

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: 25/00198/P3CQ

Highway Reference Number: 2025/0198/04/H

Application Address: 39 Main Road Ratcliffe Culey Atherstone Leicestershire CV9 3NY

Application Type: Change of Use

Description of Application: Notification to determine if Prior Approval is required for the change of use of two agricultural buildings to three dwellinghouses (Class C3)

GENERAL DETAILS

Planning Case Officer: Matt Jedruch

Applicant: Donna Vann

County Councillor: Bertie Harrison-Rushton

Parish: Witherley

Road Classification: Class C

Substantive Response provided in accordance with The Town and Country Planning (General Permitted Development) (England) Order 2015, Part 3, Class Q:

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 116 of the National Planning Policy Framework (2024), subject to the conditions and/or planning obligations outlined in this report.

Advice to Local Planning Authority

Background

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

'Notification to determine if Prior Approval is required for the change of use of two agricultural buildings to three dwellinghouses (Class C3).'

The proposals are at 39 Main Road Ratcliffe Culey Atherstone Leicestershire CV9 3NY.

The LHA have reviewed the following documents as part of this report:

- Application Form;
- Planning Statement (Class Q) V2;

- Proposed Curtilage Site Plan Dwg no 240-211;
- Site Location Plan Dwg no. 233-200 Rev A;
- Existing Site Plan Dwg no. 233-201 Rev A;
- Proposed Site Plan Dwg no 240-202 Rev C;
- Building 3 - Existing Plans Dwg no 240-204;
- Building 4 - Existing Plans Dwg no 240-206;
- Building 3 Proposed Plans Dwg no 240-208; and
- Building 4 Proposed Plans Dwg no 240-210.

The LHA acknowledges the relevant planning history at the site which is noted below:

- *23/01080/P3CQ - Change of use of agricultural building to a single dwelling – Refused on non-highway grounds, January 2024.*
- *24/00887/P3CQ - Notification to determine if Prior Approval is required for the change of use and conversion of four agricultural buildings to form six dwellinghouses (Class C3) – Refused on non-highway grounds, September 2024.*

Site Access

The site is currently served by an existing access on Main Road, a class C road subject to a 30mph speed limit. The LHA note that the applicant intends to utilise the existing access to serve the proposed three dwellings. The applicant has not submitted details of the site access arrangements in respect of width, surfacing or visibility splays.

The LHA are aware of a wall to the west of the site access which restricts vehicular visibility at the junction of the site access with Main Road. Details of the available visibility splays at the access, nor a speed survey demonstrating the available visibility would be in line with 85th percentile speed of passing traffic at the site access have not been provided.

The LHA advise that it considers it would be difficult to demonstrate the proposals would represent a severe highway safety issue, given that the proposals would remove some demand for large, slow moving farm vehicles to access the site. In addition, based on records available to the LHA, there have been no recorded Personal Injury Collisions at the site access within the last five years. Nevertheless, it is noted that the wall falls within the Applicants blue line boundary and as part of application reference 23/00791/OUT for a replacement farmhouse, the LHA suggested when access is applied for, the Applicant removes the wall as part of those proposals. Furthermore, application 20/01292/P3CQ also included proposals to remove the wall. The LHA would therefore strongly encourage the Applicant to remove the wall as part of these proposals to improve visibility at the access.

Highway Safety

There have been no Personal Injury Collisions (PICs) recorded within 500m in either direction of the site in the last five years.

Given the sites current extant use, the LHA consider that the proposals are unlikely to exacerbate the existing highway situation.

