

## Road adoption

Road adoption is a process where a road in private ownership becomes a public road, which is then managed and maintained by the council, as part of the public highway if it is constructed to adoptable standards in terms of layout and construction.

A new road will be considered by the council for adoption provided that the freehold owner(s) of the land dedicate the road as a public highway when it is built, under a Section 38 Agreement of the Highways Act 1980, and the following criteria are met:

- There is a direct link with the existing public highway network
- It must be of sufficient utility to the public and offer wider community benefits
- The roads offered for adoption will have a wider use than simply providing access to residential or commercial properties.
- The road will remain open to the public to pass and re-pass at all times when formally adopted
- The carriageway and footways offer safe passage for pedestrians and vehicles
- The carriageway and footways have an approved means of surface water drainage
- Street lighting must conform with current local requirements and national standards
- They are constructed to a satisfactory standard

For all roads offered for adoption, the developers must ensure that these accord with the above criteria prior to consulting the council. The council does not adopt all new roads built by housing developers. Housing developers can choose to keep their new roads private if roads do not meet above criteria.

When considering whether to adopt a road, the Highway Authority considers whether it will have sufficient public utility to ensure that the council does not take on liabilities that it is not prepared for and which are not in the general public interest. To clarify:

- Where developments have no through route, only the main access road will be considered for adoption subject to the main access road serving in excess of 50 residential units.
- Bus routes as well as roads serving community facilities will be considered for adoption
- Residential access roads serving underground car parks, supported by structures or taking the form of cul-de-sacs with no wider highway benefit will not be considered for adoption.

A new road will be considered for adoption provided that it meets our design standards and the developer enters into a suitable legal agreement with the council (Section 38 Agreement of the Highways Act 1980). For all new roads, developers must approach the council's Highway Adoption Section about adoption.

The Section 38 Agreement is a legal document, normally between the council, a housing developer and a surety, who financially guarantees the agreement. The terms of the agreement describe that if the developer builds the new road up to the council's standards and maintains it for a year after it has built the final phase, then the council will adopt it as a public road. The agreement normally includes other terms, such as:

- The road construction duration and the maintenance period
- Responsibility for maintenance and repair of the road before adoption
- Payment of the council's fees and charges including commuted payments by the developer
- Any land transfer arrangement and way leaves.

Sometimes road adoption is delayed for the following reasons:

- The developer starts building the road before entering into the Section 38 Agreement
- The developer tries to vary the standard terms of the Council's Section 38 Agreement
- The developer builds the road slowly or does not finish it
- The developer does not build the road up to the council's standards
- Delays by the sewerage authority in adopting the sewers serving the development
- Delays in completing the outstanding remedial works on the adoptable highway

On larger developments the completed road may be used as site access for other phases of the development, therefore adoption can only be undertaken on completion of the whole development. This may raise further complications if the site is divided by different developers and on completion some developers leave the site without the roads being adopted.

The adoption process can be lengthy and while the road remains un-adopted, the developer is responsible for maintaining the road until adoption is complete. Otherwise it is the owners of properties or land that have frontages onto such roads who are responsible for their upkeep.

A private road is one which is not maintained at public expense. This means that the council, as a Highway Authority, is under no obligation to carry out repairs or cleaning to this road, even though it could be a public right of way to which highway and traffic law can be applied.

Residents and management companies usually maintain private roads not scheduled to be adopted by the council. An existing private road will not normally be adopted unless the owners of the road bring it up to current adoptable standards and to the satisfaction of the council and meet the above criteria. You can find out who owns a road from the Land Registry office.

For enquiries regarding the existing Section 38 adoption agreements please contact the council's Highway Adoption department [highway.adoptions@Milton-keynes.gov.uk](mailto:highway.adoptions@Milton-keynes.gov.uk) . To obtain a copy of an existing adoption agreement, please write

to Land Charges [Land.Charges@Milton-keynes.gov.uk](mailto:Land.Charges@Milton-keynes.gov.uk) . Please note that there is a charge for this service.

For enquiries regarding the status of all roads in the borough, please contact the council's Highway Adoption Section as above. We can advise on the extent of the public highway if plans are submitted to us for marking up and comment.