

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: 24/00409/HOU

Highway Reference Number: 2024/0409/04/H

Application Address: 15 Aulton Way Hinckley Leicestershire LE10 0XB

Application Type: Householder

Description of Application: Construction of a 2.00 metre high boundary fence to the east boundary line

GENERAL DETAILS

Planning Case Officer: Stephen Sarfo

Applicant: Mr Andrew Dabin

County Councillor: Cllr David Bill MBE

Parish: Hinckley

Road Classification: Adopted Unclassified

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

The Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 115 of the National Planning Policy Framework (December 2023).

Advice to Local Planning Authority

The Local Highway Authority (LHA) has been consulted by the Local Planning Authority (LPA), Hinckley & Bosworth Borough Council (HBBC), which seeks:

‘Construction of a 2.00 metre high boundary fence to the east boundary line.’

The proposals are at 15 Aulton Way, Hinckley, Leicestershire, LE10 0XB.

Proposals

The Applicant is seeking permission for the erection of a 2m high boundary fence along the line of the of the ‘Land Registry’ plan. This would enclose part of the land that is currently green space and maintained by Leicestershire County Council (LCC), the area is demonstrated below on ‘Google Street View ©’.



The Applicant contacted 'Highway Record Enquiries' at LCC who responded to the Applicant on 4 April 2024 demonstrating the LHA's position is as follows:

1. The Council accepts that based on currently available information, the land is unlikely to be part of the highway. This is primarily on the basis of:
 - a. The absence of any known document explicitly dedicating the land as highway;
 - b. Limited evidence and likelihood of the land being used for highway purposes, meaning it is unlikely to have become highway through public use.

Consequently, despite having been recorded and maintained as if it were publicly maintainable highway over a considerable period of time, the Council would not take action if you were to enclose the land based on currently available information. A note will be added to the Council's records to the effect that it no longer regards the land to be publicly maintainable highway. The grass cutting team will be advised of this outcome, which may result in the maintenance of this area ceasing.

The LHA are aware the owner of the land is not a material consideration on the determination of the application. However, the Applicant was provided with the caveat as demonstrated below:

2. The Council's opinion on the highway status is not legally definitive, and is provided on a without prejudice basis. This means that any works would be undertaken at your own risk that this position could change, but this would only be likely if new evidence contrary to the Council's position were to emerge at any point in the future. This may result in any enclosure of the land becoming unlawful, and the Council requiring the removal of any structure(s) obstructing the highway.
3. Prior to undertaking any works, to minimise any future risk to yourself, it is recommended that you:
- a. Seek advice from the Local Planning Authority (Hinckley & Bosworth Borough Council) to establish any requirements for your proposals from a planning perspective.
 - b. Consult any neighbours who may be affected, to help determine the likelihood of the status of this land being challenged (particularly No. 47 Torridon Way).
 - c. Make enquiries with regard to the presence of any utility assets located on or under the land you are looking to enclose.
 - d. Seek independent legal advice on the exact position of your property boundary, and the nature of your proposals. It should be noted that Land Registry Title Plans only show general boundaries and not exact boundaries ([further information](#)).

The LHA are satisfied the proposals would not have a material impact of the public highway. However, there may be third party services within the land that Applicant is seeking to enclose. As such, the Applicant will need to conduct surveys and carry out any works that may be required which could include relocating services, all costs associated with this are the sole responsibility of the Applicant.

Taking all the above into consideration, the LHA would not seek to object to the proposals based upon the submitted information.

Date Received
23 May 2024

Case Officer
Neal Chantrill

Reviewer
DH

Date issued
10 June 2024