

Our ref: HP/S38/Fenside/Boston

Your ref:

Date: 08/09/2020

William Saunders
Sheppard Lockton House,
Cafferata Way,
Newark,
Notts.
NG24 2TN

Place Directorate
Lincolnshire County Council
Highway and Flood Authority
Lancaster House, 36 Orchard Street
LINCOLN LN1 1XX
Telephone: (01522) 782070
Email:
DevelopmentManagement@lincolnshire.gov.uk
Officer dealing: Helen Patchett

Att: Paul Eagles BEng MCIHT

Dear Sirs

Section 38 Agreement (S.38A) – Technical Approval of Scheme Details					
Development	Fenside Road Boston				
Developer	Seagate Homes				
Design CBR	Less than 1.5%				
Drawing number(s)	12079-WMS-ZZ-XX-	DR-C-39501	P7	S38 Layout	
	12079-WMS-ZZ-XX-	DR-C-39502	P2	S38 Construction Details	
	12079-WMS-ZZ-XX-	DR-C-39503	P3	S38 Long Section	
	12079-WMS-ZZ-XX-	DR-C-39504	P3	S38 Contours	
	12079-WMS-ZZ-XX-	DR-C-39505	P3	S38 Gully Catchment Areas	
	12079-WMS-ZZ-XX-	DR-C-39506	P2	S38 Manhole Details	
	12079-WMS-ZZ-XX-	DR-C-39507	P2	S38 White Lining Details	
	12079-WMS-ZZ-XX-	DR-C-39510	P5	Kerbs, Surfacing and Levels	
	Layout 2 of 2				
	12079-WMS-ZZ-XX-	DR-C-39511	P5	Kerbs, Surfacing and Levels	
	Layout 1 of 2				
1914_LTG_5000_A1, 410.SL.01 Rev E					

I can now confirm that the highway details for this development are in accordance with the current edition of the [Lincolnshire County Council's Development Road & Sustainable Drainage Specification and Construction \(DR&SDS&C\)](#) document and the drawing(s) numbered above.

The [DR&SDS&C](#) is subject to regular updates to take account of changes in materials and construction specifications. In this respect, you are strongly advised to contact the Highway and Flood Authority's (HFA's) authorised representative for this development, whose details are contained elsewhere in this letter.

This approval refers to the HFA's highway requirements only and should not be taken to imply consent under Planning Legislation, Building Regulations or to satisfy the requirements of the Drainage Authority. Necessary consents should be obtained through the District Council and the relevant drainage authority.

S.38A and Secured Bond

The Bond required in support of a S.38A for the adoption of roads, footways and associated works on this development is £475,447 and includes the Commuted Sum with a Development Road fee of £31,080.51, which is payable prior to the Agreement being signed. The £1,500 upfront fee has been subtracted from the DRF. The makeup of the Bond figure is:-

Construction	£347,118
Additions for Preliminaries, testing, contingencies and inflation	£111,078
Commuted Sum	£7,251
Administration	£10,000
Total	£475,447

Once the Agreement is signed, any deposits previously received under the Advance Payments Code will be returned as appropriate.

In order for me to prepare a draft agreement, I would be grateful if you or your clients will forward the following details:-

1. Please make payment of the Development Road Fee, this being £31,080.51 payable to Lincolnshire County Council by cheque or by BACS. Please include the site location, FAO S38 Officer Name and quote reference 'LP1015 RH103226' with the payment.
2. Your client's full name (limited or not) and registered office address, together with the landowner's name and registered office address.
3. Please confirm that your clients can enter the Agreement without the consent of any mortgagees, who otherwise will need either to be party to the S.38A or to provide a letter of consent. Failure to supply this information at this stage may seriously delay the S.38A process and therefore your ability to commence construction works.
4. Two copies of up to date coloured Official Copy Entries of your client's title or Epitome of Title, showing your client's interest in the land in question. The Title Documents should be no more than three months old. It is recommended that this title information be submitted at the earliest opportunity to enable the necessary (and often lengthy) check to be undertaken.
5. The title check will be carried out by the Council's Legal Services who will require a minimum payment of £1,300 in respect of legal costs incurred (confirming the adequacy of the Title to the site, the sealing the Agreement and its registration at the relevant District Council land charge registry and HM Land Registry and the completion of The Deed of Easement). When making this payment please include the site location, FAO S38 Officer Name and quote reference 'LP1015 RH103227'. For lengthy and / or complex cases Legal Services reserves the right to charge a reasonable hourly rate and in both circumstances your clients will be invoiced separately for this work.
6. The name and address of a Bank or Insurance Company to be approved by this Council, who will act as guarantor for the Bond.
7. The name and address of the Solicitors who will act for your clients in this matter.

