



Solihull MBC Highways Services

Highway Adoption Procedures A Guide for Developers

**Section 38 and Section 278 Developments and Schemes
Fees and Charges - 2019 / 20**

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Introduction

Solihull MBC Highways Services provide the following services in connection with S38 and S278 schemes:

- Technical review of designs prepared by the Developer (or their agent/consultant)
- Construction supervision and post-completion work supervision.
- Adoption documentation preparation

NOTE: Supervision is inspection of the works to ensure it complies with SMBC's requirements and to document any deviation from standards / work approved.

This document sets out and provides examples of SMBC's fees for works carried out under Sections 38 and 278 of the Highways Act 1980.

A summary of the charging regime is outlined in Table 1. For Section 38 works, Table 2 lists the rates the Council will use to calculate the estimated cost of the works. For Section 278 works, the Developer is required to provide estimated cost / tendered cost of the works. Table 3 provides examples of how the fees will be applied for various values of work.

All fees will be reviewed on an annual basis.

Fees Payable with Timeline

- **Technical Review Fee** – Payment of the Technical Review Fee shall be made before commencement of the technical review process. Payment of all outstanding fees shall be made before issue of the Technical Approval letter.
- **Legal fees** will be charged separately by SMBC Legal Team. Their costs are outlined within Table 1: Summary of Charges.
- **Construction Supervision and Post Completion Work** – Payment of the estimated construction supervision and post completion work fee shall be made prior to works commencing on site.
- **Testing** - All schemes will be subject to testing of the construction materials. The cost of this testing is dependent upon the size of the scheme and if specialist contractors are required to undertake this the cost will be passed onto the developer.

- **Adoption Fees**– Payment of the Adoption Fees (including VAT) shall be made before issue of the Final Adoption Certificate.
- **Supplementary Fees** - The Developer will also be responsible for payment of all additional fees incurred by the Council for design checks and design reviews carried out for non-standard / specialist items of work. For Section 38 works, the Technical Review Fee calculations are based on an estimate of the costs of construction of a standard highway, i.e. carriageway, footway and verge. It does not include for any non-standard / specialist items. Specialist items of work may include structures and major junctions both new and alterations to existing.
- **Additional Fees** - Work in addition to that listed in the fee estimate (i.e. additional meetings, reviews and responses, dealing with any matters arising from Asset Management Audits, the initial liaison with local residents, stakeholders and emergency services etc) may incur additional fees.

Summary:

Fee	How calculated	When Payable
Technical Review Fee	Based on estimated works cost	Before commencement of the technical review process
Legal Fees	Fixed charge	Before completion of the S278 / S38 Agreement
Construction Supervision Fee	Based on estimated works cost and time charged.	Before commencement of any works on site.
Commutated Sums	Based on scope of works	Before completion of the S278 / S38 Agreement.
Testing Fees	Based on any additional specialist testing contractor's charges	As requested, but before issue of the Adoption Certificate
Safety Audits	Fixed Charge	If the Highway Authority's response is required, payment is required before issue of the HA's response.

Supplementary Fees	Varies	In advance/on request. For site inspection of non-standard items will be payable within 21 days of commencement of works on site
Additional Fees	Time Charged	In advance/on request.
Adoption and Post construction site supervision Fees	Time Charged	Before the issue of the Adoption Certificate

Calculation of the Bond

The bond is calculated at 150% of the estimated works cost initially (to include 20% contingency) or the tendered works price if known of which the highest figure is used.

The bond is reduced to 50% of the works costs after the substantial completion certificate is issued.

The Bond is fully released on the issue of the substantial completion and the Final adoption handover has been completed.

Traffic Regulation Orders and Statutory Notices

The Developer will be responsible for all costs and expenses associated with any Traffic Regulation Orders and statutory notices that are required as a result of the Works.

