

The Adoption Process

Large sites are divided into parcels for highways and open space purposes, and each house or group of homes bought by the same owner, and community building forms a parcel of its own. This is usually agreed at planning application stage but may be varied later by agreement with officers.

At the first stage of a planning application, they agree a "Section 106" contribution, comprising affordable housing, and community facilities such as open spaces, play areas, community centres, and much more - and maintenance money to be handed over towards maintaining them in future. Once agreed, this can only be changed by submitting a revised planning application.

Once the planning application is agreed, a "Section 38" agreement is made about the highways to be adopted, including detailed design and a maintenance contribution.

Functional Completion and Adoption

When a developer completes a parcel, the land and facilities are passed to a mixture of individuals and organisations to maintain, and usually own. This process is called adoption. The process is:

- developer declares that the parcel is "functionally complete" - ie mostly built to plan and now usable
 - whoever is acting as building control - not usually the Council - checks that safety requirements etc have been met
 - whoever is "adopting" it checks that it has been completed to plan, is usable, and agrees a list of "remedials" - small items that still need to be sorted out.
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- **For homes**, you move in at that point. It's then your (or your landlord's) responsibility to chase the developer to finish the remedials.
 - **For highways** the developer leaves all roads with just the under-surface until the parcel is accepted as functionally complete. They then apply the final surface to the highway, wait a year, and then agree a revised list of remedials including anything that's shown up in the meantime. They then complete them, and the highway with its facilities is handed over. Usually the Council adopts the highway, but private roads and driveways are adopted by the building owners, stretches within housing association developments may be adopted by the housing association, and the developer may keep the land, and the maintenance of things like road signs and street lights for their own management company, leaving the council to deal with just the road surface, signs and drainage.
 - **For open spaces**, the adopter usually insists on the remedials being completed before they take it over. Open spaces may be adopted by MK City Council, the Parks Trust, the housing association, or held by the developer's management company. sometimes they take over maintenance responsibility before the actual land ownership is handed over, which means they can't make some changes without the owner's permission.
 - **For community buildings**, the owner agrees that the remaining remedials can be done after they occupy the building and then takes over the building. For schools, the council usually owns the land and buildings, but then leases them, together with all responsibilities, to the academy trust if it is an academy.

When highways, open spaces and community buildings are handed over, the maintenance money is paid at the same time. If the developer is hard up this can cause a delay.

Non-Completion

If the developer goes bankrupt or otherwise doesn't complete the work, there is a "bond" - an amount of money deposited in a safeguarded account, or an insurance policy benefitting the adopter, that the adopter can claim through the courts to finish off the highways work. They have to prove that the developer has abandoned the site - not easy, but it has been done in MK.

Similar arrangements apply to community buildings and schools, and homeowners have a contract they can claim against, but there is no bond on landscaping and open spaces.

Trees, Hedges, Boundaries and Verges

Verges

Who is responsible for grass verges varies hugely. You can find out which are owned by the City Council by selecting the highways regulatory option on the map on the council website. But the others may be owned by householders or any of the other land owners. All are responsible for keeping the weeds, grass, trees and hedges off the footpaths and roads..

Trees and Hedges

A tree or hedge is owned by whoever's land it is rooted on. They are responsible for ensuring that there is no danger to the public on nearby public land, and that the tree or hedge does not obstruct the footpaths or roads. There's a leaflet on the city council website giving the details of how far back or high pruning has to go.

Fences and Boundaries

The ownership of the fence or other boundary is usually shown on the title deeds of the property. There's an explanation of the symbol in the 5th paragraph here:

<https://customerhelp.landregistry.gov.uk/forums/general-info-and-guidance/2948add6-060c-ed11-a81b-0022483f7f35>

If it's not shown on the deeds, it's a joint responsibility unless you come to an agreement with your neighbour and get it formally added to both your deeds by the Land Registry.

So if you're buying a brand new property, or new partition of a property, always insist that responsibility for every boundary is marked clearly!

Between the building owner's fence or hedge and the pavement, there is often a narrow strip of land 30-50cm wide. On one side of that there's usually a narrow strip of concrete. That marks the boundary between the private land and the public highway. Usually that narrow strip is the responsibility of the owner, not the Council, but you may need a councillor or officer to look at it, or to zoom in on the council's map and check exactly where highway starts and ends. The "highway regulatory" option shows you the boundary of the public highway.

If there are two rows of hedge at the front, it's likely that the house-side row is owned by the householder, and the roadside one by the Council.