

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: 24/00461/REM

Highway Reference Number: 2024/0461/04/H/R1

Application Address: Land South of Markfield Road Ratby Leicestershire

Application Type: Reserved Matters

Description of Application: Re-consultation. Approval of Reserved Matters (appearance, landscaping, layout and scale) for outline application 22/00648/OUT for residential development of up to 75 dwellings alongside associated site infrastructure and open space and discharge of condition 2.

GENERAL DETAILS

Planning Case Officer: Hinckley and Bosworth Borough Council

Applicant: Mr Stuart Pearson

County Councillor: Cllr Ozzy O'Shea

Parish: Ratby

Road Classification: Class C

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), subject to the conditions and/or planning obligations outlined in this report.

Advice to Local Planning Authority

Background

The Local Highway Authority (LHA) have been re-consulted by Hinckley & Bosworth Borough Council as the Local Planning Authority (LPA) on a Reserved Matters application (appearance, landscaping, layout, scale) of outline application 22/00648/OUT for a residential development of up to 75 dwellings. The site is located at land south of Markfield Road, Ratby.

The LHA previously advised within the highway observations dated 13th June 2024 that while it had no objection to the proposals subject to conditions, the internal road network was not considered suitable for adoption and would require amendments at this stage, should the Applicant wish for the development roads to be considered for adoption by Leicestershire County Council.

Since issuing the previous observations, the LHA have been consulted by the LPA on application reference 24/00914/OUT (Outline planning application (with all four matters reserved apart from access) for a phased mixed-use development comprising about 470 dwellings (Use Class C3) or, in the alternative, about 450 dwellings and care home/extra care facility (Use Class C2/C3), provision of a community hub (Use Class F2); 1FE primary school (Use Class F1); and associated operations and infrastructure including but not limited to site re-profiling works, sustainable urban drainage system, public open space, landscaping, habitat creation, internal roads/routes, and upgrades to the public highway).

The LHA are aware that the main spine road for this development would form one of the access roads and the spine road for that development. The LHA therefore acknowledge that the Applicant intends to future proof the spine road to serve that development in the event it is granted planning permission by the LPA. It should be noted that commuted sums may still be required for the roads designed in excess of the LHA's requirements for the current development proposed, in the event that the wider proposals are not granted planning permission by the LPA, or do not materialise on-site. The LHA have also met with the Applicant to discuss the proposals at the Applicants request.

The LHA has reviewed the following documents submitted by the Applicant in support of the proposals:

- McBains drawing number LWRAT MCB ZZ ZZ DR A 0230 D5 Rev. P2 (Site Layout Plan)
- McBains drawing number LWRAT MCB ZZ ZZ DR A 0232 D5 Rev. P2 (Surface Materials Plan)
- McBains drawing number LWRAT MCB ZZ ZZ DR A 0234 D5 Rev. P2 (Refuse Management Plan)
- McBains drawing number LWRAT MCB ZZ ZZ DR A 0235 D5 Rev. P2 (Parking Strategy Plan)
- McBains drawing number LWRAT MCB ZZ ZZ DR A 0237 D5 Rev. P2 (EV Charging Plan)

Internal Layout

Details of the internal layout of the site are provided on McBains drawing number LWRAT MCB ZZ ZZ DR A 0230 D5 Rev. P2. The Applicant has indicated that they wish for the main internal development road to be put forward for adoption.

As advised previously, the acceptability of an adopted road layout is subject to a Section 38 agreement in accordance with the Highways Act (1980). In order for the site to be suitable for adoption, the internal layout must be designed fully in accordance with the Leicestershire Highway Design Guide ([LHDG] available at <https://resources.leicestershire.gov.uk/lhdg>).

The LHA advise that currently the proposals would not be suitable for adoption and that the following amendments would be required:

- As this phase is to serve part of a wider large development, some form of Local Transport Note 1/20 compliant cycleway would be welcome, perhaps along the west side of the spine road. The side road to the west (between Plots 8 and 18) fronts only four plots, this would not be typically considered for adoption, potentially the cycleway could have priority over this junction.

- The bollards on the opposite side of the junction to Plot 41 will be considered further and incur a commuted sum at the S38 stage.
- The junction opposite Plots 56/57 would be considered as a dummy junction. The Applicant should make this into a bend and create a short private drive to serve Plots 57/58's parking. In addition, a forward visibility splay should be provided here in accordance with the design speed of the road, and the area within the splay is conveyed as highway.
- The inclusion of the existing hedge within a 2m margin along the west side as the development is entered is acceptable to the LHA at this stage, but the Applicant would need to ensure that all utilities are carefully planned around this.

