



# **SHEFFIELD CITY COUNCIL**

## **HIGHWAY MAINTENANCE DIVISION**

### **S278 Agreements**

### **Guidance for Developers**

**V6.0**

**AUTUMN 2022**

## **1. PURPOSE OF THIS DOCUMENT**

- 1.1 This document provides guidance which is intended to help developers through the S278 Agreement process in order to ensure the required highway works are delivered to the satisfaction of all parties and to the required adoptable standards. The developer must have regard to and must comply with the guidance set out in this section at all times throughout the application process, the development and design stages of the process and the carrying out of the Highway Works.
- 1.1 Throughout this guidance document, 'The Council' refers to Sheffield City Council and any of its authorised officers. "The Developer" refers to the developer or their representatives (including but not limited to) highway consultants, project managers, and contractors.

## **2 THE S278 AGREEMENT**

- 2.1 To carry out works in the public highway, developers must enter into a S278 Agreement with the local highway authority, as set out in the Highways Act 1980. In Sheffield, the Council does not carry out the works; rather, developers are permitted to undertake their own works with authorisation from the Council.
- 2.2 The Council has three types of S278 agreement, reflecting the nature, risk and value of the works. At the Council's discretion, one of the following agreements will be used:

- **S278 Minor Works Agreement**

This is generally for smaller scale works with more limited risk to the Council and which do not involve (but is not limited to) extensive utility diversions, a requirement for a road safety audit, or significant Traffic Management. The agreement itself is not executed as a Deed. Generally, a full set of construction drawings will be appended to the agreement.

- **S278 Works Agreement**

This is generally used for the more significant schemes, with greater risk to the Council – ie involving traffic signals, or simply more extensive works. This agreement is executed as a Deed. Only a General Arrangement and Legal plan are appended to this agreement, as a technical appraisal of construction drawings takes place separately.

- **Full S278 Agreement**

These are bespoke agreements prepared by the Council's legal team, generally for those schemes in excess of £400,000, and are used less frequently.

### 3 THE S278 AGREEMENT PROCESS

#### 3.1 Application Form

All developers must submit a fully completed Application Form. This gives the Council all the information it needs to prepare the S278 Agreement.

#### 3.2 Fees

Various fees are payable pursuant to the S278 Agreements and the specific amounts (save for the final Commuted Sum) will be detailed in each Agreement but are based on the expected value of the highway works (see table below). A non-refundable Advance Fee is required to be paid prior to the Council commencing meaningful work on a scheme.

Value of Highway Works	Total Fee	Advance Fee
Up to £19,999	£2,000	In full
£20,000 - £49,999	£2,700 - £6,750	£2,500
£50,000 - £99,999	£6,750 - £13,500	£5,000
£100,000 - £149,999	£13,500 - £20,250	£7,500
£150,000 - £199,999	£20,250 - £27,000	£7,500
£200,000 - £249,000	£27,000 - £30,000	£10,000
£250,000 - £299,999	£30,000 - £33,000	£10,000
£300,000 - £399,999	£33,000 - £36,500	£10,000
£400,000 - £499,999	£36,500 - £38,500	£10,000

Occasionally, the nature and complexity of the scheme can mean the above fee chart is considered to be insufficient to cover the expected time involved and does not reflect the staff resource required. For example, a straightforward scheme in terms of construction could be the result of a more controversial planning consent, meaning that significantly more officer time is required dealing with the scheme. On such occasions, officers will assess the appropriateness of the fee, and will calculate a bespoke fee for the scheme.

Depending on the nature of the works, the scheme may also result in other, separate fees being incurred. For example, this may include fees related to Traffic Regulation Orders (temporary or permanent), Road Safety Audits, and other Orders such as Diversion Orders or Stopping Up Orders.