Commuted Sums

The HFA charge commuted sums to cover additional future maintenance costs where developers propose to use non-standard features and materials, or where the Authority is requested to adopt assets which are not traditionally the remit of the Highway Authority. For example, Central

Government funding to Local Authorities does not account for additional costs that will be incurred from the adoption of highway only drainage infrastructure. It is not possible for the HFA to demand on-going charges (as is the case for sewerage undertakers, who charge sewerage rates) from those who benefit from such arrangements. In the case of this development, a commuted sum of £7,251 will be required in respect of highway drainage.

Please be aware that this figure may be subject to change, in accordance with HFA policies that are current at the time that the Agreement is signed, it shall be payable prior to issue of the Key Stage 9 Certificate and will be held back in the Bond until monies have been paid.

Commencement of Works

Road construction works, including openings in the highway, cannot commence until either an APC deposit (where applicable) is made or a Section 38 Agreement has been completed and the Development Road Fee paid. In exceptional circumstances, the HFA will allow a 12 week period of grace, where work can be carried out on site and inspected by the HFA whilst land transfers are completed only on condition that full technical approval has been granted and the Development Road Fee has been paid in full.

If Key Stage 5 is achieved during the 12 week period of grace; the proposed bond figure will be reduced by 50% prior to the signing of the Section 38 Agreement.

However; if the S.38A isn't signed within this 12 week period, HFA will cease inspections and if the developer continues to construct the works; they will be liable for all risk payments.

If the construction of any building commences prior to the above the HFA will take legal action under the Highways Act 1980.

Any openings carried out without such permission will be considered as illegal interference with the highway. Please find enclosed a note regarding the procedure for approved connection to, and work in, the existing maintainable highway.

Please contact the HFA's Street works & Permitting team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required in the public highway in association with this application. This will enable the HFA to assist you in the coordination and timings of such works. Please note that a minimum of three months' notice is required for any Road Closure application. Further information on application periods and HFA response times can be found in Table 1, Page 10 of the Lincolnshire Permit Scheme document on the county council's website.

Certification Process

The HFA operates a certification process for the construction of development roads, footways. Two copies of the certificates for the eight key stages of construction and two key stages of inspection must be printed off by the Developer from the County Council's website. In order for this development to be placed onto a 12 months maintenance period and subsequently become adopted, you / your client will be required to have successfully completed the relevant certificates for the key construction stages. The HFA will consider requests by the developer for reductions of the Bond following the satisfactory certification of key stages of construction. However, no reduction in the Bond will be permitted unless the relevant certificates have been successfully completed.

Nominated Contact – Notification of Works

The S.38A contains provisions requiring that your clients shall nominate an individual within your organisation being the person responsible for managing the construction, quality of the works and ensures compliance with the HFA's specification. This person will be responsible for notifying, in good time (a minimum of five working days' notice) of construction works and providing facilities for the authorised representative of the HFA to carry out the critical inspections and tests detailed in the certificates. Instructions and communication relating to construction matters and quality control will only be with this nominated person unless the HFA is specifically instructed of another authorised person by your clients in writing.

