

Agenda Item No. 4(a)

DERBYSHIRE COUNTY COUNCIL

**MEETING OF CABINET MEMBER – HIGHWAYS, ASSET AND
TRANSPORT**

17 June 2021

Report of the Executive Director - Place

**SECTION 38 AND SECTION 278 AGREEMENT - SANDY LANE/THORPE
AVENUE, WHITWELL**

(1) **Purpose of Report** To seek the Cabinet Member's approval to waive the requirement for a Guarantee Bond with regard to proposed works at Sandy Lane/Thorpe Avenue, Whitwell which are to be undertaken by Bolsover District Council under Section 278 and Section 38 Agreements of the Highways Act 1980.

(2) **Information and Analysis** Bolsover District Council (BDC) has secured planning permission to develop 11 new homes at Thorpe Avenue, Whitwell. The works include a new junction at Thorpe Avenue, including its realignment and the redesign of a footway on the eastern side of Sandy Lane. An agreement under Section 38 of the Highways Act 1980 will be entered into with the County Council, as Highways Authority, to adopt the new road off Thorpe Avenue. These highway works are required to enable BDC to construct the new dwellings.

The scope and nature of planned work is shown on drawing numbers 11870 WMS 22 ZZ XX DR C39501-S8-P5-S38 and 11870 WMS ZZ XX DR C39501-S8-P2-278 (Appendix 1) and would normally attract a bond value of £186,268 for the Section 38 (£122,050) and Section 278 (£64,218) works. (NB: a Bond is normally secured to ensure the works can be completed by the Highway Authority should the developer not be able to do so).

BDC is aware that it needs the County Council's formal permission as Highway Authority to fund or carry out works in the public highway by entering into agreements under Section 278 and Section 38 of the Highways Act 1980.

BDC has confirmed in writing that it will underwrite the works and complete them to an adoptable standard as detailed by the County Council.

(3). **Financial Considerations** It is normal policy and practice for the County Council to require commercial developers to provide financial security

prior to commencing work in order to indemnify the County Council against the cost of having to complete the work in the event that the developer defaults or ceases to trade.

In this instance, as the developer is a local authority, the County Council consider the risks of default or financial insolvency are negligible and are therefore able to waive the requirement for a Guarantee.

(4) **Legal Considerations** Section 278 of the Highways Act 1980, empowers the County Council to allow third parties to fund or carry out highway improvement works. In this case, BDC will be obliged to enter into a Section 278 Agreement for the Sandy Lane/Thorpe Avenue highway works and to pay Derbyshire County Council's legal and inspection fees. Similarly, BDC will be obliged to enter into a Section 38 Agreement with the County Council to enable upgraded areas of Thorpe Avenue to be adopted and maintained as public highway, and to pay Derbyshire County Council's Legal and Inspection fees.

(5) **Other Considerations** In preparing this report the relevance of the following factors has been considered: prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, social value and transport considerations.

(6) **Key Decision** No.

(7) **Call In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

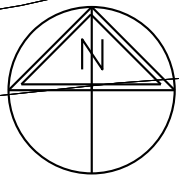
(8) **Background Papers** Held on file within Highways Development Control in the Place Department.

(9) **OFFICER'S RECOMMENDATION** That the Cabinet Member approves to waive the requirement for a Guarantee Bond regarding proposed works at Sandy Lane Thorpe Avenue, Whitwell which are to be undertaken by Bolsover District Council under Section 278 and Section 38 Agreements of the Highways Act 1980.


Chris Henning
Executive Director - Place

- Key:
- Site Boundary
 - S38 Boundary
 - S278 Boundary (see S278 Application)
 - Not included in site
 - Adoptable tarmac footway
 - Adoptable macadam carriageway
 - Highway Gully & Connection

Appendix 1



- Notes:
- Drawing to be read in conjunction with all other relevant S38, Engineers and Architects details.
 - All works within the Public Highway must comply with the current Health and Safety standards and all signing to comply with Chapter 8 traffic safety measures and signs for roadwork's and temporary situations of the traffic manual.
 - All works to be constructed in accordance with the requirements of the 'Delivering Streets and Places' (DSP) document.
 - It is the contractors responsibility to locate existing utilities where they may be affected by the works.
 - All connections to road gullies to be 150mm diameter.
 - All trenches within adoptable highways to be back filled with Type 1 granular material.
 - Gully tops to be heavy duty ductile iron grade D400 to BS EN 124 with captive hinges.