#### 3.4 Drawings

The required drawings vary dependent upon the type of agreement being progressed:

- **S278 Minor Works**

A full set of detailed design drawings, authorised for construction by the Council

- **S278 Works and Full S278's**

A General Arrangement drawing, and a Legal drawing, only. This ensures the S278 Agreement can be concluded swiftly and developers can apply to discharge

any planning conditions without delay. The requirements for the Legal Drawing can be found at the end of this Guidance note.

A Technical Appraisal of detailed design drawings takes place at a later date, prior to construction. Further details of the submission of drawings can be found later in this guidance note.

**Note – to avoid abortive work, we strongly recommend you do not commence work on detailed design drawings until you have agreed the General Arrangement drawing with the Council.**

### **3.5 Commuted Sum**

Developers are required to make payments to cover the future maintenance and general upkeep of the new or improved highway infrastructure. This is known as the Commuted Sum.

An Estimated Commuted Sum will be calculated based upon the preliminary layout and included in the bond of surety/cash deposit. The actual commuted sum will be calculated upon completion of the works and is required to be paid prior to the issuing of the Final Certificate (the point at which the works are adopted and the maintenance liability transfers to SCC). Note that where traffic signals or street lighting are installed, these are accrued to the highway network immediately and payment is required at that time.

In the event the Commuted Sum is calculated to be less than the Estimated Commuted Sum which has already been paid to the Council as part of any cash deposit, then a refund will be paid accordingly.

### **3.6 Securing the Highway Works**

The developer must either secure a Bond of Surety, or place a Cash Deposit with the Council upon the sealing of the S278 Agreement in order to enable SCC to secure completion of the works in event of default.

Generally speaking, the value of the Bond or Cash Deposit will be equal to the Estimated Cost of Works, the Commuted Sum & Inspection Fee, plus a contingency which is deemed appropriate by the Council.

Details of the two types of security can be found below:

- **Bond of Surety**

The works are secured by the inclusion of a separate guarantor (surety) within the agreement. The surety is a signatory to the agreement. Generally, 75% of the surety is released at practical completion, with the remaining 25% released upon the issuing of the final certificate.

- **Cash Deposit**

The developer pays a cash deposit to the Council covering the amount specified in the S278 Agreement. Generally, 75% of the deposit is returned at practical

completion, with the remaining 25% returned upon the issuing of the final certificate.

Developers should note that the Council requires a period of 60 working days in which to return any funds, although it is usually quicker than this.

## **4 DEVELOPMENT & DESIGN STAGE**

### **4.1 Inception Meeting & Preliminary Layout**

The principles of the layout may have been discussed with the Council previously, and a preliminary design developed on the basis of such discussions, or alternatively the required layout may have already been specified through a planning condition.

4.2 The Council may require a developer to attend an inception meeting at the outset of the whole process to discuss the delivery of the highway works. This will be confirmed following receipt of the application form.

4.3 The purpose of the inception meeting is to ensure the developer is fully of the S278 process and provides the opportunity to discuss any issues either party may have. Items likely to be covered are discussed in the following paragraphs.

### **4.4 Road Safety Audit (RSA)**

Safety Audits of the Highway Works are nearly always required to be carried out in accordance with the Sheffield Road Safety Audit Standard 2018 and national guidance. Whilst the developer can appoint their own auditors, it is a fundamental principle of the Road Safety Audit process that the Road Safety Audit Team is independent from the Design Team.

The Council has its own internal Road Safety Audit Service and developers are able to engage the services of SCC's own independent Road Safety Audit Co-Ordinator should they choose to. In the event of the Road Safety Audit not being carried out by SCC, then SCC, as Highway Authority, reserves the right to require the SCC Road Safety Co-Ordinator to be part of the audit team. The Council will advise you as and when this is required.

### **4.5 Cycle Audit**

The highway works may be required to be subject to a cycle audit. The Council will advise you as and when this is required.

### **4.6 Structures**

The highway works may require the approval of structural items, both on and supporting the highway, by the Council via an Approval In Principle (AIP). Developers are advised to bring any structural items to the attention of the Council as early in the process as possible. The AIP is a part of the Technical Appraisal and the highway works may not be able to proceed until the AIP is issued.

