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Definitions

I The Highways Act and Conditions Relevant to Developer Highway Works

The Highway Act 1980

1.1 Only the Highway Authority is permitted to carry out works to the public highway.

1.2 For a developer technical approval and permission to work on the public highway is required. This document sets out the methods by which developers can gain technical approval from the Highway Authority.

1.3 Section 278 of the Highways Act 1980 allows for the carrying out of works to the public highway for the benefit of a third party, on behalf of the Highway Authority. Where the Highway Authority are satisfied that the works are also to the benefit of the public.

Section 278 Agreement

1.4 A Section 278 Agreement, between the Developer and the Highway Authority is required to permit works on the public highway to be carried out and sets the standards by which the works must be constructed. The Section 278 Agreement also provides for the collection of fees associated with the approval of the works, their inspection, commuted sums for their future maintenance and the provision of a security bond to cover the costs of the highway works should the developer default on their delivery. In most situations a Section 278 Agreement will follow the grant of planning permission for development that requires the works in order to provide adequate access and/or other associated highway infrastructure to mitigate the impact of the development.

Section 278 Design Checks

In order to ensure that works are carried out in a manner and to a standard that is acceptable to the Highway Authority it is necessary that these works undergo a technical checking/approval process. This ensures the works meet the standards and requirements of the Highway Authority, Hampshire County Council (HCC).

1.5 Section 278 Minor Works Agreement

A Section 278 Minor Works Agreement is a simpler process than a full Section 278 Agreement that is available for the construction of minor works on the public highway including the construction of bellmouth junctions, uncontrolled crossing facilities and works to/the construction of footways/cycleways. Similarly to the Section 278 Agreement, the Minor Works Agreement requires a design check to be carried out by The Engineering Consultancy albeit a more limited check involving consultation with relevant parties within HCC. The Minor Works Agreement also provides for the collection of fees associated with the approval of the works, their inspection and the provision of a security cash deposit to cover the cost of the highway works should the developer default on their delivery.
Minor Works Design Check

Similarly to the Section 278 Agreement, the Minor Works Agreement requires a level of design check to be carried out by The Engineering Consultancy albeit a more limited check involving consultation with relevant parties within HCC.

The Minor Works Agreement also provides for the collection of fees associated with the approval of the works, their inspection and the provision of a security bond to cover the cost of the highway works should the developer default on their delivery.

Section 6 Agreement

1.6 In certain situations, where the works to the public highway include public highway in the statutory control of the Highways Agency (i.e. trunk roads or motorways) it will also be necessary to obtain authority for such works from the Highways Agency under Section 6 of the Highways Act 1980.

Section 171/Section 184 Licence

1.7 If a person wishes to temporarily deposit building materials, rubbish or other things in the street or make a temporary excavation on highway maintainable at the public expense then consent is required by the Highway Authority. This can be provided in the form of a Section 171 Licence.

1.8 Section 184 of the Highways Act relates to the provision of vehicle crossings over footways and verges. Section 184 is a process for gaining approval to provide an access in a given location but does not permit the works to be undertaken. For any agreed works to be installed a Section 171 Licence is also required.

Section 50 Licence

1.9 A section 50a Licence is required to retain apparatus on the public highway. A section 50b Licence is needed in addition if excavation is required in the public highway for the purpose of installing apparatus e.g. utility connections and plant. Both of these licences can be obtained from the relevant Highway Units.
The Process – An Overview

2 Technical Approval Process

2.1 Technical approval and permission to work on the public highway can be gained through three mechanisms. Permission to work on the highway can either be under Section 184/171 Licence, Section 278 Minor Works Agreement or through a Section 278 Agreement (see figure 1). The route options are detailed out in figure 1 with more detailed information provided within sections 3, 4, 5 and 6.

