

**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.

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**APPLICATION DETAILS**

Planning Application Number: 25/00393/REM

Highway Reference Number: 2025/0393/04/H/R1

Application Address: Land Adjacent To Lockety Farm Hunts Lane Desford Leicestershire

Application Type: Reserved Matters

Description of Application: Re-consultation. Approval of Reserved Matters (appearance, layout and scale) of outline planning permission 23/00061/OUT for residential development of up to 100 dwellings

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**GENERAL DETAILS**

Planning Case Officer: Hinckley and Bosworth Borough Council

Applicant: Mr Mitesh Rathod

County Councillor: Markfield, Desford & Thornton ED - Charles Whitford CC

Parish: Desford

Road Classification: Class B

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**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 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 on the approval of Reserved Matters (appearance, layout and scale) of outline planning permission 23/00061/OUT for a residential development of up to 100 dwellings at land adjacent to Lockety Farm, Hunts Lane, Desford.

The LHA previously advised within its observations dated 2<sup>nd</sup> June 2025 that whilst the LHA had no objection to the proposals subject to conditions, the internal layout of the site would not be considered for Leicestershire County Council. The Applicant has subsequently submitted revised drawings to Hinckley and Bosworth Borough Council in their role as the Local Planning Authority.

Note – The LHA have included hyperlinks to relevant sections of the [Leicestershire Highway Design Guide \(LHDG\)](#) within this report. These are in bold, underlined and in blue text.

## **Internal Layout**

The acceptability of an adopted road layout is subject to a Section 38 (S38) agreement in accordance with the Highways Act (1980). For the site to be suitable for adoption, the internal layout must be designed fully in accordance with the LHDG.

The Applicant is advised that any review of the site layout provided by the LHA prior to determination of this planning application does not prejudice any future S38 application made to the LHA post granting of planning consent. Furthermore, adoptability of a site cannot be formally established until such time as S38 technical approval has been obtained through the S38 technical appraisal process with the LHA following the grant of planning permission. A site layout design submitted as part of a planning application which addresses all comments below does not guarantee a successful S38 application.

To aid the design process, the LHA have reviewed the following submitted drawing(s):

- BRP Architects drawing number 127-BRP-00-00-DR-A-0001 Rev. P07

Adoptability of a site is not a material planning consideration. The comments below are therefore separated into 'material planning considerations', which are required to be addressed pre-determination of this application, irrespective of adoptability, and 'adoptability' comments, which the Applicant may choose to address during the planning process in order to work towards a layout that meets the requirements for a S38 application.

Further information regarding sites that remain in private ownership and that are not adopted by the LHA can be found within the LHDG at

<https://www.leicestershirehighwaydesignguide.uk/approvals-road-adoptions-and-commuted-sums/roads-are-remain-private> .

## **Material Planning Considerations**

The LHA advises there are no material planning considerations.

## **Adoptability comments**

The LHA consider that the internal layout does not fully accord with the LHDG and the site is therefore not suitable for submission of a S38 application post granting of planning consent as currently presented. Whilst it is not a requirement for these matters to be addressed during the planning application stage, the Applicant may wish to consider addressing the following points to demonstrate a layout more likely to be suitable for an application for adoption under S38:

## **Adoption based on plot frontages**

- There are less than six plots fronting onto the shared surface road leading to plots 85-89. In line with [Policy 5: Highway Adoption Policy](#) of the LHDG this should be redesigned to increase the number of frontages or not be proposed for adoption.

## **Carriageway Geometry**

- The corner of the speed control bend, opposite plot 50 will need to be re-designed by the Applicant to curve round instead of a square edge, to discourage on street parking in the corner.

## **Speed control measures (not present)**

- Speed control measures will need to be re-designed into the road layout. In this instance, the maximum distance between speed control measures, junctions or 90-degree bends is either approximately 60m or 40m depending on the design speed/type of road. Further information can be found in [Table 20](#) of the LHDG.

- The bend opposite plots 49/50 should be redesigned to an 8m or less kerbed radii as per [Figure 27](#) of the LHDG, as it would be classed as a speed control bend at this location.

#### Forward Visibility

- Forward visibility splays are required at all junctions, bends and vertical crests, and the areas within the splays should be conveyed as highway, these should be in accordance with [Figure 8](#) of the LHDG.

#### Bend Widening

- Bend widening should be implemented at any bends that curve more than 10 degrees, in line with [Table 7](#) of the LHDG.

#### Radii

- The radii at the junctions and turning heads should be detailed on the plan, to ensure they are in accordance with the LHDG.
- The junction radii should be 6m for any side roads. Further information can be found in [Table 9](#) of the LHDG.
- The Applicant should also note that radii for turning heads should typically be 8m. Further information is available within [Figure 12](#) of the LHDG.

#### Turning heads

- The turning heads are not designed in accordance with the LHDG, subsequently they will all need amending. Further information is available within [Figure 12](#) of the LHDG.
- The turning head opposite plot 57 is slightly too large, while the turning head opposite plot 85 is unnecessarily large and serves no highway purpose. These do not need to be extended beyond the radii. The Applicant should shorten the turning head to just beyond the tangent points of the radii. Further information is available within [Figure 12](#) of the LHDG.

#### Footways

- It appears that there is an isolated 3m footpath/cycleway link running adjacent to the development (to the west) which connects to the existing PROW. Please can this be clarified and if so, there must be consideration for adequately tie-in to the site access from Hunt Lane, to ensure that it connects appropriately into the new proposals of the development.
- If any of the shared surfaces are re-designed in accordance with the LHDG (Max length of 40m and directly serving greater than six plots), the Applicant will need to ensure the footways are removed where vehicles will drive between the junction and the ramp onto the shared surface road, ensuring that the shared surface is designed for safe use by people with visual impairments, especially with the PROW connection, where the LHA would typically ask for 2m footways to run from the connection to the main spine road.
- Tactile paved uncontrolled pedestrian crossings should be provided and shown at junctions/where appropriate. e.g. at PROW crossings.

