

CONSUMER AFFAIRS

# The great unadopted road dodge

Homeowners are stuck in a potholed no-man's land as developers and councils shirk their responsibilities

Annabelle Williams  
October 6 2017, 5:00pm,  
The Times



Keith Beattie from Haydock, Merseyside, bought his home from a developer that has since gone bust leaving residents to pay the cost of completing the road

DUNCAN ELLIOTT FOR THE TIMES

Owners of new homes are living on potholed roads with no street lights or rubbish collection as housebuilders and councils shun the responsibility for road maintenance.

Developers can save thousands by dodging the legal agreements that pass the roads on to local authority control, allowing builders to make roads narrower than

usual, for example, and leaving homeowners to pay for the **road's upkeep or see it fall into disrepair.**

People living on these unadopted streets have been forced to seek approval from road management committees before selling their homes and say it is harder to find buyers.

The government is to ban new houses from being sold on a leasehold basis to tackle onerous ground rent charges, yet owners of freehold houses on unadopted streets are **being “held to ransom” by management companies that** charge households up to £660 a year for road maintenance.

**“We seem to be rewriting the rules on the way that roads are looked after,” says Derrick Chester, a councillor for** Littlehampton and Arun in West Sussex.

**Normally housebuilders have new roads “adopted” by the** local authority through a legal agreement under Section 38 of the Highways Act 1980, while the sewers underneath are covered by a similar Section 104 arrangement. When the road is left unadopted, homeowners on the road are responsible for its upkeep, and often the sewers and facilities such as playgrounds and parks.

Halima Ali, 30, and her husband bought their freehold four-bedroom home in Rochdale, Greater Manchester, from Persimmon, the developer, and believed that the road would later be adopted by the local council. Seven

years later the streets around the 120 flats and houses remain unadopted and are deteriorating.

**“The street lights have not been fixed for years, so there** are areas that are in complete darkness; it is quite scary at night. A neighbour has had a problem with a sewer cover, which is **in danger of collapse,” she says. “There is a children’s playground and, even though it is a public park,** residents are required to maintain it. The public come and trash it and we can be made to pay for its maintenance, which is outrageous, and we are paying council tax on **top.”**

Another homeowner, 56, bought a three-bedroom freehold house in Kettering, Northamptonshire, from SDC Builders **nine years ago. “At the time it was sold to me as a benefit,** your own private neighbourhood, which would be passed **into the residents’ control once the developer had left,” she says, “but, as an unadopted road, we have no street lighting, the bin men won’t come down and we are liable if anyone has an accident on the communal land.”**

She has been trying to sell her home, but buyers pulled out when they found out about problems with the unadopted road.

She says that SDC Builders set up a limited company for managing the development, which was passed to residents, who elected two neighbours as directors. She was not aware that if she wanted to sell her property it **would require the directors’ approval, and they have** refused permission over what she says is a trivial

disagreement about parking.

Christine Hereward, the head of planning at Pemberton Greenish, the law firm, says councils and highways authorities will only adopt roads if they are built to their standards. Section 38 agreements are also backed by a lump sum, sometimes running to hundreds of thousands of pounds, put down by the housing developer as a bond against the road not being finished properly. Developers receive their bond back only when the road is adopted. Ms **Ali says: “Persimmon has not built our road to the required standard. The council won’t adopt it.”**

Critics say developers are choosing not to enter into a section 38 agreement so that they can bypass local authority standards; roads can be narrower and car parking spaces smaller than regulations require, for example. They also save tens of thousands by not making the required bond payments.

In 2009 the government estimated that it would cost £3 **billion to bring the country’s thousands of unadopted streets up to an adoptable standard. “Developers can** achieve cost savings and make their lives easier. It does enable them to construct a substandard highway. It is a shortcut. To be fair to the developers, it is up to councils to **enforce the standards,” says a source who did not want to be named. “There is very little sanction.”**

Mr Chester says councils and housebuilders are colluding over the issue because **it saves both parties money. “It fits into the narrative about local authority budget cuts,”** he

says.

