached to be incorporated on the layout plan.
14. At least 6 copies of the suitably coloured layout plans will be required. If third party land is acceptable, it is to be clearly identified on the layout drawings by green hatching. Three copies of all other drawings will be required - includes 10 and 11 above.
15. 6 copies of a location plan at 1:1250 showing the site and surrounding area. (Preferably incorporated into the layout plan).
16. The determination of subgrade support (CBR) shall be undertaken in accordance with Surrey Design Technical Appendix Chapter 9, section 9.3, by an independent laboratory. Foundation design of capping and sub-base thicknesses and pavement foundation drainage shall be in accordance with Chapter 9, section 9.4. Both will be required at the outset.
17. The Developer will show from the outset that a Section 104 Agreement (or other suitable legal agreement) is being entered into with the Water Authority for any surface water drainage which highway drains connect to (which are not already adopted) and for all foul or surface water sewers laying within the area to be adopted by the Highway Authority.
18. The Developer will state at the outset if any highway structures or earth retaining walls, strengthened embankments and the like are involved and initially indicate them on the layout drawing stating their maximum height. If their use is considered necessary and acceptable, approval of the detailed design must be obtained from the County Council for which a separate fee is paid by the Developer. A commuted sum will also be paid through a clause in the Agreement.
19. The Developer will be responsible for funding any additional works which may be reasonably required by the Engineer resulting from any inadequacies in the Agreement drawings or arising from unforeseen circumstances up to an agreed maximum of 5% of the total cost of the works or £10,000, whichever is the greater.
20. The Developer will be responsible for the full cost of Stage 1,2 and 3 Road Safety Audits and alteration to, or provision of new, Traffic Regulation Orders as may be required, (to include advertising, processing Orders, staff admin cost, signs, road markings etc.). In addition, the developer should confirm that they are responsible for any costs associated with Factory Acceptance Test Costs (FATS) and Site Acceptance Test Costs (SATS) when installing or altering Traffic Signals of any kind.
21. The Developer will obtain a licence, where necessary, from the Engineer for landscaping proposals which affect the public highway.
22. The developer will indemnify the County Council against third party claims on all areas of work which are on the existing highway.
23. Separately from the Agreement, the developer shall be responsible for applying for and gaining a permit from Surrey County Council's Street Works Team in order to implement the

works on the highway. The notice period varies depending upon the scale of the works and the classification of the road but an application may need to be submitted at least 3 months in advance of the intended start date. Further information is available at <http://www.surreycc.gov.uk/roads-and-transport/road-permits-and-licences/the-traffic-management-permit-scheme>.

24. In March 2010 Skanska – Surrey Lighting Services (S-SLS) took over the management of the streetlights in Surrey as part of a long-term PFI maintenance and renewal contract with the council. This PFI contract changes how the council handles street lighting matters associated with highway agreements.

Further details can be found on the [specification and adoption details for street lights in new developments webpage](#).

S-SLS will check section 38 agreement street lighting designs to ensure that they meet the council's requirements. It is therefore recommended that developers employ S-SLS to design street lighting for section 38 agreements, to avoid delays associated with street lighting designs done by others not meeting the council's requirements. Developers may still use others to design street lighting for section 38 agreements, but SIS will need to check their designs.

Street lighting on privately owned section 38 agreement sites can be installed by the developer's own contractor, but must be inspected and accepted by S-SLS before the council adopts the new streets. Developer's who install street lighting before SIS themselves design the street lighting, or approve the developer's own street lighting design, do so at their own risk. New section 38 agreement streets will not be adopted unless the installed street lighting meets the council's requirements.

Developers need to include street lighting information on their as-built drawings submission, before the hand-over of the section 38 agreements works to the council. The County Council will also require CAD files of all approved drawings to be submitted to the Engineer.

- S-SLS can be contacted at:
- Address: Skanska – Surrey Lighting Services, Hazel House, Merrow Lane, Guildford, Surrey, GU4 7BQ
- Office Phone Number: 0300 200 1003
- Email: surreylightingservices@skanska.co.uk

25. It is the responsibility of the developer to ensure that upon installation and prior to adoption all streetlighting equipment shall be fully operational. For the avoidance of doubt, this will include the Leaf Node, Branch Node and associated communication functions. The developer shall ensure that all units are registered with Harvard CMS 'Developer Trunk Node' (CMS Supplier) prior to adoption. Further details on registering lighting units can be found on the 'Specification and Adoption Details for Street Lights in New Developments' page on Surrey County Council's website.

26. The use of SUDS, including soakaways, to drain adoptable highway may be acceptable subject to strict criteria.

27. Surrey County Council, as Highway Authority, will require developers to pay a commuted sum towards:

- Maintenance of additional areas and features that would not be required save for the development and alternative materials, and
- Non-standard features that have a higher maintenance cost compared with conventional materials or features.

Where appropriate, the Agreement will include provision of commuted sums towards maintenance. A schedule of items for which commuted sums will be sought from developers can be found on the County Council's Website - [Surrey County Council Commuted Sums Protocol Webpage](#)

Surrey County Council
Transport Development Planning
3rd Floor
Quadrant Court
35 Guildford Road
Woking
Surrey
GU22 7QQ

Section 38 Drawing Notes to be part of the layout drawing.

1. All estate roads to be constructed in accordance with Highways Agency Specification of Highway Works and Surrey County Council requirements.
2. Visibility zones to be incorporated into Section 38 areas and defined at their extremities.
3. Junctions and other locations are to be provided with pram crossings in accordance with Engineer's instructions. These will include specified tactile paving.
4. All foul and surface water sewers to have bedding factors agreed by Drainage Authority and all in accordance with the latest National Guidance (currently: Simplified Tables of External Loads on Buried Pipe Lines).
5. Wearing courses to roads and footways to be omitted until building work has been completed.
6. All highway land to be extended to and including site boundaries.
7. No private drive to have gradient of greater than 10% for minimum distance of 6m as measured from back of footway (highway). The gradient is to be straight.
8. Channels: 0.67% (1:150) absolute minimum; 0.67% to 1.0% (1:100) p.c. concrete channel blocks; not less than 1.0%, bituminous surfacing.
9. Service strips to contain no planting or obstructions other than permitted by Surrey Design Technical Appendix.
10. Cut-off drainage to be installed at road sub-base as directed by SCC Engineer and connected to road gullies or to catchpits and thence to s.w. drainage system or SUDS outfall.
11. If parking is approved in advance of a garage the front of the garage is to be a minimum of 6m from the back of the footway or front of service strip or as illustrated in Chapter 5 of Surrey Design Technical Appendix.
12. Access drives etc. that fall towards the road are to have gullies so positioned as to prevent the discharge of surface water onto the highway.
13. Whether in conventional roads or shared surfaces the back of all vehicle crossings to serve access drive etc., shall be defined by continuous 150mm x 50mm pre-cast concrete edging or similar approved. On shared surfaces this will then be the only definition required of the highway limits.
14. On-street parking bays are to have individual spaces defined by setts, contrasting block paving colour, etc.
15. Street lighting must conform to Skanska – Surrey Lighting Services requirements, unless otherwise agreed.