Figure 1: Technical Approval Process

2.2 The Highway Authority has produced a ‘S278 Technical Submission Requirements’ document which provides a range of information for applicants. This includes details of the submission requirements when seeking approval to construct works on the highway through both the Section 278 Minor Works Agreement and Agreement processes. A link to these notes can be found below:

Pre Planning Highway Works Guidance

3 Pre-Application Assessment

3.1 A Pre-Application assessment is an optional overview assessment of an ‘in-principle’ scheme of works. The Pre-Application Check will often be undertaken before Planning Permission is granted and will consider the principles of the scheme to determine whether or not a particular scheme is likely to be both achievable and acceptable. A Pre-Application Check may also be undertaken to consider a range of different works options.

Required Information

3.2 At this level of approval normally only a general arrangement drawing is required. However, this is dependent on the type of works being checked and the engineering team may request additional information. It is advised that prior to any initial request for a Pre Application design check the applicant discusses the proposals with the relevant Development Planning (DP) officer.

3.3 If the DP officer is unknown submissions should be made via post marked for the attention of Highways Development Planning to Hampshire County Council, E11 Court, Winchester, Hampshire, SO23 8UL. Alternatively submissions can be made electronically to highways.development.control@hants.gov.uk.

Timescales

3.4 We aim to complete a Pre-Application design check within two weeks of the date of confirmed receipt of the design check request. Confirmation will be provided in writing that the submission is appropriate for a design check and that the information provided is sufficient to undertake the check. This confirmation will also set out the expected date of completion. If the design check can not be undertaken due to insufficient information provided then this letter will specify the required additional information.

The Outcome

3.5 There are two possible outcomes of the Pre-Application design check process. The works can be determined to be acceptable ‘in principle’ subject to future design checks either through the Section 278 Minor Works Agreement or through a full Section 278 Agreement. The engineer will be able to advise the next required level of design check.

3.6 Alternatively the proposals may be deemed unacceptable. In this case it is advised that the applicant/developer liaise with the DP officer with respect as to how the Highway Authority advise the proposals are taken forward and the type of works which would be deemed to be appropriate.

Fees

3.7 Undertaking works through this process will require the applicant to cover the costs of the fees incurred by Hampshire County Council Officers in dealing with the request. Further information on these fees can be found in Appendix 1. The required fees are detailed in Table 1.
3.8 A job number will be issued to our Engineers with any instructions for design checking so that officer time can be properly designated against the particular scheme within our finance systems. This allows us to accurately calculate the actual costs of the design check process that applicants will be required to cover.

*Table 1: Section 278 Pre Application Design Check Fees*

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Amount</th>
<th>Payment Due</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre-Application Assessment Fee Deposit</td>
<td>£1000</td>
<td>Pre Design Check</td>
<td>Deposit to cover the design check for the works.</td>
</tr>
<tr>
<td>Pre-Application Assessment Fee</td>
<td>Unknown</td>
<td>On Request</td>
<td>The applicant will be required to pay for all officer hours spent on the design checking of the works over and above the deposit value. The amount will be based on officer hours spent undertaking the works. Unspent fees can be returned on request.</td>
</tr>
</tbody>
</table>
Gaining Technical Approval – The Options

4 Section 171 and Section 184 Licence Approvals

4.1 Section 184 permits or requires new vehicle crossings over footway and verges, normally providing dropped kerbs and strengthening the footway and verge for vehicle use. A Section 171 licence allows a contractor to temporarily deposit materials or make an excavation in the public highway and therefore enables the delivery of permitted vehicle crossovers. This type of licence is appropriate for minor highway works consisting of vehicle crosses and sewer connections only subject to vehicle crossovers not exceeding 10m in width and not requiring any removal of highway trees. However the Highway Authority reserve the right to require works to have a Section 278 Minor Works Agreements or full Section 278 Agreement if it is deemed that the works require this.

4.2 Hampshire County Council Development Planning (DP) officers in liaison with the Highways Unit will be able to advise whether the Section 171/184 licence processes are appropriate for the proposed works. Contact with Development planning should be made to discuss whether this route is suitable. The DP officer will liaise with the relevant teams within Hampshire County Council and advise accordingly.