5	S38 drawing updated in accordance with DCC Comments.			CM	AG	22/02/21
4	S278 boundary updated.			CM	AG	10/12/20
3	Highway drainage amended to achieve connection to MH6103			CM	AG	07/08/20
2	Highway drainage amended and layout tweaked slightly at turning head.			CM	AG	22/04/20
1	Initial Issue for Information			SE	CM	02/09/19
Rev	Description			Drm	Vfd	Date
As outlined in section 2.3 of the CIB Industry Guidance to Designers, insignificant risks can usually be ignored, as can risks arising from routine construction activities, unless the design compounds or significantly alters these risks. In accordance with CDM Regulations 8, 9 and 11, any significant risks relating to the design features shown on this drawing have been identified and are annotated thus: 						
<input checked="" type="checkbox"/>	No significant risks have been identified.					
<input type="checkbox"/>	Significant risks have been identified - refer to notes on drawing for information on residual risks and any control measures to be employed.					
Refer to the current Designer's Risk Assessment sheets for further details.						
Designer's Signature				SE	Date	08/19

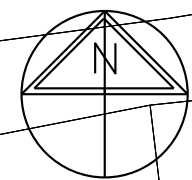
Drawing Status
FOR APPROVAL

williamsaunders
architecture: engineering: building consultancy
Sheppard Lockton House
Cafferata Way
Newark-on-Trent
Nottinghamshire, NG24 2TN
Tel: 01636 704361
Fax: 01636 702809
W: wsm-saunders.co.uk
Also at Leeds, Lincoln, Wirsbworth

Project BOLSOVER DISTRICT COUNCIL HOUSING SCHEME SANDY LANE & THORPE AVENUE WHITWELL, WORKSOP	
Client ROBERT WOODHEAD LTD	
Title S38 LAYOUT	
WmS Project Ref. 11870	Drawn SE
Date 14/08/19	Scale 1:250 @ A1
Drawing/Document Reference Project Originator Zone Level Type Role Number Status Rev. 11870 - WMS - ZZ - XX - DR - C - 39501 - S8 - P5	

- Key:
- Site Boundary
 - S38 Boundary
 - S278 Boundary
 - Not included in site
 - Adoptable tarmac footway
 - Adoptable macadam carriageway

Appendix 1




William Saunders is the trading name of Wm Saunders Partnership LLP. Wm Saunders Partnership Limited Liability Partnership is registered in England and Wales with the Registration number OC 38823. The Registered Office is Sheppard Lockton House, Cafferata Way, Newark on Trent, Notts, NG24 2TN.


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Contractors must verify all dimensions, levels and co-ordinates of the site before commencing any work or making any shop drawings: no dimensions to be taken from drawing.

Notes:

1. Drawing to be read in conjunction with all other relevant S38, Engineers and Architects details.
2. All works within the Public Highway must comply with the current Health and Safety standards and all signing to comply with Chapter 8 traffic safety measures and signs for roadwork's and temporary situations of the traffic manual.
3. All works to be constructed in accordance with the requirements of the 'Delivering Streets and Places' (DSP) document.
4. It is the contractors responsibility to locate existing utilities where they may be affected by the works.
5. All connections to road gullies to be 150mm diameter.
6. All trenches within adoptable highways to be back filled with Type 1 granular material.
7. Gully tops to be heavy duty ductile iron grade D400 to BS EN 124 with captive hinges.

P2	Drawing updated in accordance with DCC comments.	CM		22/02/21
P1	Issued for S278 application.	CM	AG	07/12/20
Rev	Description	Dm	Vfd	Date

As outlined in section 2.3 of the CIB Industry Guidance to Designers, insignificant risks can usually be ignored, as can risks arising from routine construction activities, unless the design compounds or significantly alters these risks. In accordance with CDM Regulations 8, 9 and 11, any significant risks relating to the design features shown on this drawing have been identified and are annotated thus: 

☒ No significant risks have been identified.

☐ Significant risks have been identified - refer to notes on drawing for information on residual risks and any control measures to be employed.

Refer to the current Designer's Risk Assessment sheets for further details.

Designer's Signature	CM	Date	12/20
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Drawing Status
APPROVAL

williamsaunders
architecture: engineering: building consultancy

Sheppard Lockton House
Cafferata Way
Newark-on-Trent
Nottinghamshire, NG24 2TN

Tel: 01636 704361
Fax: 01636 702809
W: wms-saunders.co.uk

Also at Leeds, Lincoln, Wirsoworth

Project
Bolsover District Council
Housing Scheme
Sandy Lane & Thorpe Avenue,
Whitwell,
Worksoop

Client
Robert Woodhead Ltd

Title
S278 Layout

WmS Project Ref.	11870	Drawn	CM	Date	07/12/20	Scale	1:250	@ A1
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Drawing/Document Reference							
Project	Originator	Zone	Level	Type	Role	Number	Status
11870	WMS	ZZ	XX	DR	C	39511	S8 - P2