### **4.7 Utility Diversions**

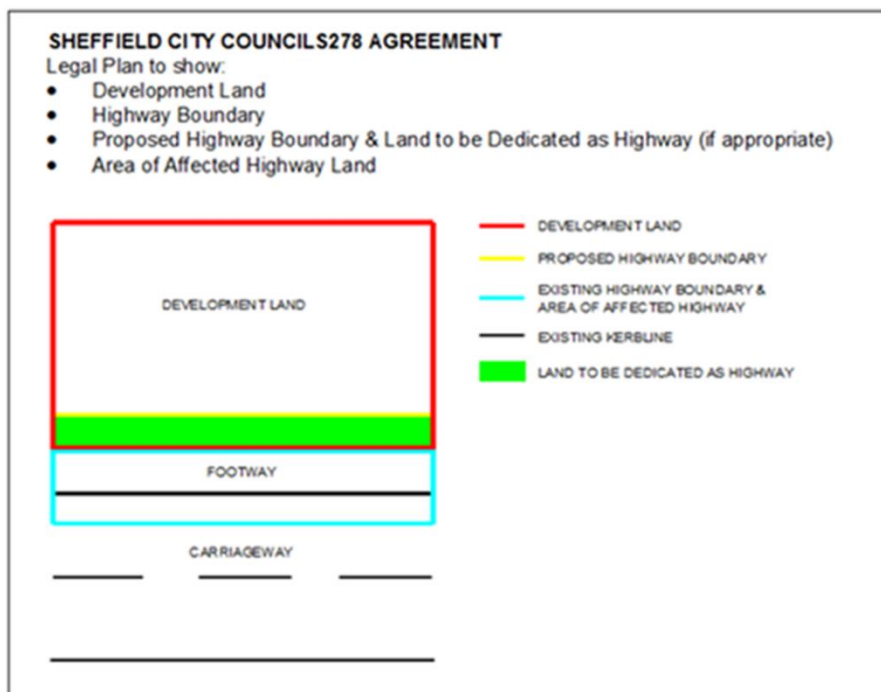
Developers are advised to liaise with Statutory Undertakers at an early stage to determine any required diversions, ensuring diversions can be carried out and programmed effectively. The highway works may not be able to proceed until details of any diversions have been provided.

### **4.8 Dedication of Land as Highway**

A project may require some private land to be dedicated as highway. Alternatively, Developers may wish to request that some of their land is dedicated and adopted, for example where the construction of a new building will be stepped back from the existing highway, and they might want a small strip of land to be dedicated as highway and maintained at public expense. The Council will consider any such request and it is advised that this is raised at an early stage. If land is required to be dedicated, additional clauses will be required to be included in the S278 Agreement.

Developers would need to supply a plan showing the following information (see sketch below):

- Development land boundary in red
- Existing highway boundary/extent of works in blue
- Any proposed (new) highway boundary in yellow (if appropriate)
- Any land to be dedicated as highway shaded in green (if appropriate)



#### 4.9 Highway Closures & Diversions

A planning permission may require part of the highway to be closed or diverted to facilitate the carrying out of the development. This process can be complex and generally takes 9 months to process, subject to the receipt of objections, so time should be built into work programmes where closures and diversions are required.

Developers are therefore advised to make early contact with SCC's Highway Records team to establish what is required – call 0114 2736301 or 0114 273 6125. Alternatively email [highwayrecords@sheffield.gov.uk](mailto:highwayrecords@sheffield.gov.uk)

#### 4.10 Traffic Regulation Order



The proposed development or the highway works themselves, or both, may require an associated Traffic Regulation Order (TRO) or similar order, which for example may impose waiting restrictions, one-way systems, weight limits, and prohibition of certain of category of vehicles.