Table 1: Summary of Charges for S38 and S278 Works

Item	Cost of works	Section 38	Section 278	Combined S38 and S78
Technical Review (Minimum Fee £5000)	Less than £250,000	8% of estimated works cost	10% of estimated works cost	Total combined works cost of S38 and S278 elements used to calculate the Fee. Section 38 Fee Rates used.
	Between £250,000 and £500,000	6% of estimated works cost	6% of estimated works cost	
	Between £500,000 and £1,000,000	5% of estimated works cost + £5,000	5% of estimated works cost + £5,000	
	Between £1,000,000 and £2,000,000	2% of estimated works cost + £35,000	2% of estimated works cost + £35,000	
	More than £2,000,000	1% of estimated works cost + £55,000	1% of estimated works cost + £55,000	
Site Supervision	All schemes	Minimum 7% of estimated works cost and time charged	Minimum 10% of estimated works cost and time charged	Total combined works cost of S38 and S278 elements used to calculate the Fee. Section 38 Fee Rates used.
Calculation of estimated works cost	All schemes	To be provided by the developer or as per rates set out in Table 2	To be provided by the developer or as per rates set out in Table 2	Total combined works cost of S38 and S278 elements used to calculate the Fee.
Bond	All schemes	The bond is calculated at 150% of the estimated works cost initially (to include 20% contingency) or the tendered works price if known of which the highest figure is used.	The bond is calculated at 150% of the estimated works cost initially (to include 20% contingency) or the tendered works price if known of which the highest figure is used.	Total combined works cost of S38 and S278 elements used to calculate the Fee. Section 38 Fee Rates used.
Legal fee	All schemes	£1,555	£1,555	£1,555
Testing fee	Less than £500,000	£1,000	£1,000	Same as for separate S38 and S278 Agreements
	Between £500,000 and £2,000,000	£2,000	£2,000	
	More than £2,000,000	£3,000	£3,000	

Item	Cost of works	Section 38	Section 278	Combined S38 and S78
Post Completion Works Supervision	All schemes	<u>Time charged</u> Estimated hours required x hourly rate	<u>Time charged</u> Estimated hours required x hourly rate	Same as for separate S38 and S278 Agreements
Adoption	All schemes	<u>Time charged</u> Estimated hours required x hourly rate	<u>Time charged</u> Estimated hours required x hourly rate	Same as for separate S38 and S278 Agreements
Supplementary fees	All schemes	Highway Authority Road Safety Audit Stage1/ 2 Review - £700 Asset Management Audit - £500	Road Safety Audit Review Stage 1/2 - £700 Asset Management Audit - £500	Same as for separate S38 and S278 Agreements
	Specialist items	Urban Traffic Control Technical Review - Time charged Street Lighting Technical Review - Time charged Any other specialist items - Time charged (eg. Drainage, Flood Risk, Landscape, Structures)	Urban Traffic Control Technical Review - Time charged Street Lighting Technical Review - Time charged Any other specialist items - Time charged	
Additional fees	All schemes	Work in addition to that listed in the fee estimate (i.e. additional meetings, reviews and responses, dealing with any matters arising from Asset Management Audits, the initial liaison with local residents, stakeholders and emergency services etc) may incur additional fees.	Work in addition to that listed in the fee estimate (i.e. additional meetings, reviews and responses, dealing with any matters arising from Asset Management Audits, the initial liaison with local residents, stakeholders and emergency services etc) may incur additional fees.	Same as for separate S38 and S278 Agreements

Table 2: Calculation of Estimated Works Cost for S38 Works

S38 CHARGES RESIDENTIAL ROADS COSTS per metre length					
	Collector & Access Roads		Local Distributor Bus Route-Roads		Footpath
	4.8m £Cost/per (m)	5.5m £Cost/per (m)	6.75m £Cost/per (m)	7.3m £Cost/per (m)	1.8m £Cost/per (m)
1st Stage Roadworks	£434	£497	£610	£659	
Completion Works					
Part 1	£531	£609	£747	£808	£162
Part 2	£161	£185	£227	£245	£162
Total Cost (1 st Stage Roadworks + Parts 1 & 2 Completion Works)	£1,126	£1,291	£1,584	£1,712	£162

