

## **Information Sheet 6**

### **Construction of New Roads and Footpaths for Adoption**

If your development involves the building of new roads this leaflet should be helpful in explaining to you the process which you need to go through to build the road(s) to a standard suitable for adoption by the Council.

#### **Advanced Payment Code**

This Council has a policy of serving Advanced Payment Code (APC) notices on all developers whose proposals involve taking access from a road serving in excess of 5 dwellings. This is to ensure that all roads are completed and built to an adoptable standard. The Council normally recommends that a developer enters into a legal agreement under Section 38 of the Highways Act 1980 to avoid paying large cash deposits.

#### **The Section 38 Agreement**

This allows developers to build roads under the inspection of the Council. Also party to the Section 38 Agreement is a Bondsman (normally a bank or insurance company) who guarantees the works and will provide the Council with funding to complete the job in default of the developer. Developers have to pay the guarantor a fee for this service. There are a number of stages involved in a Section 38 Agreement:-

- **Plan Approval**

The Council agrees the works and approves the drawings; coloured versions of these drawings are then bound into a Section 38 Agreement, which is signed by the Council, the developer and the Bondsman. Works should not start on site until the Section 38 Agreement has been signed and exchanged, since only at this stage will the APC be cancelled.

- **Start on Site**

Once the inspection fee has been paid the Council's Highway Adoption Engineer will visit the site, and will continue to inspect as required.

- **Part 1 Certificate**

This is issued by the Council when the works, set out in the schedule in the Agreement, have been satisfactorily completed. The Bond is reduced at this time usually to 50% of the full bond.

- **Part 2 Certificate**

This is issued by the Council once all the works have been completed. The Bond is reduced further, usually to 25% of the full bond and the site goes into a 12 month guarantee period.

- **Final Certificate**

This is issued by the Council if at the end of 12 months no faults are found, or if found they are satisfactorily repaired. Upon issuing of this Certificate responsibility for the road passes to the Council (although in some instances landscaping may continue under guarantee for a further two years) and the remaining Bond is cancelled. The road is then 'Adopted'.

## **Developer's responsibilities prior to the Final Certificate being issued include:-**

- Applying in writing to the Council for inspections and Certificates.
- The cost of undertaking all works and maintaining the roads until the Final Certificate is issued. This will include all claims arising.

## **Fees**

To meet the Council's costs in approving drawings and carrying out site inspections an Inspection Fee is payable at the time the Section 38 Agreement is signed or when the Council starts inspections, whichever is the sooner. Currently the Inspection Fee for Section 38 works is set at 7.5% of the full Bond Rate with a minimum fee of £520 applying. Where significant revisions to a site layout are made a further checking fee may be levied to cover the Council's additional staff time.

In addition the Solicitor to the City Council (as from 1<sup>st</sup> May 2016) charges £750 to process a standard Section 38 Agreement. Extra fees will be charged for a more complex agreement. A copy of the Section 38 Agreement (Highways Act 1980) may cost up to £200.

## **Before you start on site**

It is strongly recommended that before you start works on site you undertake a joint dilapidation survey with an officer of the Council present. This will record all existing defects in the public highway and make it easier for all parties to agree any damage caused by the works, so that they can be put right once works have been substantially completed. Please contact the Highways Adoption Engineer to arrange a joint dilapidation survey.

## **Contacting us**

You can contact Highway Adoptions at [highwayadoptions@sheffield.gov.uk](mailto:highwayadoptions@sheffield.gov.uk).