



CAMBRIDGESHIRE COUNTY COUNCIL

INSTRUCTIONS TO PRIVATE DEVELOPERS FOR
AGREEMENTS UNDER SECTION 38 OF THE HIGHWAYS
ACT 1980

INTRODUCTION

This document contains the instructions that an applicant will need to follow in order to enter into a Section 38 Agreement. Please note that these are **instructions** and not guidance, failure to follow these instructions will result in the application being returned.

The applicant is advised to carefully read this document to ensure compliance with the requirements of the Highway Authority.

All the information required to commence the Section 38 process must be sent to: highwaysdevelopment.management@cambridgeshire.gov.uk

The Highway Authority will expect that the Section 38 Agreement has been completed before any highway works commence on site, and the developer should allow sufficient time for approval of drawings etc. by the Highway Authority within their overall programme.

The applicant must allow a period of 8 weeks to receive a response in respect of any technical submission or for each and every re-submission. The onus is therefore upon the designer to provide a specification compliant engineering submission in order to reduce the number of review iterations required to grant technical approval

The Highway Authority may at its discretion and dependent upon existing workload undertake inspection of works before the Section 38 is signed.

However, the developer will be required to provide the 100% of the Agreement Fees before any inspections are undertaken. All and any works undertaken without being inspected by the Highway Authority are entirely at the developer's risk and will have to be removed if the developer is unable to prove to the satisfaction of the Highway Authority that the works conform to the Housing Estate Road Construction Specification (HERCS).

Throughout the approval process for a Section 38 Agreement there will be a single point of contact for the developer. This will normally be the Development Management Engineer (HDM) for the area where the scheme is being undertaken. The developer should not directly contact any other individual, body or office of the County Council, where this will lead to delay in the approval process.

PREAMBLE

1. The Developer should consult with Highway Authority at the earliest opportunity, noting that the Authority cannot accept engineering submissions prior to the issue of the relevant Full/ Reserved Matter consent from the respective Planning Authority.
2. Prior to the completion of the S38 Agreement the developer shall evidence the existence of a sealed Agreement with Anglian Water Services or appropriate statutory body to secure the adoption of the sewers at public expense.
3. Developer attention is drawn to Application forms at Appendices 1 – 3 which must be completed as part of the engineering submission.
4. The Highway Authority will only adopt land that serves a highway function. This is normally restricted to:
 - i. Roads, paths, verges etc. that serve five or more individual dwelling units, where the units have direct frontage onto the proposed highway.
 - ii. Land that is required for the safe operation of the adopted public highway i.e. visibility splays.
 - iii. Piped surface water systems that carry water that is solely draining off the adopted public highway.
5. The Highway Authority will not adopt roads, paths verges etc, that serve, shared private drives, car parking areas, industrial or commercial developments, service roads, or roads where developments primarily comprise flats, maisonettes, or similar multi-occupation buildings.
6. The Highway Authority will not accept 'islands' of private ground surrounded by adopted public highway.
7. Construction details must comply with the Housing Estate Road Construction Specification (HERCS) current at the time of signing the agreement. HERCS is a 'live' document and the most recent edition may be downloaded free of charge from:
<https://www.cambridgeshire.gov.uk/residents/travel-roads-and-parking/roads-and-pathways/highways-development>
8. All copyright requirements of the architect's developers and the like shall be waived, for the normal requirements of the County Council and any succeeding body, department, or organisation. Such permission shall be provided in writing.

