

# Member Learning Hour

## ADOPTIONS

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# ADOPTIONS

## Scope – Processes used for adoption

- Roads
- Highway Improvements
- Drainage - Foul & Surface Water
- Open Space & Streetscene

# Typical Elements for adoption

- Roads
- Drainage – foul
- Drainage – surface water
- Public open space
- Street Furniture
- Bus stops
- Highway verges
- Trees on the highway

# Roads

## Adopted Roads

- Maintained at the expense of the public purse

## Unadopted Roads

- Roads constructed under s38 agreements that are not adopted yet

## Private Roads

- Roads intended to remain private ownership

# How do Roads get adopted?

- Nothing in law to make a developer build to an adoptable standard, or to require the developer to seek adoption
- Developer does not have to have roads adopted i.e. they can be private
- If developer wishes to adopt - County can/will adopt if constructed to adoptable standard, developer pays legal & inspection fees
- This is done through a section 38 agreement (Highways Act 1980) – a formal agreement between LCC Highways & Developer

# Section 38 – Road Adoptions

Highways Act 1980

- Includes an insurance bond – LCC completes if developer fails to do so
- Roads inspected by LCC during construction, then maintained by developer for a period after completion – usually 12 months, and finally adopted as public highway, after final inspection
- Can seek a s38 agreement after construction, but developer/owner pays to prove accuracy of construction

# Section 278 – Design & Build

Highways Act 1980

- Works necessary to the highway to make development acceptable
- Typically crossings, islands etc
- Highway Authority has right to design & build
- Highway Authority can allow Developer (or indeed district Council) to do so, subject to usual controls on specification, inspection, sign off

# Section 104/102 – Sewers & Drains

Water Industry Act 1991

- Only accept underground structures for adoption – not balancing ponds etc, but will be concerned with capacity etc of other structures, with Environment Agency
- Sewerage undertaker (United Utilities) not required to accept SW drainage from highway to the existing public sewerage system (viable alternatives) – must be addressed with Highways in s38
- Work can begin if detailed plans are agreed, but before final agreement is signed = Interim Approval, but not if scheme involves diverting existing sewers
- Internal Inspections before adoption e.g. CCTV, light line



# Adoption Problems

- No fixed timescale set by s38 agreement (depends on development economics, progress, scale, phasing)
- Sewer/drainage systems - incomplete, unauthorised pumping stations, lack of access rights across 3<sup>rd</sup> party land – will affect s38 too!
- Insufficient standard of works – visibility splays, kerbstones, grids, pipelines, insufficient layers/tarmac, sub-standard street lighting etc
- Poor Timing of surveys to check standards
- Poor Maintenance prior to adoption – delays

# Adoption Problems

- Changes in phasing / cash flow
- Developer goes bust/liquidates – no bond liability?
- New Property purchases - search can show if a new road is unadopted/s38
- If no s38 - no guarantee that road finished/adopted, and road maintenance usually reverts to residents

# Public Open Space

- Section 106 agreement (Town & Country Planning Act 1990, as amended)
- Can be broad or specific e.g. scheme to be agreed, or exact specifications etc
  
- Over to Jamie....

# Adoptions Briefing

Jamie Dixon

August 2012



# Public open space (POS) & Streetscene

- **POS**
  - Play areas
  - Green space / trees / woodland
  - Sports pitches
  - Wildlife areas / ponds
  - Footpaths - gates, fencing, parking
- **Streetscene**
  - Bus shelters, litter bins, highway verges

# POS - Process 1

## 1. Site design stage

- Informal discussion adoption / retention
- Comment on proposals
- Commuted sum

## 2. Outline / Detailed planning application

- Formal feedback
- Agree commuted sum

# POS - Process 2

## 3. Developer work completed

- 12 month maintenance period
- Undertake site visits
- Identify problem areas

## 4. Final adoption

- Final site meeting
- Agree outstanding works
- Formally adopt

# Challenges

- Developers not completing work / sites to standard
  - Ownership changes / multiple developers
- Sites without agreement / Historic un-adopted sites
- Developers preferring retention
- Engaging with some developers
- Partial adoptions
- Other adoption elements (Sect. 38)
- Public expectation



**Any questions?**