In the event a TRO or similar order is required, the developer should request the TRO Guidance & Application Form, which the developer is required to complete in order to commence the TRO process. A TRO costs a minimum of £5,650 and work can only commence upon receipt of payment.

Where a TRO or similar order is necessary, it is likely to be a requirement that the order is in place prior to commencement of the highway works. It is therefore imperative that the TRO procedure is instigated well in advance and again developers are advised to build in sufficient time to your work programme.

The TRO process is carried out by the Council and generally takes up to 6 months, but can take longer if a public inquiry is needed. Developers are therefore are advised to liaise with the Council **AT LEAST 12 MONTHS AHEAD** to agree an intended date of advertising, and also ensure that the preparatory tasks related to the TRO are underway at least a month ahead of your agreed date.

#### **4.11 Consultation**

The developer may be required to undertake consultation as considered appropriate by the Council. The type and extent of the consultation will vary dependent upon the nature of the works and the level of consultation carried out as part of the process of obtaining planning permission.

Where the Council confirms that consultation is required, the developer will be required to submit the layout drawings to statutory consultees (including the Fire Service, Police etc) as well as the general public and other local groups as the Council considers appropriate. The Council will provide example consultation materials and a list of consultees at the appropriate time.

The developer should co-ordinate responses and should agree any changes to the design that may be necessary with the Council. This may include a re-submission of the RSA if substantial changes have been made.

#### **4.12 Programming/Traffic Management**

Early consideration of the required traffic management strategy is recommended. The Council's Highway Co-Ordination team will provide a summary of any traffic management restrictions (times of working etc) on affected roads, which should be used as a starting point for contractors when preparing a proposed traffic management plan. It often also affects the intended programme of the development. This may include the need for Temporary Traffic Regulation Orders.

#### **4.13 Suspension of Parking Bays**

There may be a need to suspend on-street parking bays for the period of time during which the Highway Works are ongoing. This will have been established through the

preparation and review of the traffic management plan. You will need to cover the costs of such suspension.

If bays are to be suspended, the contractor must submit an application form for suspensions to Parking Services at least 14 days prior to the required date. Full details, including the application form, can be found here: <https://www.sheffield.gov.uk/home/parking/request-parking-bay-suspension>

## **5 DETAILED DESIGN**

- 5.1 Whilst a completed S278 Agreement provides the developer with permission to undertake work on the highway, this permission is conditional and is strictly subject to further Technical Appraisal, permission from the Council regarding traffic management proposals, and compliance at all times with the S278 Agreement and this guidance.

Having agreed a general arrangement layout and obtained all other necessary approvals, work can commence on the detailed aspects of the design of the Highways Works.

### **5.2 Highway Specifications**

All detailed designs will need to be carried out in accordance with various SCC Guidance documents which detail certain specifications, and which can be found on the Council's website at:

<http://www.sheffield.gov.uk/content/sheffield/home/business/highways-design.html>

### **5.3 Street Lighting and Street Furniture**

Where street lighting needs to be removed or relocated, either temporarily or permanently, you must get separate written approval from the Council in advance of any removal or relocation (whether it is proposed to be temporary or permanent). Contact should be made with the Technical Officer for Street Lighting & Traffic Signals – [craig.spafford@sheffield.gov.uk](mailto:craig.spafford@sheffield.gov.uk). This may require a site visit with the Council and the Developer both present, to establish ownership/responsibility for these items.

Similarly, where other Street Furniture is required to be removed or relocated, either temporarily or permanently, you must get separate written approval from the Council in advance of any removal or relocation (whether it is proposed to be temporary or permanent).

Additionally, a site visit may be requested to inspect the existing condition of nearby highway and to consider any nearby drains that would require protection from debris etc during the carrying out of the Highway Works.

### **5.4 Bus Stops**

There is a standard detail for bus stops in Sheffield, which will be supplied to you by the Council. All stops should be constructed to this standard with a 27m bus stop clearway and associated signing. Note - the bus stop pole/carousel and/or shelter are operated by South Yorkshire Mayoral Combined Authority. Orders for these items are placed directly with SYMCA.