Table 3 - Example of S38 Fee Charges for various value of work

SMBC S38 Fees (£'s)	Cost of Section 38 Works (£'s)	50,000	100,000	250,000	750,000	1,500,000	2,500,000
	Programme Length (weeks)	PL= X	PL= X	PL= X	PL= X	PL= X	PL= X
Technical Review	-	5,000	8,000	15,000	42,500	65,000	80,000
Specialist Items for Approval	-	Scheme dependent	Scheme dependent	Scheme dependent	Scheme dependent	Scheme dependent	Scheme dependent
Design Items	RSA Stage 1/2 Review	700	700	700	700	700	700
	Asset Management Audit	500	500	500	500	500	500
Legal Fees	S38	1,555	1,555	1,555	1,555	1,555	1,555
	S278	1,555	1,555	1,555	1,555	1,555	1,555
	Combined S38/S278	1,555	1,555	1,555	1,555	1,555	1,555
Testing Fees	-	1,000	1,000	1,000	2,000	2,000	3,000
Site Supervision (excluding Urban Traffic Control, Street Lighting and any other specialist supervision required)	Supervisor	Minimum 7% of Estimated Works Costs and then time charged..					
	Clerk of Works						
	Team Leader						
Post Works	RSA Stage 3 Review	700	700	700	700	700	700
	Site Supervision Post RSA S-3	400	400	600	900	1400	1600
	RSA Stage 4 Review	-	-	-	-	500	500
	Site Supervision Post RSA S-4	-	-	-	-	1400	1600
Post Completion works Supervision & Adoption	Clerk of Works	Time Charged					
	Engineer	Time Charged					
	Team Leader	Time Charged					

APPENDICES

Appendix A: Technical Review Fee Estimate
(to be completed by SMBC) – Specimen

Appendix B: Construction Supervision and Post Completion Work - Fee Estimate
(to be completed by SMBC) – Specimen

Appendix A

Technical Review Fee Estimate

Scheme name: [insert scheme title]

The fee estimate for the technical review for the above scheme, based on [insert references to drawings or other information] is shown below.

Work to be undertaken by SMBC includes:

- The technical review of the detailed design, including calculations, design inputs and computer generated outputs, proposed Works Information and any other relevant documents;
- Informing local residents, councillors, emergency services and other stakeholders of the proposals in advance of the construction phase;
- Following internal SMBC procedures and statutory procedures.

Developers duties:

- Prior to the design commencing, the Developer shall submit CVs for:
 1. The individual or individuals within the design organisation who will undertake the design work; and
 2. The individual or individuals within the design organisation who will perform the actions of the Principal Designer under the Construction (Design and Management) Regulations 2015 (CDM 2015) and a copy of the letter of appointment.
- The Developer shall submit one complete set of the proposed scheme-specific drawings and any other relevant documents in an electronic format.
- Prior to the Technical Review commencing, the Developer shall submit for consideration by SMBC, the list of design standards intended to be used (or has been used), together with details of any proposed applications for Departures from Standards. Designs are expected to comply with guidance information and the technical standards set out in either the Design Manual for Roads and Bridges, Manual for Streets or other SMBC design standards, where this is appropriate. Departures from these standards are only likely to be accepted in exceptional circumstances.

Prior to commencement on site, the Developer shall submit an indicative programme for the above scheme, based on **[insert references to drawings or other information]** together with:

- Mobilisation Period Choose an item. weeks
- Construction Period Choose an item. weeks
- F10 for construction stage.

NOTE: CDM 2015

The Developer (during all phases of the scheme) will perform the role of Client, under CDM 2015, and will therefore appoint the Principal Designer and the Principal Contractor

The estimated cost allows for the following:

General items

- General liaison with the Developer by email and telephone;
- Two formal meetings with the Developer and/or his designer;
- One review of the design (including the design standards list, calculations and computer generated outputs);
- One review of the proposed Works Information and other documents prepared by the Developer (including the Construction Phase Plan).