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9. If required by the Highway Authority the developer shall have the proposed development safety audited by the County Council's Safety Audit Team. Then the report relating to the Stage 1 and 2 of the Audit shall be included with the documents submitted for the Section 38 in accordance with the requirements of GG119. The Stage 3 Audit shall be undertaken prior to the development being taken on to the maintenance period.
10. A surety or bond will be required, based upon the Engineers calculations of the adoptable length of streets, and the County Council's Term Contractors rates for the works. The cost of the proposed works is reviewed annually and calculated using the following figures (at time publication):
 - i. £2025.00 per linear metre of conventional carriageway/ footway or shared surface
 - ii. £405.00 per linear metre of footpath (i.e. not connected to a carriageway).
 - iii. £510.00 per linear metre of cycleway.
11. An Agreement Fee is charged by the Council in respect of all Section 38 Agreements. The Fee is currently set at 8.5% of the Bond Sum (not including the commuted sum). Recovery of the Agreement Fee will be as follows:
 - i. 50% of the Agreement Fee will be requested upon receipt of the Section 38 application. No vetting will be undertaken until this portion of the Agreement Fee has been paid.
 - ii. The remaining 50% will be collected prior to issuing of technical approval.
12. The Highway Authority reserves the right to impose on a Developer a suitable commuted sum for extra costs associated with using materials within the adoptable public highway that do not form part of this specification, that result in a greater maintenance burden, or areas over and above those considered necessary for the effective operation of the highway. Commuted sums shall be calculated in accordance with the adopted County Council Policy.
13. Legal fees will be recovered separately by the Council's solicitor..
14. The County Council will not accept the installation of non-passive private apparatus within the adoptable highway, without the prior written consent of the Engineer.
15. A condition survey of the existing highway linking the work to the nearest main road may be required. Site specific requirements should be discussed with the respective Engineer.

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16. By Committee Resolution, all new streets will require the implementation of a formal Traffic Regulation Order and associated signing/ infrastructure to secure a 20mph speed restriction across the adoptable network, to be designed, promoted and implemented by the developer prior to issuing the Final Adoption Certificate. Exceptions apply in relation to infrastructure designed for strategic purposes (i.e., bypasses/ major link roads) where a high standard of NMU infrastructure will be required in lieu of the reduced speed limit, where applicable.
17. EV charging points on new developments: the developer should carefully consider the siting of EV charging from the outset of the development. Such charging points as may be required to meet OZEV requirements are to be provided on plot or in designated areas, clear of the adoptable public highway. The County Council does not permit private non-passive apparatus within the proposed adoptable highway.
18. Carriageway channel lines shall be laid to gradients no flatter than 1 in 150, and no steeper than 1 in 20. The use of summated channel lines shall be permitted to achieve this. Blockwork areas shall be laid to gradients no flatter than 1 in 80.
The maximum length over which a longitudinal fall of between 1:40 and 1:20 can be used shall be 20m. A longitudinal fall of between 1:40 and 1:20 shall be used no more than once for every 100m length of the proposed adoptable public highway.
The above gradient regime is required to perform two key functions:
 - (i) To ensure that adoptable estate roads are accessible to all user groups, including vulnerable road users and the mobility impaired.
 - (ii) To ensure the satisfactory drainage of new infrastructure.

The designer is advised to seek the early advice of the of the Engineer if a specification compliant submission cannot be achieved; the failure to achieve such a compliant design may preclude the future adoption of the streets.
19. The developer shall evidence a sealed S104 Agreement for the adoption of the foul and surface water sewers with the relevant statutory body, prior to the sealing of the S38 Agreement.

SUBMISSIONS OF DRAWINGS

1. Review of submitted drawings: The applicant must allow a period of 8 weeks to receive a response in respect of any technical submission or re-submission.
2. The Highway Authority will normally expect two paper copies of all the drawings, plans and other information required as part of the application for a S38 addition to the paper copies the applicant must supply an electronic version of the drawings and all other information required must be provided. Please note due to restricted nature of the file name and path available to Highway Authority staff, the length of the name of any file submitted must not exceed 50 characters, including numerals, symbols and spaces.
3. All plans shall be at a true scale of no less than 1:500. The construction drawings should ideally be at a scale of 1:20.
4. The developer shall provide as a minimum the Highway Authority, for approval the following information:
 - i. The reference number for the approved planning application that enables the works to progress.
 - ii. The extent of the proposed adopted public highway (coloured as below) at a true scale of not less than 1:200.
 - a. Areas to be adopted shall be coloured in pink. The shade of pink shall conform to Hue 223, Saturation 205, Luminance 208 (#F6AAE4 Hex number).
 - b. Work within the existing Public Highway shall be coloured green. The shade of green shall conform to Hue 80, Saturation 117, Luminance 131 (#58BC4A Hex number) .
 - c. Work to be completed in advance of main programme and within set time scale, shall be coloured pink hatched black.
 - d. Gullies and connections shall be marked blue. Please note that the Highway Authority does not accept the use of 'double gullies' and all gullies must be evenly distributed along the channel line.
 - e. Any highway drain shall be marked blue.
 - iii. The extent of the site to be developed outlined in red at a true scale of not less than 1:500

