

Substantive response of the Local Highway Authority to a planning consultation received under The Development Management Order.



Response provided under the delegated authority of the Director of Environment & Transport.

APPLICATION DETAILS

Planning Application Number: 25/00472/REM

Highway Reference Number: 2025/0472/04/H/R2

Application Address: Forest House Leicester Lane Desford Leicester Leicestershire LE9 9JJ

Application Type: Reserved Matters

Description of Application: Re-consultation. Approval of reserved matters (appearance, landscaping, layout and scale) of outline planning permission 22/01160/OUT for a proposed commercial unit (Use class E(g) including the discharge of conditions 5 (construction traffic management plan), 7 (ecological strategy), 12 (PRoW treatment), 13 (surface water drainage) and 14 (WSI) of outline planning permission 22/01160/OUT

GENERAL DETAILS

Planning Case Officer: Emma Baumber

Applicant: Julie Clark

County Councillor: Markfield, Desford & Thornton ED - Charles Whitford CC

Parish: Desford

Road Classification: Class B

Substantive Response provided in accordance with article 22(5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015:

No Objection

No objection to the discharge of condition 10 (site drainage) attached to 22/01160/OUT.

Objection

Objection to the discharge of condition 12 (PRoW treatment) attached to 22/01160/OUT.

No Comments

Conditions 7 (ecological strategy), 13 (surface water drainage) and 14 (WSI) attached to 22/01160/OUT were not advised by the Local Highway Authority who therefore have no comments to make.

Advice to Local Planning Authority

Background

The Local Highway Authority (LHA) have been re-consulted on application 25/00472/REM for the approval of reserved matters (appearance, landscaping, layout and scale) of outline planning permission 22/01160/OUT for a proposed commercial unit (Use class E(g)).

As part of the previous observations provided to the Local Planning Authority (LPA) on 2 July 2025 and 15 August 2025, the LHA noted that information had also been submitted to discharge conditions attached to the original outline application granted under 22/01160/OUT. It is also noted that it appears the application description has been amended to include the discharge of conditions 5 (construction traffic management plan), 7 (ecological strategy), 12 (PRoW treatment), 13 (surface water drainage) and 14 (WSI) attached to 22/01160/OUT. These observations seek to address this matter.

22/01160/OUT sought the erection of a proposed commercial unit (Use class E(g)(i,ii,iii) (outline application - access only). This was approved by the LPA on 20 August 2024.

Condition 5 (construction traffic management plan) was dealt with as part of the original observations provided to the LPA on 2 July 2025 and the LHA raised no objection to its discharge.

Condition 12 (PRoW treatment) was also dealt with as part of observations provided to the LPA on 2 July 2025; however, further information was required from the Applicant in order for the LHA to be in a position to discharge the condition.

Whilst condition 10 has not been included within the application description, it is included within the submitted 'Drainage Technical Note', dated May 2025 and as such comments have been included within these observations.

Condition 10

Condition 10 is replicated below for clarity.

'No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.'

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (December 2023).

Highway Response:

The LHA advise that whilst the information contained within the 'Drainage Technical Note', dated May 2025 were acceptable from the LHAs perspective to discharge the condition. However, the LPA would need to ensure the Lead Local Flood Authority (LLFA@leics.gov.uk) were also satisfied with the plans.

Condition 12

Condition 12 is replicated below for clarity.

'No development shall take place until a scheme for the treatment of the Public Right(s) of Way has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall include provision for their management during construction, surfacing, width, structures, signing, and landscaping in accordance with the principles set out in the Leicestershire County Council's

Guidance Notes for Developers. Thereafter the development shall be carried out in accordance with the agreed scheme and timetable.

Reason: To protect and enhance Public Rights of Way and access in accordance with Policy DM10 and DM17 of the Site Allocations and Development Management Policies DPD 2016 and Paragraph 104 of the National Planning Policy Framework (December 2023).'