The HFA's authorised representative acting on behalf of the Executive Director for Place for this development, who will be responsible for onsite communication, testing, inspection and certification is Simon Santon whose contact details are: 07825 425214

Failure to Notify

Should your clients fail to give sufficient notice or fail to provide adequate facility for the authorised representative to inspect, test and certificate the relevant critical stages of construction at the correct time, the HFA will require certain retrospective testing to be carried out at your client's expense. Your clients will also be required to pay sums, determined by the HFA, to meet any possible additional future risk to the HFA due to the lack of proper inspection and testing at the correct stage. Any such sums will become payable before the development is placed on its 12 months maintenance period. Failure to pay will result in such sums being recovered from the Bond.

Drainage

You have confirmed that the surface water drainage system on this development has been designed and approved as a surface water sewer and should be adopted by the appropriate water company by agreement under Section 104 of the Water Industries Act. As such, only a small section of pipes and manholes, the gullies and connections will be adopted by this Authority.

The HFA will not adopt any roads, footways and drainage until your client provides written evidence from the appropriate water company, that the surface water (where applicable) and foul water sewers will be adopted by them and by when. Management company details will be required on sustainable drainage system where applicable prior to adoption.

CDM Regulations

In accordance with Regulation 12/10 of the CDM Regulations 2015, once this site is completed your client must pass to the authorised representatives your Health and Safety file for the adoptable areas including relevant culverts etc. Your client's nominated contact / planning supervisor should ensure the authorised representative is made aware from this file and other sources of any difficulties which may be anticipated to occur in the future maintenance of the adoptable areas e.g. land contamination areas, maintenance of sustainable drainage systems and culverts, etc.

If you or your clients require any clarification or further information, please contact the officer dealing at the above office.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'W. Patchett', is positioned above the distribution list.

For Head of Development

Cc: Development Management Inspector
Street Works and Permitting Manager
Area Street Works Team
Programme Leader – Surfacing and Patching
Programme Leader – Surface Treatments

Highways Act 1980 – Connection of Development Road to Existing County Road Within Existing Publicly Maintainable Highway Limits

With reference to the construction of a development road off Fenside Road, Boston permission is granted for works to take place within the existing highway to form a junction to the development road as per drawing(s) 12079-WMS-ZZ-XX- DR-C-39501 P7 S38 Layout, 12079-WMS-ZZ-XX-DR-C-39502 P2 S38 Construction Details, 12079-WMS-ZZ-XX- DR-C-39507 P2 S38 White Lining Details, 12079-WMS-ZZ-XX-DR-C-39511P5 Kerbs, Surfacing and Levels Layout 1 of 2 as approved, but subject to the following conditions:-

- i. A Section 38 Agreement (Highways Act 1980) between the developer, land owner and the Highway and Flood Authority (HFA) being entered into.
- ii. The carriageway, footways and drainage will be constructed to the layout, specification and the approved drawing(s).
- iii. Private individuals and/or companies carrying out works in the public highway will be required to have Public Liability Insurance in the sum of £5,000,000. A copy of your signed Public Liability Insurance is required to be sent to the Area Officer at the address below before works may commence on site.
- iv. Signing and guarding of the works will be in full compliance with the requirements of Chapter 8 of the Traffic Signs Manual (HMSO) and alternative walkways for pedestrians will be provided wherever existing footways are affected by the works.
- v. Before commencing works all Statutory Undertakers must be contacted so that their apparatus can be located and any diversions/alterations or extensions to their existing service can be completed before the carriageway or footways are constructed. You should note that the Cable Television Company working in the area of your development is also termed a Statutory Undertaker.
- vi. In order to meet the requirements of the central street works register the start date for the works must be agreed with the Divisional Managers representative and unless otherwise agreed all works will be completed, including the wearing courses, within 21 days of the start date.

A separate permit or licence is required under the New Roads and Street Works Act 1991 for the laying of any drains/sewers within the public highway. Applications should be made to the Network Compliance Team in Lincoln (tel. 01522 782070). Any Statutory Undertakers carrying out works in the public highway in connection with your development will serve their own notices under the New Roads and Street Works Act 1991.

If you require any further information regarding this matter please contact my Development Management Officer, Simon Santon.