

Tim Lawton – Assistant Director Highways, Traffic and Engineering
Hampshire County Council
By Email: tim.lawton@hants.gov.uk

10 May 2019

Dear Tim

Adoption of road(s) by Hampshire County Council (HCC) at the 'Land South of Oaklands' Development, Rowlands Castle

I write further to Rowlands Castle Parish Council's (RCPC) response of 14 March 2019 to HCC's Consultation on its Highways Authority Road Adoption Policy, in which RCPC endorsed the draft Policy.

To assist RCPC in understanding the issues relating to the adoption of roads and informing our comments on future new developments, RCPC would like clarification of the agreements between HCC and the developer for the maintenance of the roads on the Land South of Oaklands development (aka 'Montague Green') of 106 dwellings with access off Whichers Gate Road in Rowlands Castle. For ease of reference, the EHDC Planning Ref for the Application is 30016/026. The Section 106 Agreement for the site also requires the owner to enter into a Section 38 Highways Adoption Agreement with HCC.

RCPC asks this because of the following evidence its members have seen:

1. The S106 Agreement (dated 21 September 2015) includes the following:

Section 5 Definitions: *Highways Agreement, means an agreement for Highways Work to be entered into by the owner and the County Council pursuant to (inter alia) **Section 278 and/or Section 38** of the Highways Act 1980 in a form to be agreed by the County Council*

Schedule 6 (The Owner's Covenants with the County Council): *This states, Highways Work - The owner covenants with the County Council:*

3.1 Not to commence development or permit commencement of the development until the owner has entered into the Highways agreement.

Because of the inclusion of 'and/or' in the definition, the following alternatives for the 'Highways Agreement' arise:

- a). Section 276 **and** Section 38 Agreements*
- b). Section 38 Agreement*

RCPC understands that a Section 278 Agreement has been entered into, so alternative a) has been selected. As a result, a Section 38 Agreement must also be expected.

2. The SuDS Operations & Maintenance Manual (dated September 2017) states the following:

2. Drainage Ownership. The highway and site drainage system is not going to be proposed for adoption by Hampshire County Council as the Local Highway Authority and the appointed Management company is Trinity Estates.

Rowlands Castle Parish Council

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Clerk

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RCPC assumes this refers to 'Trinity (Estates) Property Management Limited' (Company No. 03853617).

3. The Certificate of Incorporation of the 'Montague Green (Rowlands Castle) Management Company' (Company number 11033708), dated 26 October 2017, states:

*In paragraph 3.1 (a) that the company objectives are to acquire, hold, manage and administer the property including any common areas, **roads**, footpaths, sewers, lighting, security and associated facilities.*

To assist RCPC's understanding, RCPC would be grateful for answers to the following questions:

- a) Has HCC entered into a Section 38 Agreement as required by the Section 106 Agreement?
- b) If there is Section 38 Agreement, what would be the roles of Trinity (Estates) Property Management Limited and Montague Green (Rowlands Castle) Management Company? For example, would they be responsible for maintaining the roads for 12 months before they would be adopted by HCC?
- c) If a Section 38 Agreement has not been defined and HCC will not adopt the roads:
 - i. What are the reasons for not doing so?
 - ii. Has a Deed of Variation to the Section 106 Agreement been obtained to legitimise this?
 - iii. Will residents have representatives on one or both of the said management companies?
 - iv. Will residents be expected to make any financial contribution(s) to one or both of the companies? If not, how will the companies be financed to carry out their obligations?
 - v. What supervisory or regulatory control is exercised over the management companies to ensure that there are sufficient financial resources to provide for maintenance on a continuing basis?
 - vi. What recourse (if any) do residents have if remedial work is not undertaken satisfactorily?
- d) Does the statement in the SuDS Operations & Maintenance Manual that the highways and site drainage systems would not be proposed for adoption, not contradict the prior legal requirement for a Section 38 Agreement to enable the roads to be adopted?

RCPC looks forward to receiving yours or, if you consider it more appropriate, a colleague's response to these queries.

Yours sincerely



Lisa Walker – Clerk to Rowlands Castle Parish Council

CC: C Cllr Marge Harvey - Catherington Division
D Cllr Malcolm Johnson - Rowlands Castle Ward
Ashton Carruthers - Senior Development Inspector, East Hants District Council
Jon Holmes - Principal Planning Officer, East Hants District Council
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HCC's Consultation Response (roadagreements@hants.gov.uk)