Highway Response:

The LHA have reviewed the submitted drawing titled 'Public Right of Way Details' drawing number 8658_0302_1010 Rev PL1 and make the following comments.

The application site access bisects public right of way Footpath R99. The LHA response dated 02 July 2025 included detailed comments on the Public Right of Way.

The Public Right of Way Details drawing no. 8658_0302_1010 Revision PL1 added to the LPA web site on 18 July 2025 gives more information than previously submitted, but still leaves many aspects unaddressed.

The notes on the plan state:

"Work area to be fenced off, and a safe pedestrian route will be provided with good quality Heras style fencing and clear signage. The route will have a 2m clear width, and temporary stone surfacing and drainage may be required subject to ground conditions. The diversion routes are likely to change as work progresses, but safe, barriered pedestrian routes will be maintained at all times."

However, the plan shows plainly that the proposed gates are some distance from the route of the Footpath as legally 'fixed' by the Definitive Map of public rights of way.

As covered within the Decision Notice attached to 22/01160/OUT, the 'Notes to Applicant' numbers 3 and 4 state:

"3. A Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.

4. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required."

It is helpful to clarify that temporary diversions of roads or footpaths require a Temporary Traffic Regulation Order as detailed on the LCC website at: <https://www.leicestershire.gov.uk/roads-and-travel/road-maintenance/roadworks-closures-and-diversions> Submitting the paperwork of a TTRO application would cover this issue.

The drawings submitted so far do not clarify whether the gate locations are temporary or permanent. If permanent the development will also require the diversion and extinguishment of public rights of way by a separate legal order made by the LPA, a separate application for which needs to be submitted and confirmed before the development is substantially complete, otherwise the legal powers will lapse. Submitting a copy of a completed application for such a diversion would cover this issue.

Still outstanding is the permanent treatment of the footpath where it crosses the new access to the new development. Building a small-scale development involves only limited increases in vehicles to / from site, though site workers may not expect to see members of the public in the vicinity, so signposts are needed on the new access to alert site vehicle traffic about this.

If the new access road is to be enclosed between new boundaries, new crossing points are required for the footpath. In addition to the grant of planning permission, new boundary crossings must be authorised by the LHA to comply with the Highways Act 1980 section 147 and subsequent government guidance. Government policy (reflecting the Equality Act 2010) is that new barriers on public rights of way should be the 'least restrictive' option and accessible to users with reduced mobility. In particular, stiles can be awkward even for otherwise able walkers, such as older people, who have mobility limitations such as hip or knee problems that make it more difficult to climb over barriers. Therefore, only gaps, pedestrian gates, or kissing gates can be authorised by the LHA. The one legal justification for stiles or gates is to ensure livestock are not able to get through any boundaries.

National Planning Policy Framework (NPPF) paragraph 105 states "Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users ..." The NPPF looks for developments to 'protect and enhance' in several environmental contexts which, when compared, show that if no mitigation is essential, the NPPF still seeks enhancements proportionate to the scale of the development. In this case replacing any existing stile(s) with a gap or a type of gate would be a valid enhancement.

Please contact footpaths@leics.gov.uk if further information is required.

Given the above, the LHA would object to the discharge of condition 12 (PRoW treatment) attached to 22/01160/OUT

Whilst condition 13 (surface water drainage) attached to 22/01160/OUT was not requested by the LHA, the LPA may wish to consult the Lead Local Flood Authority (LLFA) via LLFA@leics.gov.uk if not already done so.

Summary

- Condition 5 – CTMP – No objection to the discharge of this condition;
- Condition 7 - Ecology mitigation – Not requested by the LHA;
- Condition 10 – Site Drainage – No objection to the discharge of this condition;
- Condition 12 – PROW – Objection to the discharge of this condition;
- Condition 13 – Surface and Foul Water Drainage – Not requested by the LHA; and
- Condition 14 – (WSI) Archaeology – Not requested by the LHA.

Date Received
11 August 2025

Case Officer
Neal Chantrill

Reviewer
BD

Date issued
29 August 2025