4.3 If the works are deemed appropriate for this type of licence the technical approval for these types of works is carried out by the Local Highways Unit. Further information on gaining the relevant licence agreements can be found on Hampshire County Council’s Website through the following links.

http://www3.hants.gov.uk/roads/highwaylicences/apply-roadopening.htm
5 Section 278 Agreement

5.1 There are two levels of technical checking within the Section 278 Agreement Design Check process. These are Preliminary and Detailed Design Checks. The HCC Design Check process is outlined in Appendix 2. In some instances a Combined design check process will be acceptable and this should be agreed with the DP officer prior to submission.

Type of Works

5.1 All works which exceed the level of infrastructure which can be provided under a Section 171/Section 184 or Section 278 Minor Works Agreement will require a Section 278 Agreement in order to undertake the works. This includes all works that require a bond rather than a cash deposit and works with a construction cost estimate or greater than £70,000.

Requesting a Design Check

5.2 The applicant will be required to submit an information package to the relevant DP officer with the necessary supporting documentation as specified within the accompanying ‘Section 278 Technical Submission Requirements’. Any submission shall incorporate a full package of information, both in hardcopy and electronic format, in accordance with the Design Check checklist from the ‘S278 Technical Submission Requirements’, this should include a completed copy of the checklist.

5.3 If the DP officer is unknown submissions should be made via post marked for the attention of Highways Development Planning to Hampshire County Council, EII Court, Winchester, Hampshire, SO23 8UJ. Alternatively submissions can be made electronically to highways.development.control@hants.gov.uk which must be followed by sending 2 copies of all information/drawings to the above address.

Required Information

5.4 The information required to support all levels of Design Check submissions relating to Section 278 Agreement works is detailed within the ‘S278 Technical Submission Requirements’.

Timescales

5.5 Prior to submission of a design check the applicant is able to have a pre submission meeting with Development Planning and Engineering Consultancy. This meeting is an opportunity to address any questions prior to a formal submission.

5.6 On receipt of the Design Check submission documentation Development Planning will issue an instruction to Engineering Consultancy. Confirmation will be provided in writing that the submission is appropriate for a Section 278 design check and that the information provided is sufficient to undertake the check. This confirmation shall also set out the initial expected date of completion.

5.7 If we are unable to undertake a design check on the information provided then this letter shall specify the required additional information.
5.8 A Design Check would normally be expected to take six weeks to complete. As part of the process you will be invited to attend a review meeting to discuss the proposals and initial comments received after 4 weeks. If further time is required to undertake the design check you will be notified at the earliest possible convenience and this will state the reasons for the delay.

**Preliminary Design Check**

5.9 This is the first stage of the design checking process which will establish the acceptability and footprint of the highway works, including the identification of any land that will be required to achieve the works and also consider any departures from the highway standards that may be necessary.

5.10 Engineering Consultancy will undertake internal consultation with a range of parties in HCC during the design check. Generally consultation shall include where appropriate the following Sections:

<table>
<thead>
<tr>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hampshire Highways Unit</td>
</tr>
<tr>
<td>Traffic Management</td>
</tr>
<tr>
<td>Delivery – Transport</td>
</tr>
<tr>
<td>Planning, Policy and Development</td>
</tr>
<tr>
<td>Street Lighting</td>
</tr>
<tr>
<td>Safety Engineering</td>
</tr>
<tr>
<td>Non Motorised Users</td>
</tr>
<tr>
<td>Arboriculture</td>
</tr>
<tr>
<td>Structures</td>
</tr>
<tr>
<td>Intelligent Traffic Systems</td>
</tr>
<tr>
<td>Passenger Transport</td>
</tr>
<tr>
<td>Ecology</td>
</tr>
<tr>
<td>Technical Advice Group</td>
</tr>
<tr>
<td>Strategic Environmental Delivery</td>
</tr>
<tr>
<td>Geotechnical</td>
</tr>
<tr>
<td>Abnormal Loads</td>
</tr>
<tr>
<td>Other Relevant Parties</td>
</tr>
</tbody>
</table>

5.11 Internal consultation will last for a period of 10 working days after which in most cases a failure of the consultee to respond will be assumed to mean that they have no comments to make on the design check at this time.