### **5.5 Technical Appraisal**

A set of detailed design drawings must be submitted to the Council for technical appraisal. The precise nature of the drawings required will be dependent on the type of works being carried out and developers will be advised accordingly. However please note the following items will need to be supplied:

- the detailed design for the Highway Works, the Specification, the Programme;
- the Estimated Cost of Works;
- confirmation that the Traffic Management Plan has been agreed by SCC Highway Co-Ordination
- the name of the main Contractor and the certificate of insurance cover
- the Stage 2 Road Safety Audit Report
- the Health and Safety Plan
- details of any diversion or alteration works required to be carried out to Statutory Undertakers' mains, services, plant or equipment necessitated by the Highway Works
- the location of car parking for site and construction personnel during the carrying out of the Highway Works

The Council will comment on the drawings and, when satisfied the drawings are fit for purpose, will authorise for works to commence.

## **6 CONSTRUCTION**

### **6.1 Traffic Management & Road Space**

Should the Traffic Management plan not have been agreed, the Developer must arrange this before a start date can be identified. Highway Co-Ordination are happy to liaise with contractors on the proposed plan, the earlier the better. Contact [roadworks@sheffield.gov.uk](mailto:roadworks@sheffield.gov.uk) or call 0114 273 6677.

This liaison should take place at least 2 months ahead of works starting, as a Temporary Traffic Regulation Order may be required which takes at least 6 weeks to process, sometimes much longer.

There may also be restrictions on working hours set by the Council's Environmental Protection Service. Developers are advised to contact [epsadmin@sheffield.gov.uk](mailto:epsadmin@sheffield.gov.uk) to determine any restrictions that may be required.

To undertake work in the highway, the developer also needs to book the road space. The Council will issue a partially completed N Notice to the developer, who must complete the document and issue it to [raswa@sheffield.gov.uk](mailto:raswa@sheffield.gov.uk). Developers should do this at least three months in advance of any intended start on site.

### **6.2 Pre-Start Meeting**

A pre-start meeting is required between the Council and the developer's contractor, ideally at least one month ahead of any works commencing. This meeting would cover (but is not limited to):

- Introductions of the key personnel
- Discuss the detailed designs and raise any issues resulting from the drawings
- Discuss the implications of any diversions to utilities
- General expectations of required site attendance for inspections
- Carry out an inspection of the existing highway to record, in both photographic and written format, the current situation and any defects that may be present
- Consider the developer's construction work programme prior to commencement (the developer should thereafter provide updates on a monthly basis as a minimum)
- Discuss any target completion dates and related contractual obligations at the earliest opportunity to enable the Council to most effectively assist the developer (though please note many highway procedures are subject to statutory timescales which the Council cannot modify).
- Any additional traffic management that may be required

### **6.3 Advance Notification/Site Representative**

To advise the general public of the works, signs should be placed on all approaches to the works in locations agreed with the Council. Such signs must indicate the duration, contractor name, location and nature of the works, and a contractor telephone number and website for any general enquiries.

Local residents and businesses should be informed of the forthcoming works by letter delivered no later than 7 days prior to the Highways Works commencing. Whilst the developer may request that a contractor or subcontractor which has been approved by the Council installs such signage and carries out such notification, it remains the developer's ultimate responsibility.

- 6.4 The highway works can then be carried out in accordance with the terms of the S278 Agreement.

## **7 COMPLETION & MAINTENANCE PERIOD**

### **7.1 Certificate of Practical Completion**

When the developer considers the highway works to be completed, the developer must:

- Arrange for a Stage 3 Road Safety Audit to be carried out (as necessary), and any identified works completed by the developer
- Advise the Council that an inspection is required to be carried out. The Council will then produce a list of defects or snagging items, to be addressed by the developer.