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- iv. The proposed longitudinal and cross sections for the areas to be adopted. Please note that the Highway Authority does not accept the use of 'double gullies' and all gullies must be evenly distributed along the channel line. The longitudinal sections must show the proposed levels of the centre line of the carriageway or shared surface, the proposed levels to the channel line of the carriageway or shared surface. Any location where the proposed footway cannot achieve a crossfall of 1:40 the top of kerb level and back of footway level must also be shown.
- v. The proposed layout of the street lighting. If street lighting is to be provided the applicant will need to complete the attached street lighting application form (Appendix 2) to be submitted to the Engineer. All relevant sections shown in red must be completed. The document must be returned as a Word document, PDFs are not acceptable.
- vi. The construction drawings for the adopted areas. Works within the proposed adopted public highway must comply with the Highway Authority's Housing Estate Road Construction Specification a copy of which may be downloaded free of charge from:
https://www.cambridgeshire.gov.uk/info/20081/roads_and_pathways/115/highways_development
(The link to the document is about halfway down the page).
AutoCAD versions of the Appendices to the Housing Estate Road Construction Specification are available free of charge from the HDM Engineer responsible for the progression of the S38 Agreement.
- vii. A plan showing the areas drained by each gully. The areas drained will be identified by varying the direction of a simple 450 line hatching. The plan shall show the areas drained by each gully in numbers and the direction and fall to the gully expressed as a factor of 1 (i.e. 1:150). The level of the high/ low points and gully must be provided. For large or complex sites the applicant may find it easier to number the areas to be drained and include the longitudinal fall and area to be drained in a table on the same drawing.
- viii. A plan showing the proposed surface course material using different hatches or colours to differentiate between the materials being proposed.
- ix. A plan showing all kerbing and edging types to be used.

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- x. A copy of the geo-technical report for the site. The calculation of design CBR's for the foundation shall be based upon the Plasticity Index in accordance the requirements of HERCS.
- xi. GA showing location and nature of utilities/ statutory undertakers' apparatus.
- xii. GA showing the layout of the proposed adopted public highway with written dimensions, road numbers and plot numbers.
- xiii. The developer must evidence thee consent of the LLFA or responsible drainage authority in respect of the culverting of any ditches/ drains, or the discharge of surface water to existing watercourses.
- xiv. All changes to drawings through the technical vetting process must be clouded in red; this will make identifying these changes much simpler and save a great deal of time cross referencing drawings.
- xv. The developer will provide appropriate signing to the streets in accordance with the current version of Traffic Signs Regulations and General Directions and The Highways (Road Hump) Regulations, including the promotion and implementation of any associated Traffic Regulation Orders.
- xvi. The developer must complete the invoice request form in Appendix 3. The developer must complete all sections shown in green. The document must be returned as a Word document, PDFs are not acceptable. Please provide a generic finance contact if at all possible to avoid future financial correspondence being mis-directed.

MAINTENANCE PERIOD

All work covered by the Section 38 Agreement will be subject to a twelve month's maintenance period. The following requirements must be carried out prior to the maintenance period beginning.

1. The Section 38 Agreement must be signed and all related fees paid.
2. Prior to the streets being placed on maintenance, the developer will provide appropriate signing to the streets in accordance with the current version of Traffic Signs Regulations and General Directions and The Highways (Road Hump) Regulations, including the promotion and implementation of any associated Traffic Regulation Order.
3. On completion of the works, a request in writing giving at least 14 days notice must be received enabling the Highway Authority to make a joint inspection with the Developer.
4. Any remedial work found on inspection must be started within 15 working days and finished with all due speed.
5. The Highway Authority will require that the developer provide as a minimum a vesting certificate for the public sewers that are to be adopted under a Section 104 Agreement, by the appropriate water authority. The Highway Authority will seek to have the sewers adopted at, or as near as possible to, the same time as the highway
6. When the above items have been completed the Highway Authority will issue a Certificate of Provisional Completion stating the start date of the maintenance. An authorisation to reduce the Bond will also be issued at the same time.
7. At the end of the maintenance period, a final inspection shall be carried out. Any remedial works necessary shall be carried out before the highway can be adopted. It shall be the responsibility of the Developer to contact the Highway Authority to arrange the final inspection date.

