

Delegated Report

Planning Ref: 24/00868/ROW

Applicant: CHRIS MCREYNOLDS

Ward: Newbold Verdon with Desford & Peckleton



**Site: Land to The South Of 50 Brascote Lane, Newbold Verdon, Leicester
Leicestershire, LE9 9LF**

Proposal: To divert part of Public Footpath S27

Case officer: Ed Stacey, Planning Manager (Development Management)

1. Recommendations

- 1.1. **Make order, subject to recommended clauses.**

2. Planning application description

- 2.1. The application seeks to divert footpath S27 in relation to development off Brascote Lane, arising planning permissions 19/00600/FUL and 24/00371/CONDIT.
- 2.2. The pathway is currently unsurfaced with the pathway running through the middle of the site from Brascote Lane to Arnolds Crescent.
- 2.3. The diverted path would run just to the south of & parallel with the southern boundary of No. 50 Brascote Lane (between No. 50 and one of the approved dwellings). Landscaping is proposed as part of the approved development (19/00600/FUL and 24/00371/CONDIT) with a 1.5m high post and rail fence proposed for the front part (nearest Brascote Lane) of the diverted path leading to a 1.8m high close boarded fence to the rear of the approved dwelling, leading to Arnolds Crescent.
- 2.4. It should be noted that the processing of this application has been delayed by administrative issues which resulted in the preliminary consultation phase being repeated.

3. Description of the site and surrounding area

- 3.1. The application site is located within the settlement boundary of Newbold Verdon on the entrance to the village on the east side of Brascote Lane. It is roughly rectangular in shape and measures approximately 0.13 hectares. It currently comprises an area of scrub land with an unmade public right of way (S27) running south west to north east through the middle of the site between Brascote Lane and Arnold's Crescent. The site has a lower ground level (approx. 0.4 of a metre) than the land to the north.
- 3.2. There is a detached dormer bungalow, bungalow and two storey dwellings to the north of the site. There are two storey detached dwellings and long gardens to the east and two storey semi-detached dwellings and an infill detached bungalow to the west on the opposite side of Brascote Lane. There are designated allotment gardens to the south of the site. The application site is enclosed to the east by a well maintained hedgerow of approximately 1.2 metres in height, to the part north by a 1.8 metre high timber panel fence on retaining concrete gravel boards and to the part west and south by an unmaintained and overgrown hedgerow overhanging a small brook.

4. Relevant planning history

- 4.1 19/00600/FUL – permitted 18/12/2019
- Erection of two detached dwellings and associated access
- 4.2 22/00762/DISCON – permitted 23/09/2022
- Application to discharge conditions 3 (Public right of Way) and 4 (Levels) attached to planning permission 19/00600/FUL
- 4.3 24/00371/CONDIT – permitted 03/06/2024
- Variation of condition 2 (Plans and Elevation) of planning permission 19/00600/FUL. To provide an alternative footprint for the dwelling, improving its buildability and to move plots further into the site to improve access. To reference an alternative set of drawings, submitted as part of this application, enabling alterations to the footprint of the dwellings (7971_250A & 7971_251A) and to move the plots further into the site (7971_150).

5. Publicity

- 5.1 During the preliminary consultation phase no site notice or public consultation has been undertaken and no public comments have been received.

6. Consultation

- 6.1 Environment Agency: no objections
- 6.2 Cycling UK: no objections
- 6.3 LCC Highways: no objections subject to legal order drafting.
- 6.4 Leicestershire Footpath Association: no objections
- 6.6 Virgin Media: no objections

7. Policy

- 7.1 Since the original planning permission was issued there have been no significant changes to the policies within the development plan that would be material to the outcome of the assessment of the application in this case.

8. Appraisal

- 8.1 There have been no objections during the preliminary consultation phase.
- 8.2 The footpath diversion has been proposed following permissions 19/00600/FUL and 24/00371/CONDIT which propose two dwellings that would obstruct the current alignment of footpath S27. These applications showed the proposed diversion of the S27 footpath along the northern application site boundary. LCC Highways did not object to these proposals and continue to do so.
- 8.3 The proposed diversion will improve safety for users by providing a hard surfaced route from Brascote Lane to Arnolds Crescent and introducing a perception of observation from a first floor window of plot 1 of the development. The proposed 30m diversion relates well to the permitted scheme which includes landscaping and boundary fencing along the diverted pathway route.

- 8.4 The diversion does not significantly change the length of the footpath and the hard surfacing improves general connectivity in the area by making the footpath accessible year-round.
- 8.5 The proposals will not significantly negatively impact No. 50 Brascote Lane as while it will bring the alignment of the footpath closer to its southern boundary, this boundary is already exposed to users of the footpath if they walk a few metres off the path. The introduction of two dwellings, which this diversion will facilitate, would improve the overall natural observation and safety of the area.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Conclusion

- 10.1. The proposed footpath diversion would not result in any material impacts on the approved development or users of the footpath, and would respect the character and appearance of the wider site and surrounding area. The scheme would remain in accordance with Core Strategy Policies 7, 11 and 19 and DM1, DM3, DM7, DM10, DM17 and DM18 of the SADMP, and the overarching intentions of the NPPF and is therefore recommended for approval. No new conditions are necessary.

Recommendation

- 11.1 **Make order, subject to recommended clauses.**

Recommended clauses

1. *The following works shall be carried out in relation to the highway described in Part 2 of the Schedule.*
 - (a) *Alternative Footpath S27 shall have a width of 2 metres with a 0.25 metre grass verge either side. No landscape planting should be included within the verge.*

(b) Surfacing, to a specification agreed by Leicestershire County Council, to be constructed along the alternative route of Public Footpath S27 and for a further 2 metres along the existing footpath surface.

(c) The existing metal stile near point 'A' on plan no. 2659 is to be removed and disposed of.

2. *The developer is hereby required to pay the cost of carrying out the said works.*

3. *Where immediately before the date on which the footpath is diverted there is apparatus under, in, on, over, along or across it belonging to statutory undertakers for the purpose of carrying on their undertaking, the undertakers shall continue to have the same rights in respect of the apparatus as they then had.*

Notes to Applicant

- Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.
- The Public Right(s) 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.
- The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
- 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.
- 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.
- 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.
- The existing metal stile near point 'A' on plan no. 2659 is to be removed and disposed of.