Parking Provision & Shared Private Drives

The LHA has reviewed the parking provision shown on McBains drawing number LWRAT MCB ZZ ZZ DR A 0235 D5 Rev. P2 as well as the shared private drives and considers appropriate amendments have been made. McBains drawing number LWRAT MCB ZZ ZZ DR A 0232 D5 Rev. P2 also indicates that the private driveways and shared private drives would be surfaced in a hard bound material. As advised previously, 1.0 x 1.0m pedestrian visibility splays should be shown where private drives or shared private drives meet the adopted highway. The LHA welcomes the provision of electric vehicle charging points for all plots.

Public Rights of Way

As advised previously, the site is crossed by Public Footpath R50. The submitted Design and Access Statement (DAS) notes the existing public right of way will be kept and highlighted as connection from the site across towards the existing development area on the east of the site. Specifically, the DAS section 6.0 notes: *'The development is proposing to utilise shared surfaces in part to enable the residents to take possession of both footpath and roadway. This method will engender a sense of guardianship over the streets by local residents'*.

The existing legally fixed alignment of the Public Right of Way (PRoW) will be in front of plots 59-62 and plots 64-67. In front of the houses there is to be a block paved area of shared access drive, a strip of grass, the surfaced PROW, another grass strip with a line of trees planted along the middle of it, and then the access road to the eastern part of the site. The Refuse Management Plan proposes two shared Bin Collection Points next to the public footpath facing the block paved access drives and unspecified fencing behind the Bin Collection Points and all the way along the edge of the public right of way in front of the plots.

As it stands this could make the footpath hemmed-in between the trees and the new fencing, separating and possibly screening it from the properties, which is at odds with the DAS section 6.0, the NPPF paragraph 104 as applied locally by the Leicestershire Highway Design Guide annex on Development and PRoWs, and government circular Defra 1/09 that with PRoWs through developments sites *'... preference should be given to the use of made up estate paths through landscaped or open space areas away from vehicular traffic.'*

It is unclear why the fencing is needed between the block paving and the proposed footpath, what kind of fencing is proposed and how high it will be; and what sort of surfacing will be given to the route of the public right of way.

For the reasons outlined above, the LHA has advised a condition for a scheme for the treatment of the PRoW, so these issues can be clarified and agreed in detail if permission is granted.

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 McBains drawing numbers LWRAT MCB ZZ ZZ DR A 0235 D5 Rev. P2 (Parking Strategy Plan) and LWRAT MCB ZZ ZZ DR A 0232 D5 Rev. P2 (Surface Materials Plan). Thereafter the onsite parking provision shall be so maintained 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 2023).

2. The development hereby permitted shall not be occupied until such time as 1 metre by 1 metre pedestrian visibility splays have been provided on both sides of the private driveways or shared private drive serving each plot. Nothing within these splays shall be higher than 0.6 metres above the level of the back of the footway/verge/highway and, once provided, these splays shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (December 2023).

3. 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 the National Planning Policy Framework (December 2023).

4. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (December 2023).

5. No development shall take place until a scheme for the treatment of the Public Right of Way (R50) 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; 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.

Informative

- Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
- If the roads within the proposed development are to be offered for adoption by the Local Highway Authority, the Developer will be required to enter into an agreement under Section 38 of the Highways Act 1980. Detailed plans will need to be submitted and approved, the Agreement signed and all sureties and fees paid prior to the commencement of development. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

If an Agreement is not in place when the development is commenced, the Local Highway Authority will serve Advanced Payment Codes in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please email road.adoptions@leics.gov.uk in the first instance.

- To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
- Prior to construction, measures should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works.
- Public Rights 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.
- If there are any Public Rights of Way which the applicant considers impracticable to retain on their existing lines, a separate application for diversion is required. It should be submitted under the Town and Country Planning Act 1990 to the Local Planning Authority. The applicant is not entitled to carry out any works directly affecting the legal line of a Public Right of Way until a Diversion Order has been confirmed and become operative.
- 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.

- Public Rights of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
- 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.

Date Received
5 November 2024

Case Officer
Ben Dutton

Reviewer
DH

Date issued
25 November 2024