**The Outcome**

5.12 There are two possible outcomes of the design check process. If the design check is approved a report shall be issued to the applicant and the scheme may progress towards a detailed design check submission.
5.13 If the design check is not approved the scheme cannot be progressed in the proposed form. The report shall include details of why the request has been refused and if changes can be made to make the design acceptable to the Highway Authority. It is advised that the developer engage with the Highway Authority on the required changes prior to re-submitting a further design check request.

**Detailed Design Check**

5.14 This is the second stage of the design check process and follows an approval of the Preliminary Design Check. Full submissions will be made in accordance with the Detailed Design Check checklist as detailed in the ‘S278 Technical Submission Requirements’.

5.15 The Engineering Consultancy will undertake further consultation with a range of parties in HCC during the design checks. Generally consultation shall include all teams which raised comments during the preliminary design check process.

**The Outcome**

5.16 There are two possible outcomes of the design check process. If the design check is approved a report shall be issued to the applicant and the Section 278 Agreement can be finalised and signed.

5.17 If the design check is not approved the scheme cannot be progressed in the proposed form. The report shall include details of why the request has been refused and if changes can be made to make the design acceptable to the Highway Authority. It is advised that the developer engage with the Highway Authority on the required changes prior to re-submitting a further design check request.

5.18 Without Detailed Design Approval, a signed Section 278 Agreement and a completed Bond the highway works cannot commence.

**Combined Design Check**

5.19 Where the scale and nature of the highway works does not necessitate a two-stage check it may be possible for one combined submission to be made following consultation with the relevant DP officer. This design check would require a submission of all the required information from the combined check checklists from the ‘S278 Technical Submission Requirements’.

**The Outcome**

5.20 There are two possible outcomes of the design check process. If the design check is approved a report shall be issued to the applicant and the Section 278 Agreement can be finalised and signed. If the design check is not approved the scheme cannot be progressed in the proposed form. The report shall include details of why the request has been refused and if any changes can be made to make the design acceptable to the Highway Authority. It is advised that the developer engage with the Highway Authority on the required changes prior to re-submitting a further design check request.
Through the Combined Design Check process highway works cannot commence without Combined Design Check Approval, a signed Section 278 Agreement and a completed Bond.

**Fees**

5.21 Undertaking works through this process will require the applicant to cover the costs of the fees incurred by Hampshire County Council Officers in dealing with the request. Further information on these fees can be found in Appendix 1. The required fees are detailed in Table 2.

5.22 A job number will be issued to our Engineers with any instructions for design checking so that officer time can be properly designated against the particular scheme within our finance systems. This allows us to accurately calculate the actual costs of the design check process that applicants will be required to cover.

5.23 The estimated works cost will be submitted with the Preliminary Design Check submission for the purposes of calculating the Design-Check Fee. The works cost estimate will be taken to be the Highway works cost excluding any service diversions or associated statutory undertakers' works.
### Table 2: Section 278 Agreement Design Check Fees