When the Council is satisfied that the works are completed, and any other requirements set out within the S278 Agreement addressed, the Certificate of Practical Completion will be issued. At this point:

- The highway works are opened for use by the general public
- The maintenance period commences
- The liability of the surety is reduced, or deposit returned to the developer, in accordance with the percentage identified in the S278 agreement (generally 75%)

### **7.2 Maintenance Period**

The maintenance period generally runs for a minimum of 12 months.

### **7.3 Final Certificate**

2 months in advance of the end of the maintenance period, the Developer should;

- Arrange for a Stage 4 Road Safety Audit to be carried out (as necessary), and any identified works completed by the developer
- Advise the Council that a final inspection is required to be carried out. The Council will then produce a list of defects or snagging items, to be addressed by the developer

When the Council is satisfied that any identified works are completed, and any other requirements set out within the S278 Agreement addressed, the Final Certificate will be issued. At this point:

- The highway works will be maintained by the Council at public expense
- The liability of the surety is reduced to zero, or the remaining deposit returned to the developer

A	CHECKLIST	STATUS (delete as appropriate)	NOTES
1	S278 Agreement	Awaited / Received / Sealed	
2	General Arrangement Drawing	Ongoing / Completed	
3	Road Safety Audit Stage 1	N/A / Ongoing / Completed	
4	Traffic Regulation Order	N/A / Ongoing / Completed	
5	Consultation	N/A / Ongoing / Completed	
6	Cycle Audit	N/A / Ongoing / Completed	
7	Detailed Design	Ongoing / Completed	
8	Road Safety Audit Stage 2	N/A / Ongoing / Completed	
9	Technical Approval	Requested / Completed	
10	Commuted Sum	Requested / Calculated / Paid	
11	Maintainability Assessment Notice	Requested / Confirmed	
12	Fees / Surety or Cash Deposit	BACS / Invoiced / Paid	
13	Road Space Booking (N Notice)	Requested / Completed	
14	Traffic Management	Requested / Completed	
15	Contractor & Insurance Certificate	Awaited / Received	
16	Health & Safety Plan	Awaited / Received	



## SCC Officer Contact List

Job Title	Duties	Name	Phone	Email
S278 Officer	SCC Co-Ordinator of S278 Works	James Burdett	0114 273 6349	james.burdett@sheffield.gov.uk
Solicitor	Preparation & Negotiation of Full S278 Agreements	Various	0114 273 4001	Planning&HighwaysLegal@sheffield.gov.uk
Highway Co-Ordination	Traffic Management, Highway Permits	Various	0114 273 6677	roadworks@sheffield.gov.uk
Parking Services	Parking Bay Suspensions	N/A	N/A	suspensions@sheffield.gov.uk
Road Safety Audit Co-Ordinator	Road Safety Audits	Ash Carnall	0114 273 6205	ashley.carnall@sheffield.gov.uk
Highway Records	Mapping of highway extents, permanent	Various	0114 273 6125	highwayrecords@sheffield.gov.uk
Street Lighting & Traffic Signals	General signal queries	Craig Spafford	0114 207422	craig.spafford@sheffield.gov.uk
Highway Structures	Advice & Approval related to highway	Richard Bulloss	0114 273 5842	richard.bulloss@sheffield.gov.uk
Traffic Regulation Orders	Co-Ordination & Advertising of TRO's	Nel Corker	0114 273 6086	traffic.regulations@sheffield.gov.uk
Traffic Signal Co-Ordination	Signal timings, modelling	Brent Collier	0114 273 6173	brent.collier@sheffield.gov.uk
Highway Engineers	Site Inspections	Marc Meyer	07825 906782	marc.meyer@sheffield.gov.uk
		Tim Norman	07711 154146	timothy.norman@sheffield.gov.uk
		Ian Jackson	07770 700347	ian.jackson@sheffield.gov.uk
		Andy Blagg	07826 896837	andrew.blagg@sheffield.gov.uk