

Owl Homes Limited
Wykin Lane, Stoke Golding

1. Introduction and Background

1.1 Owl Homes Limited ("Owl") are in the process of developing a site at Wykin Lane, Stoke Golding ("the development") and we understand that occupations are anticipated shortly.

1.2 Planning permission for the development was granted following an appeal (APP/K2420/W/20/3262295) which authorised:

the construction of up to 55 dwellings, all matters reserved, except for access, at land at Wykin Lane, Stoke Golding, Nuneaton CV13 6JG in accordance with the terms of the application, Ref 19/01324/OUT, dated 15 November 2019, subject to the 24 conditions set out in the attached schedule

1.3 One of the conditions in the schedule is condition 19, which states:

No part of the development shall be occupied until a scheme detailing improvements to the existing passing bays shown indicatively on drawing ADC2042-DR-005 Rev P2 has been submitted to and agreed in writing by the local planning authority. Thereafter, the approved scheme shall be completed prior to first occupation of any dwelling.

1.4 It is clear from paragraphs 5-18 of the Appeal decision and the conclusion at paragraph 25, that the issue to which the scheme related was one of highway safety on the narrow Wykin Lane which would be mitigated by the provision of passing places.

1.5 The detailed scheme was approved by Hinckley and Bosworth Borough Council, as Local Planning Authority, on 26 January 2024 under reference 23/00795/DISCON. It therefore falls for that scheme to be completed prior to first occupation, currently scheduled for the end of February 2026.

1.6 As implementation requires works within the highway boundary, these need to be authorised via a s278 Agreement between Owl and Leicestershire County Council as highway authority. Despite submitting details for approval some 10 months ago, such approval has yet to be received. The result is that the works will not now be able to be completed prior to the anticipated date of first occupation.

1.7 Owl remain hopeful that approval will be received in February 2026 with the works then being undertaken in March 2026.

2. The Proposed Solution

2.1 Owl would like to be in a position to allow a limited number of occupations (up to 10) to go ahead prior to the works being completed.

2.2 To allow this to happen it is suggested that any issues on Wykin Lane could be avoided by implementing temporary traffic management measures preventing traffic exiting the development from travelling down that part of Wykin Lane on which the parking places would be provided. We are not clear whether there are any proposals to regulate traffic travelling to the development, although we would assume that this is more difficult to achieve.

2.3 Owl seek advice as to whether there is a justifiable argument in planning terms to allow this to happen, and the mechanism for achieving it.

3. Advice

3.1 The appeal decision authorised the construction of up to 55 homes. It noted that the associated trips would result in up to 28% increase in traffic movements on Wykin Lane

throughout the day¹. If this increase is adjusted for 10 homes we anticipate that the corresponding increase would be approximately 5%.

- 3.2 Owl would need evidential support from its highways consultants but it may be that such level of increase would be within the natural daily variation for traffic on the Lane and give rise to limited additional safety risk as a consequence without any further mitigation.
- 3.3 Nevertheless, with the additional mitigation this risk would be reduced still further.
- 3.4 Whilst it would need to be properly evidenced, we consider it likely that an case could be formulated that a limited relaxation in the restriction imposed by the condition would not give rise to safety risks and that agreeing to relax the condition would be within the limits of legitimate planning judgement in the context of the appeal decision.

4. The mechanism to achieve a relaxation

- 4.1 At present, occupations cannot proceed unless condition 19 is relaxed to remove the restriction on occupations until the passing places are complete. The condition therefore needs to be varied.
- 4.2 There is a mechanism to achieve such a variation, being an application application for a non-material amendment under s96A. The variation is likely to be achievable via s96A, the determination period for which is 28 days.
- 4.3 The LPA has a wide discretion to determine whether a change is material provided it is within the limits of rational planning judgment. We have set out above that provided evidence can be produced to demonstrate that there will be no increase safety risk above the current baseline as a result that we consider that the LPA would be able to conclude that the change is not material and amend the condition.
- 4.4 However, we anticipate that they would still want to consult LCC (even though there is no obligation to do so) as part of the determination process. As a consequence, we would suggest that the proposed amendment, the nature of any mitigation and how it will be secured ahead of occupations, and the supporting evidence is discussed with both the LPA and LCC prior to an application being made. Unless that support can be secured then the application is unlikely to be successful irrespective of our view on the reasonableness of its merits.

Eversheds Sutherland (International) LLP

16 January 2026

¹ See paragraph 13 of the Appeal decision