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Amount</th>
<th>Payment Due</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Check Fee Deposit</td>
<td>£5,000</td>
<td>Pre Design Check</td>
<td>Deposit to cover the initial costs for the design check.</td>
</tr>
<tr>
<td>Design Check Fee</td>
<td>Actual Cost – Based on officer time spent on the work</td>
<td>Prior to the issue of the Certificate of Maintenance</td>
<td>The applicant will be required to pay for all officer hours spent on the design check over and above the deposit value. The amount will be based on officer hours spent undertaking the works. Unspent fees will be returned.</td>
</tr>
<tr>
<td>DP Management Fees</td>
<td>See Appendix 1</td>
<td>Prior to signing of the S278 Agreement</td>
<td>The developer is required to cover the costs incurred by Development Planning during the preparation of the legal Agreement and the administration of the checking.</td>
</tr>
<tr>
<td>Bond/Cash Deposit</td>
<td>110% of the value of the works (including service diversions or associated statutory undertakers works)</td>
<td>Prior to commencement of S278 works</td>
<td>The bond secures the ability of the highway authority to carry out the works and re-instate the highway in the event of the developer defaulting on the works.</td>
</tr>
<tr>
<td>Inspection Fees Deposit</td>
<td>5% of tender value of the works (excluding service diversions or associate statutory undertakers works)</td>
<td>Prior to commencement of S278 works</td>
<td>To cover the costs of inspections during the construction of the S278 works.</td>
</tr>
<tr>
<td>Inspection Fees</td>
<td>Actual Cost – Based on officer time spent inspecting the works</td>
<td>Prior to issue of maintenance certificate.</td>
<td>To cover the costs incurred over and above the deposit during the construction of the S278 works.</td>
</tr>
<tr>
<td>Legal Fees</td>
<td>Actual Cost - The amount will be based on Solicitors time spent.</td>
<td>Prior to the signing of the S278 Agreement</td>
<td>To cover the cost of Solicitors time in drafting the Agreement.</td>
</tr>
<tr>
<td>Commuted Sums</td>
<td>Dependent on the type of infrastructure provided. See Appendix 1 for details.</td>
<td>Prior to adoption of the works by the Highway Authority</td>
<td>To cover the increased maintenance liability of the works.</td>
</tr>
</tbody>
</table>
6 **Section 278 Minor Works Agreement**

6.1 The Section 278 Minor Works Agreement process is a simpler process that is available for the construction of minor works on the public highway. [Note if the development site is yet to gain planning permission and the type of access is in question a Pre Application Assessment may be a more appropriate option than applying straight for a Minor Works Agreement]. For details of the Pre Application Assessment process see section 3.

6.2 The Engineering Consultancy will undertake a more limited consultation with relevant parties in HCC during the design check. General consultation shall include where appropriate the following Sections:

<table>
<thead>
<tr>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hampshire Highways Unit</td>
</tr>
<tr>
<td>Street Lighting (if required)</td>
</tr>
<tr>
<td>Safety Engineering/Non Motorised Users (if required)</td>
</tr>
<tr>
<td>Arboriculture (if required)</td>
</tr>
<tr>
<td>Other relevant parties</td>
</tr>
</tbody>
</table>

**Type of Works**

6.3 A Section 278 Minor Works Agreement is appropriate in most cases for work which consist of only the following elements;

- Bellmouth Junction
- Footway/Cycleway
- Uncontrolled Crossing Facilities

However HCC reserve the right to request a design check under the full Section 278 Agreement process.

**Requesting a Design Check**

6.4 The applicant will be required to submit a general arrangement drawing to the relevant DP officer with appropriate annotations and the supporting documentation as required and specified within the accompanying guidance document ‘S278 Technical Submission Requirements.

6.5 If the DP officer is unknown submissions should be made via post marked for the attention of Highways Development Planning to Hampshire County Council, EII
Court, Winchester, Hampshire, SO23 8UL. Alternatively submissions can be made electronically to highways.development.control@hants.gov.uk.

**Required Information**

6.6 The information required to support the Section 278 Minor Works Design Check submission is detailed within ‘S278 Technical Submission Requirements’ and outlined on the S278 Minor Works Submission Checklist.

**Timescales**

6.7 HCC aim to complete the design check within three weeks from the date of confirmed receipt of the request. Confirmation will be provided in writing that the submission is appropriate for a Section 278 Minor Works Agreement design check and that the information provided is sufficient to undertake the check. This confirmation shall also set out the expected date of completion.

6.8 If we are unable to undertake a design check on the information provided then this letter shall specify the required additional information.