DELAYED COMPLETION OF DEVELOPMENT

It should be noted that a Section 38 Agreement is valid for 2 years. If a development is not completed within this period, a formal extension of the existing agreement will be required, and additional supervision and administration fees to cover the outstanding works may be applied.

AS BUILT DRAWINGS

The developer will immediately prior to adoption of the development provide, to the Highway Authority six copies of an as built drawing at a true scale of not less than 1:500, showing the following information:

- i. Any key changes to the adoptable street layout.
- ii. The location and type of all street furniture, including, streetlights, lit and unlit bollards and the like.
- iii. Gully locations and connexions to the adopted sewer system, including lengths protected with concrete bed and surround.

Check List of Documents:

Document	Provided
Completed Application Form (Appendix 1)	
Completed Street Lighting Brief Request Form (Appendix 2)	
Completed Invoice Request Form (Appendix 3)	
Coloured plans showing the proposed extent of the adopted public highway	
The extent of the site to be developed outlined in red	
The proposed longitudinal and cross sections for the areas to be adopted	
The proposed layout of the street lighting	
Drawings showing the construction specification for the proposed works	
Plans showing the areas drained by each gully	
Plans of the layout of the proposed works	
Plans showing the proposed surface course materials	
Plans showing all kerbing and edging types to be used	
GA showing the layout of the proposed adopted public highway with written dimensions	
Copy of the approval of LLFA for works to watercourse (if the works affects a watercourse)	
Copies of the site investigation/soils report to justify the design CBR used	
GA showing location and nature of utilities/ statutory undertakers' apparatus	
AutoCAD files of the above required plans including base mapping	
Details of site materials sampling and testing regime	
CDM Health and Safety file for the site	

Appendix 1

Application for road agreement – Highways Act 1980

Section 38 Agreement

Development Details	
Planning Permission Reference No	
Parish	
Location	

Developer Details	
Company Name	
Address	
Contact Name	
Telephone Number (office and mobile)	
E-mail address	

Agent Details	
Company Name	
Address	
Contact Name	
Telephone Number (office and mobile)	
E-mail address	

Developer's Solicitor	
Company Name	
Address and/or DX	
Contact Name	
Telephone Number (office and mobile)	
E-mail address	

Appendix 2

**Highway Development Management
Request Form – Street Lighting Design Brief**

Development Details:	
Development/Road Name:	
Parish:	
Location:	
G59/ S278 Number:	
Agreement type (Section 38, Section 278 etc.)	
Developer details:	
Company Name:	
Address:	
Contact Name:	
E-mail:	
Plans and Drawings (PDF version) to be supplied	Drawing numbers/details:
<ul style="list-style-type: none"> • One copy of the detailed layout approved by the Local Planning Authority. • 1:2500 Site location plan • One copy of site layout drawing - 1:500 scale to show all dwellings, vehicular accesses, and adoptable footpaths. Drawing that will form the basis of the agreement dedication plan. 	
If appropriate/known - information for affected existing street lighting assets (S278/106): Street Lighting asset information available at: https://my.cambridgeshire.gov.uk/mycambridgeshire.aspx	

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Asset type:	Asset number:	Location:
Street Lighting Columns		
Illuminated Road Traffic Signs:		
Feeder Pillar (Electrical supply point):		
Illuminated Traffic Bollard		
Zebra Crossing beacons and posts:		
Centre Island column and beacon (White globe):		

Appendix 3

Income Invoice Request - (Accounts Receivable)

Order Manager:

Date:

For the attention of

Customers Order Number

Description for Invoice **HDM File: G59.1111 Developer: Smith & Co Site: Anywhere**
 50% S38 Fee: 30001546 HWP J6605-01: £
 50% S278 Fee: 30001546 HWP J6607-01: £
 Planning Income: 30001546 HWP J6650-01: £
 SF278 Deposit: 30003410 Z1003: £
 S278/ S38 Deposit: unique code acquired: £

Customers Name:

Customers Address & Telephone Number:

Invoice Value:

Cost Centre/ Costc

Vat

Total

Product/ Subjective

Send to: MID.OrdersandMeeting@cambridgeshire.gov.uk

<u>Business Support Use Only</u>	
Project No/Costc.....	Sales Order.....
Date:	Invoice
No:.....	