#### Shared Surfaces

- With regards to the above comment, the proposed shared surfaces throughout the site are too long to be a shared surface, as it is relatively straight, and considerably over the maximum recommended length, which will likely allow for users to exceed the 15mph design speed.
- The shared surfaces throughout the site are not in accordance with the LHDG and would not be considered for adoption. They should ideally not exceed 40m in length. Should the shared surfaces be included within the layout design, then these will need to be amended

accordingly, also ensuring they do not loop/link around the main spine road (from plot 57-78) and should ideally be 'split'.

- Additionally, the LHA would not require parking bays to be installed on shared surfaces as they are not in keeping with the nature of a shared surface.

#### Visitor parking bays

- The presence of the visitor parking bays throughout the site are proposed to be within the adopted highway extents and serve no highway benefit to the Authority. If they are to be provided to ensure minimum parking requirements are met, these should be constructed behind the highway boundary, and accessed via a shorter dropped kerb area to serve the spaces (preferably perpendicular to the carriageway).

#### Refuse Vehicle Tracking

- The Applicant is required to provide [swept path analysis](#) of the site for review. This should also include the private drives.

The Applicant is advised that the above matters are expected to result in changes to plot positions; should the application be determined with the site layout as currently presented and the Applicant subsequently wishes to put forward the roads for adoption under S38, this could result in the requirement for a Non-Material Amendment or S73 Variation of Condition application being required to be submitted to the LPA to meet the required LHDG standards.

The following elements of the proposals do not accord with the LHDG, however, as these are not expected to alter plot positions, it is expected that these can be addressed as part of a future S38 technical appraisal process:

- The carry distance for some householders on private drives (e.g. Plots 28/29 & 42/43 on the Shared Drives) exceeds the ideal maximum of 30m ([The Building Regulations 2010, Drainage and Waste disposal Approved Document H, Para 1.8, Page 54](#))

The Applicant is advised to note the following points:

- Any isolated and/or interconnecting footpaths would not typically be considered for adoption. If they were to be offered for adoption, they may incur an additional commuted sum.
- Consideration of root barrier/deflection treatment will be required when proposing trees/shrubs adjacent to the footway.
- The tree species will need to be agreed, to ensure a clear stem height, as to not impede on highway users' visibility. This will be checked further and approved at the S38 stage.
- At this stage it is not possible to comment on the vertical alignment, drainage, materials or proposed construction details.

#### Parking Provision

- The LHA have reviewed the parking and garage (if provided) provision for each plot and considers the number of parking spaces and dimensions for each plot to be in accordance with the LHAs [off-street residential parking standards](#) guidance within the LHDG. The Applicant will need to consider visitor parking in line with the above comments, however.
- Some four bed plots, for example Plots 51, 52, 54, 58, 82 and 83 have parking provided in a tandem arrangement, which could lead to an increase in on-street parking. This should be reviewed by the Applicant.

- 1x1m pedestrian visibility splays should also be detailed where all private drives or shared private drives meet the highway.

### **Public Rights of Way**

Along the inside western edge of the application site is a crushed-stone surface driveway which is both the route of public right of way Footpath R95 and a private right of way giving vehicular access to Lockey Farm. Under common law the legal width of the public right of way is the whole width of the driveway of approximately 3 metres. The LHA is not responsible for private rights of way, but in the case of a dual status route such as this, any development needs to properly allow for the private usage to ensure the public usage is not adversely affected. All the development plans, including the recently submitted re-designed ones, do not recognise the existence of the private driveway so the proposals for the treatment of the public right of way are inherently flawed. Satisfactory amended proposals will need to be submitted and agreed with both the LHA and the affected private rights holder.

The public footpath will need to be upgraded to meet [design and construction standards](#) set out in the LHDG. For these works to be adequately monitored and delivered in accordance with these criteria the works to the highway (the public footpath) will likely need to be included in a Section 38/278 Agreement.

Where a route is used both by the public, as pedestrians, and by private vehicles, the improved surface construction needs to be capable of withstanding the vehicular traffic. The junction with the proposed estate road also needs to be suitable for the private vehicle use.

### **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 BRP architects drawing number 127-BRP-00-00-DR-A-0001 Rev. P07. 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 (2024).

2. Any dwellings that are served by private access drives (and any turning spaces) shall not be occupied until such time as the private access drive and dropped kerbs that serves those dwellings has been provided. The private access drives should be surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

3. 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 (2024).

4. 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 (2024).

5. 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 reenacting 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 (2024).

6. No development shall take place until a scheme for the treatment of the Public Right of Way Footpath R95 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 (2024).

## **Informative**

- The proposed road layout does not conform to an acceptable standard for adoption and therefore it will not be considered for adoption and future maintenance by the Local Highway Authority. The Local Highway Authority will, however, serve Advance Payment Codes in respect of all plots served by (all) the private road(s) within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge must be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the Advanced Payment Code may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details please email [road.adoptions@leics.gov.uk](mailto:road.adoptions@leics.gov.uk). Signs should be erected within the site at the access advising people that the road is a private road with no highway rights over it.
- 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(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](mailto: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.

**Date Received**  
**5 January 2026**

**Case Officer**  
**Ben Dutton**

**Reviewer**  
**DH**

**Date issued**  
**5 February 2026**