**The Outcome**

6.9 There are two possible outcomes of the design check process. If the design check is approved a report shall be issued to the applicant. The Minor Works Agreement can be signed and works can progress to construction subject to complying with the relevant New Roads and Street Works Act 1991 (NRSWA) and Traffic Management Act 2004 (TMA) requirements.

6.10 If the design check is not approved the scheme cannot be progressed in the proposed form. The report shall include details of why the request has been refused and whether any changes are possible to make the design acceptable to the Highway Authority. It is advised that the developer engage with the Highway Authority on the required changes prior to re-submitting a further design check request.

**Fees**

6.11 Undertaking works through this process will require the applicant to cover the costs of the fees incurred by Hampshire County Council Officers in dealing with the request. Further information on these fees can be found in Appendix 1. The required fees are detailed in table 3.

6.12 A job number will be issued to our Engineers with any instructions for design checking so that officer time can be properly designated against the particular scheme within our finance systems. This allows us to accurately calculate the actual costs of the design check process that applicants will be required to cover.
### Table 3: Section 278 Minor Works Agreement Fees

<table>
<thead>
<tr>
<th>Fee Type</th>
<th>Amount</th>
<th>Payment Due</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor Works Check Fee Deposit</td>
<td>£2,000</td>
<td>Pre Design Check</td>
<td>Deposit against the design check and inspection fees for the works.</td>
</tr>
<tr>
<td>Minor Works Check Fee</td>
<td>Unknown.</td>
<td>Prior to the issue of the Certificate of Maintenance</td>
<td>The applicant will be required to pay for all officer hours spent on the design check and inspection of the works over and above the deposit value. The amount will be based on officer hours spent undertaking the works. Unspent fees will be returned.</td>
</tr>
<tr>
<td>DP Management Fees</td>
<td>£500</td>
<td>Prior to signing of the S278 Minor Works Agreement</td>
<td>The developer is required to cover the costs incurred by Development Planning during the preparation of the legal agreement and the administration of the design check.</td>
</tr>
<tr>
<td>Legal Fees</td>
<td>Actual Cost - The amount will be based on Solicitors time spent.</td>
<td>Prior to the signing of the S278 Minor Works Agreement</td>
<td>To cover the cost of Solicitors time in drafting the Agreement.</td>
</tr>
<tr>
<td>Cash Deposit</td>
<td>110% of the value of the works (including service diversions or associated statutory undertakers works and commuted sums)</td>
<td>Prior to commencement of S278 works</td>
<td>The cash deposit secures the ability of the highway authority to carry out the works and re-instate the highway in the event of the developer or contractor defaulting on the works. S278 Minor Works Agreements cannot be supported by bonds.</td>
</tr>
<tr>
<td>Commuted Sums</td>
<td>Dependent on the type of infrastructure provided. See Appendix 1 for details.</td>
<td>Prior to certificate of maintenance being issued for the works by the Highway Authority</td>
<td>To cover the increased maintenance liability of the works.</td>
</tr>
</tbody>
</table>
Progressing to Construction

7 Obtaining a Legal Agreement

Section 278 Minor Works Agreement

7.1 The Section 278 Minor Works Agreement is typically the type of agreement entered into following the successful completion of a S278 Minor Works Design Check. Section 278 Minor Works Agreements must be supported by a cash deposit equal to 110% of the value of the works (which must not exceed £70,000 + 10). Should a developer wish to provide a bond as opposed to a cash deposit, it may be possible to revert to a full Section 278 Agreement but this is to be considered on an individual basis. No works will be permitted to commence until the Section 278 Minor Works Agreement has been signed by all parties. On signing of the agreement all DP Management Fees will require settling.