Design items

- A review of the Road Safety Audit (Stage 1/2) (RSA-1/2) arranged by the Developer;
- Assisting with the processing of Road Safety Audit recommendations;
- Co-ordination of a Maintenance Audit undertaken by SMBC's Asset Management Team;
- A review of any street lighting proposals by SMBC's Street Lighting Team;
- A review of any proposed Traffic signals by SMBC's Urban Traffic Control Team;
- A review of any proposed or existing Structures by SMBC's Highways Project Team;
- A review of any drainage proposals by SMBC's Drainage and Flood Risk Management Team;
- A review of any proposed landscaping by SMBC's CLAUDE group.

Post design items

- Liaison with Councillors and Parish Council committees regarding the construction phase;
- Initial liaison with local residents, emergency services and other stakeholders in advance of the construction phase;
- Entering and updating scheme details on the Council roadworks databases;

- Serving the necessary Provisional Advanced Authorisation notice under The Traffic Management Act 2004. (Permitting system)

Work in addition to that listed above (e.g. additional meetings, reviews and responses, dealing with any matters arising from Maintenance Audits, the initial liaison with local residents, stakeholders and emergency services etc.) may incur additional fees.

Commuted Sums [Commuted Sum items to be inserted or deleted as applicable]

- 1) A commuted sum of £ **[insert amount]** is required for the future operation and maintenance of the traffic signal equipment.
- 2) A commuted sum of £ **[insert amount]** is required for drainage systems / non-standard surfacing and alternative materials / structures / street lighting / street furniture / trees / landscaping and additional areas.
- 3) Further commuted sums may become applicable in respect of highway trees or other assets identified as being affected by the works.

Bond

The bond is calculated at 150% of the estimated works cost initially (to include 20% contingency) or the tendered works price if known of which the highest figure is used.

NOTE

Until the Section 278 Agreement is signed, the bond is in place and the commuted sums have been paid:

- The Works Notice (in accordance with the Traffic Management Act 2004) cannot be served; and
- Mobilisation or construction cannot commence.

The estimated Technical Review Fee is £ **[insert amount] (excluding VAT)**

The actual cost will be charged whether more or less. SMBC regularly monitors its costs and every reasonable effort will be made to notify the Developer if this estimate is likely to be exceeded.

Payment of the estimated Technical Review Fee shall be made before commencement of the technical review process. Any overpayment or outstanding balance on the basis of the actual cost will be refunded or become payable, whichever is appropriate, on the signing of the Section 38 / 278 Agreement.

The above Fee is applicable only if the instruction to proceed is received within 90 days from the date shown below.

Signed:

[insert name]

[insert role]

Date: [Click here to enter a date.](#)



Solihull MBC Highways Services

Appendix B

Solihull MBC – Highway Services Construction Supervision and Post-Completion Work Fee Estimate (to be completed by SMBC) – Specimen

Scheme name: **[insert scheme title]**

Construction Supervision

The fee estimate for the construction supervision for the above scheme, based on **[insert references to drawings or other information]** includes for the following to be undertaken by Solihull MBC:

- Supervisor
- Clerk of Works
- Team Leader
- Urban Traffic Control Supervisor
- Street Lighting Supervisor
- Testing; and

Post-Completion Work, which includes –

1. Checking and monitoring (including any additional testing) until the end of the later of the Maintenance Period or Adoption/ Practical Completion of the Works,
2. Construction supervision of any defect corrections and issue of the Adoption/ Practical Completion Certificate,
3. Construction supervision of any additional works found to be necessary following RSA-3,
4. Where required, construction supervision of any additional works found to be necessary following RSA-4.

The estimated Construction Supervision Fee for **a/an [insert no] week contract period and associated Post Completion work is **£[insert amount]** (exc. VAT)**

The actual cost will be charged whether more or less. SMBC regularly monitors its costs and every reasonable effort will be made to notify the Developer if this estimate is likely to be

exceeded. The above estimate is based on SMBC's rates for **[insert financial year]**. All time spent on the supervision and administration of the contract, including travelling time and time spent at SMBC's offices will be rechargeable.

Payment of the estimated construction supervision and post completion work fee (including VAT) shall be made before technical approval is granted.

The above estimate is applicable only if the instruction to proceed is received within 60 days of the date shown below.

Signed:

[insert name and role]

Date: [Click here to enter a date.](#)