Phil Waller, a former construction manager who runs the website [Brand-newhomes.co.uk](http://Brand-newhomes.co.uk), says: **“I know of one development where a fire engine was unable to access a fire because of parked cars and the layout of the road.”**

Unlike private roads, which are often gated, unadopted roads appear as ordinary streets. Whether the public has right of way can be uncertain. Mark Loveday, a barrister from Tanfield Chambers in London, says he frequently hears from homeowners who did not realise that their **property was on an unadopted road. “What very often happens is nothing is done to the road for many years and it is only when potholes appear and someone living on the road says, ‘hang on, someone should be maintaining this road’”, he says.**

Buyers of new-build homes ought to check the specifics of **the road before the sale. “This is an important thing that should be flagged up by the solicitor,” says Mr Loveday.** Those who are unsure about the status of their road can apply to the Land Registry for details.

Steve Turner of the Home Builders Federation, the trade association, says housebuilders are increasingly in dispute with local authorities and planning departments over the specifications of newly built roads, which is causing delays **in local authorities adopting them. “The resolution typically involves the authority demanding more cash,” he says.** ‘We may have to pay for the road upgrade’

Residents of unadopted streets often need to take out public liability insurance in case someone is injured on the street.

**Keith Beattie used the government's flagship Help to Buy scheme to buy his house in Haydock, near St Helens, Merseyside, from Westby Homes North West. In February 2014, when he moved in, the road was unfinished, with tarmac not properly laid and potholes filling up with water. The housebuilder went into administration in August. "The administrators have informed us that they won't be completing the road and paths. St Helens council will not enter a section 38 until the road is brought to an adoptable standard, which it is not," he says. "As residents, we may have to pay to have the road completed to the council's standard."**

11 comments

Local planning/highway authorities should insist on Section 106 or CIL, in order that the new residential roads/footways can be adopted fully completed & in good order!

[John Fleming](#)

As usual local councils have been cut to the bone, and are no longer capable of doing the job, so we are heading down a slippery slope to chaos and living in ruins.

We are still one of the richest countries on the planet but are rapidly becoming a banana democracy, with monkeys for MP's.

Mind you the monkeys would probably do a better job.

borris

*@John Fleming* "We are still one of the richest countries on the planet "

It's pretty obvious that we are not otherwise things like this wouldn't happen.

Jack Hughes

Surely it's the conveyancer's duty to verify the existence of a road bond/deposit before the contract is signed, and to warn the buyer of the possible consequences if there isn't one.

Newminster

Minor amendment to planning legislation is all that is required here — assuming the political will is there to resist the blandishments of the Housebuilders Federation and the Local Government Association.

Perhaps a clause barring the LA from demanding Council Tax until the access road and other infrastructure is to a certain standard would concentrate a mind or two.

DamienT is right — where anything involving local councils and **their “interface” with the public is concerned Britain has become a dump!** They sit on millions of reserves and use every excuse (**“cuts” is always favourite**) **not to give local people the basic** services they have a right to expect while keeping their own nests well-**feathered and frittering away taxpayers’ money on vanity** projects that cost a fortune and most times fall flat!

David Colborne

If you buy on a new estate always get confirmation that the road

will be adopted before you sign up. Always been a worthwhile question

Mr Howard Knight

I am not aware of a single example of a council refusing to adopt a road etc which has been constructed to the appropriate standards. I am aware of numerous examples of developers who have sought to maximise their returns by trying to get councils to adopt below standard - design and construction - developments.

DamienT

Britain has become a complete dump of a country.

Gladismonroykd

Why not simply demand that developers must pay a deposit and not get it back until a road is formally adopted.

hillman

*@TierradelFuego*

Agreed. And that deposit should equate to the entire cost of making the road and drainage suitable for adoption. If the builder/developer does not pay that deposit then the planning permission should be withdrawn.

Atticus

The deposit scheme already exists, what is not clear is why after planning permissions is granted and roads built why the council is not asking for the deposit. Most planning permission where roads are created have a clause that a deposit/ bond is paid.