Section 278 Agreement

7.2 A full Section 278 Agreement is used to support combined, preliminary and detailed design checks and can also be entered into following a Section 278 Minor Works Design Check. This type of agreement can be supported by either a cash deposit or bond with no maximum value of works. No works will be permitted to commence until the Section 278 Agreement has been legally completed. On signing of the Section 278 Agreement the following fees will be paid:

- Legal Fees
- DP Management Fee

Prior to Commencing Works

7.3 The start of works represents the commencement of construction of the approved Section 278 scheme. Prior to commencement a number of fees, approvals and documents must be in place. This includes:

- Settling the outstanding balance for the Design Check
- Inspection Fees
- Bond/Cash Deposit
- Traffic Regulation Orders and Fees
- Cost of any Signal Equipment (if procured through HCC)
- NRSWA notice
- Any other licences or consents necessary for the works

Traffic Management Act Requirements (NRSWA)

7.4 The requirements of the Traffic Management Act mean that HCC are now obliged to give a formal notice period of three months of the intention to undertake any major highway works (those works expected to take 11 days or more to complete). This notice period, and the booking of roadspace, will only take place once the following conditions have been satisfied;
- Detailed Design Check Approval granted
- Traffic Management Plan / Programme approved
- A Detailed Works Programme provided

Commencement of Works

7.5 Following the commencement of construction the EC officer will notify DP and other interested parties that the works have started via a works monitoring form (WMF).

The works monitoring form is the document which tracks the progress of the works. It is the responsibility of the inspecting engineer to ensure that the works monitoring form is completed and issued to DP at the appropriate stages throughout the works. The WMF will be iteratively issued following commencement of the works, completion of the works and when the works have undergone their respective developer maintenance periods and are acceptable for final adoption.

Certificate of Completion

7.6 The Certificate of Completion will be issued once a Stage 3 Road Safety Audit has been undertaken and the highway works have been completed to the satisfaction of the Highway Authority. The works will be inspected by the engineer and any necessary remedial works undertaken by the developer. The engineer will issue the Works Monitoring Form to the DP officer who will then issue the Certificate of Completion to the developer. Any commuted sums must be paid prior to issue of the Certificate of Completion.

7.7 In the majority of cases the Certificate of Completion will allow the reduction in the Bond value (by 85%) secured against the works which will be instructed by the DP officer. The issue of the Certificate of Completion triggers the start of the one year developer maintenance period.

Certificate of Maintenance

7.8 The Certificate of Maintenance will be issued at the conclusion of the one-year developer maintenance period for the works and only once all necessary remedial works and any outstanding fees have been paid. The issue of the Certificate of Maintenance provides final confirmation that the works are acceptable and have become maintainable at public expense. Prior to the issue of the Certificate of Maintenance a number of fees and approvals must be in place.

- Inspection Fees balance
- Any outstanding fees

7.9 The issue of the Certificate of Maintenance by DP triggers the release of the remaining Bond amount.
Appendix 1 Fee Information

1 A number of fees, commuted sums and indemnities will be required throughout the Section 278 process in order to cover the costs incurred by the County Council in progressing and facilitating the developer to construct the highway works. Within sections 3, 5 and 6 the details of when fees are required have been provided. Below is a more detailed explanation of all the fee types.

2 Design Check Fees

2.1 Costs incurred in the assessment of highway works schemes are secured within the Section 278 Agreement. However, Preliminary Design Checks occur in advance of the signing of the Section 278 Agreement and so to prevent the County Council incurring abortive and non-redeemable costs in the assessment and approval of highway works a ‘Design Check Fee Deposit’ will be required. The deposit is based on the scale of the works. For a S278 Minor Works Agreement, the deposit also includes an allowance for inspection fees is set at £2,000. A design check fee deposit for a Pre Application Assessment is set at £1,000. Finally for a full design check (Preliminary/Detailed or Combined) the design check fee deposit is set at £5,000.

2.2 The developer will be required to pay for all costs incurred in the assessment of the technical details submitted in respect of the highway works during both the preliminary and detailed design checks. The fees will be charged at actual cost dependent upon the quantum of officer time spent by the engineering consultancy (and any internal consultee). The balance of fees remaining following the payment of the ‘Design-Check Fee’ will be due prior to the commencement of the works.