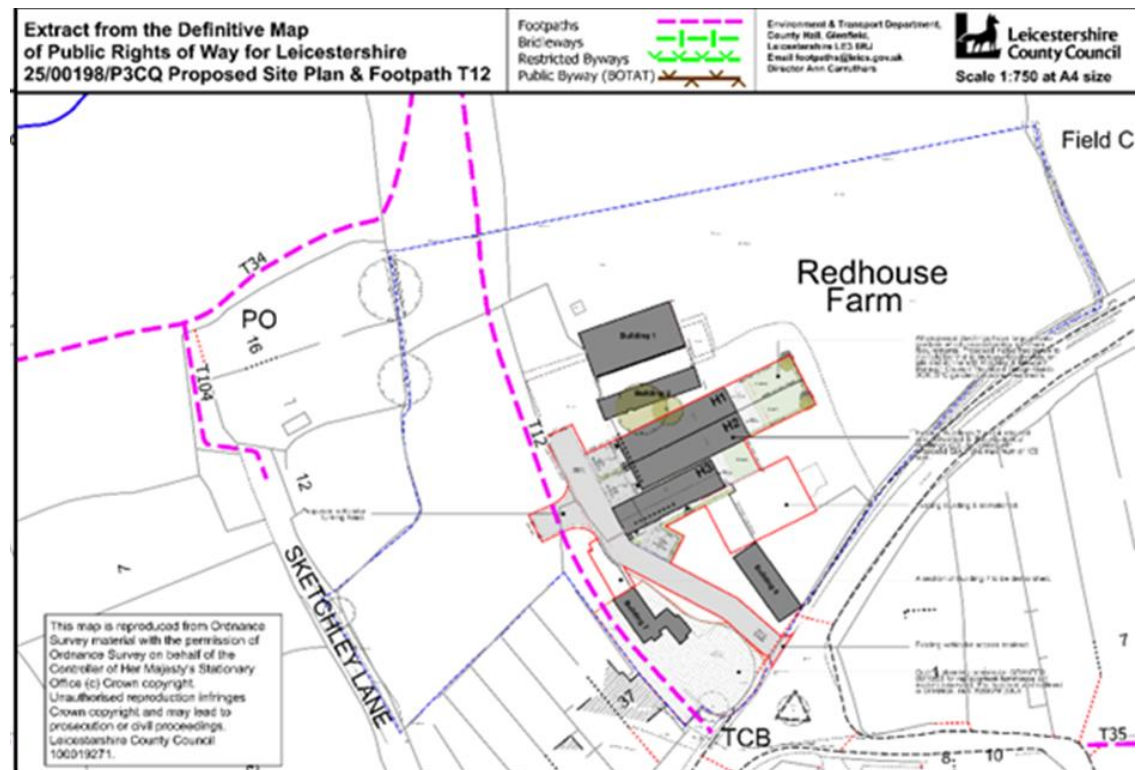
Internal Layout

The Applicant is proposing to convert two agricultural buildings into three x three-bedroom dwellings. The LHA have reviewed 'Proposed Site Plan', drawing number 240-202 Rev C and finds the internal layout to accord with Figure 44 of the LHDG

(<https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/parking-and-making-provision-service-vehicles/design-principles-street>) and in terms of parking space dimensions, on-site turning, and quantum of parking spaces (<https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/parking-and-making-provision-service-vehicles/street-residential-car>).

Public Right of Way (PRoW) T12

The application site includes construction of a section of new access drive to form a vehicular turning head. The turning head intersects public right of way Footpath T12 as shown here by the submitted Proposed Site Plan overlaid with the Definitive Map of public rights of way, the official record. The Definitive Map legally 'fixes' the status and alignment of every public right of way. The various categories public rights of way are minor public highways, to which most of the same legal protections apply as to adopted public roads.



In addition, National Planning Policy Framework (NPPF) paragraph 105 requires that:

'Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users ...'

Accompanying this is Planning Practice Guidance (PPG) including Rights of Way circular 1/09 which has the same legal status as the NPPF as clarified in the recent court case Mead Realisations Ltd v Secretary of State HCLG. The NPPF, PPG and Circular 1/09 are applied locally by the Leicestershire Highways Design Guide (LHDG), annex on Development and public rights of

way at: <https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/public-rights-way>.

The existing Proposed Site Plan takes no account of the legally defined alignment of the public right of way. The red line site boundary beside the access road is elsewhere labelled as a 'Timber post and rail fencing', but there is no indication of boundary crossing points for the footpath, without which what is proposed would be an unlawful highway obstruction.

New barriers on public rights of way require authorisation by the LHA to comply with the Highways Act 1980 section 147. Government policy, reflecting the Equality Act 2010, is that new barriers should be the 'least restrictive' option possible. In particular, stiles are awkward even for otherwise able walkers, such as older people, with mobility limitations such as hip or knee problems that make it harder to climb over barriers. As a result, the 'least restrictive' option policy means new crossing points must either involve gaps, pedestrian gates, or (if the boundary must be livestock proof) kissing gates to a design approved by the LHA. To indicate the route of the public right of way, gates should also be accompanied by yellow-topped marker posts to LHDG specification SD/FP/6 as at: <https://www.leicestershirehighwaydesignguide.uk/sites/lcchighwaydesign/files/2025-01/sd-fp-6-waymark-post.pdf>.

Management of the public right of way during site work, especially during construction of the vehicular turning head, will also need appropriate consideration and documentation.

Other Considerations

No bin collection point has been shown on the submitted plans. Due consideration should be given to waste collection provision; refuse vehicles are unlikely to access the site given that it is located more than 25m from the highway boundary and via a private road. Any bin collection point should be within the site and not within the public highway, nor should it be located within visibility splays. However, this is not a material consideration for the LHA.

Conditions

1. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) have been implemented in accordance with the drawing titled 'Proposed Site Plan', drawing number 240-202 Rev C. Thereafter the onsite parking (and turning) provision shall be kept available for such use(s) in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2024).

2. No development shall take place until a scheme for the treatment of the Public Right of Way Footpath T12 has been submitted to and approved in writing by the Local Planning Authority. A scheme shall include management during construction (including proposed temporary route(s)); ensuring plans reflect the correct legally-recorded PROW alignments, or any legal diversion order to ensure they do so in future; and any new construction works. Physical construction should address width, surfacing, drainage, structures, signposting, and impacts of any landscaping and boundary treatments in accordance with the principles set out in the Leicestershire County Council's adopted guidance on Development and Public

Rights of Way. 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 Paragraph 105 of the National Planning Policy Framework Dec 2024.

Notes to Applicant

The following notes need to be included in any decision notice or formal response to the applicant:

- a) The 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.
- b) The Public Right of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
- c) 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.
- d) Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
- e) No new gates, stiles, fences, or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way, and the County Council may be obliged to require its immediate removal.

Date Received
11 March 2025

Case Officer
Emma Peacock

Reviewer
DH

Date issued
28 March 2025