3 Legal Fees

3.1 Fees incurred by Legal Services in the preparation and negotiation of the Section 278 Agreement will be charged at actual cost dependent upon the officer time spent on the Agreement A solicitors undertaking for the estimated legal costs involved will be required before the drafting of the Agreement commences. The actual legal fees incurred (including an allowance for post completion work) will be payable prior to the completion of the Section 278 Agreement.

4 Management Fee

4.1 The developer is required to cover the costs incurred by Development Planning during the preparation of the Legal Agreement and the progression of the works. Development Planning Management Fees will be payable prior to the signing of the Section 278 Agreement.

5 Bond/Cash Deposit

5.1 No works will be permitted to commence until a Bond is provided by a surety approved by the County Council to the value of 110% of the tender price of the works (including any commuted sums / service diversion costs). The Bond will be secured to allow the Highway Authority to carry out the works and re-instate the highway in the event of the developer defaulting on the works. In some
circumstances the developer may wish to provide a cash deposit instead of a Bond.

6 Inspection Fees

6.1 A payment equal to 5% of the cost of works must be made to the County Council prior to the commencement of the works to cover the costs of inspecting the highway works throughout the construction period and prior to their formal adoption. Inspection Fees will be charged at actual cost calculated dependent upon the officer time spent in inspecting the works. Any balance over and above the initial payment of 5% of the cost of the works will be due prior to the issue of the Certificate of Maintenance. A refund of unused inspection fee monies will be paid (set against other outstanding fees) to the Developer.

7 Commuted Sums

7.1 In many cases highway works required as part of a development constitute an increased maintenance liability on the County Council that would not have been present without the construction of these works. It is therefore required that the developer pay commuted sums for a number of aspects of these works prior to these works becoming maintainable at public expense in accordance with HCC’s adopted Commuted Sums Policy, a link to which can be found below.


7.2 Commuted sums will be required for the following.

- Traffic Signal Equipment
- Highway Structures
- Highway Landscaping and trees
- Soakaways
- Hydro-brakes and Petrol Interceptors
- Non-standard Street Lighting
- Bus Shelters
- Non-standard Paving

7.3 Other commuted sums may be required for non-standard highway features. These will be identified through the design process and secured within the Section 278 Agreement where appropriate.

8 Traffic Regulation Orders (TRO)

8.1 In some cases the highway works proposed necessitate the production of a Traffic Regulation Order (either permanent or temporary). In such circumstances the full cost to the County Council in the progression of this Order will need to be recovered from the developer prior to the commencement of the works.
Appendix 2: Design Check Process

1. **Developer submits pre application, Minor Works, preliminary or combined design check request to Development Planning**

2. **Development Planning issue design check request**

3. **Engineering Consultancy assess suitability of the submission**
   - **Suitable**
     1. **Engineering Consultancy return receipt to Development Planning with program delivery date for Report**
     2. **Development Planning advise Developer in writing**
   - **Not Suitable**
     1. **Engineering Consultancy return receipt to Development Planning stating why rejected**
     2. **Developer re-submits information**

4. **Development Planning arrange 4 week review meeting with the Developer**

5. **Engineering Consultancy check proposals and consult with officers as required**

6. **Engineering Consultancy recommend approval?**
   - **YES**
     1. **Development Planning advise the Developer in writing**
   - **NO**

7. **Development Planning advise the Developer in writing**

8. **Design Check Complete on receipt of detailed or combined approval. Applicant to progress with Engineering Consultancy to gain Agreement to commence works.**

9. **Development Planning instruct signing of Agreement on preliminary or combined approval**

10. **Design Check Complete Applicant to progress with Engineering Consultancy to gain Agreement to commence works.**

11. **Developer submits appropriate Design Check Request**

12. **Developer gains Pre Application Approval**

13. **Developer gains S278 Minor Works approval**

14. **Developer gains Preliminary Design approval**

15. **Developer gains Combined Design approval**

16. **Developer gains Detailed Design approval**