

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 Growth, Environment & Transport.

APPLICATION DETAILS

Planning Application Number: 25/00393/REM

Highway Reference Number: 2025/0393/04/H/R2

Application Address: Land Adjacent To Lockey 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

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

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 re-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 Lockey Farm, Hunts Lane, Desford.

The LHA previously advised within its observations dated 2nd June 2025 and 5th February 2026 that whilst the LHA had no objection to the proposals subject to conditions, the internal layout of the site would not be considered suitable for adoption by Leicestershire County Council. The Applicant has subsequently submitted revised drawings to Hinckley and Bosworth Borough Council in their role as the Local Planning Authority (LPA).

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 drawings:

- BRP Architects drawing number 127-BRP-00-00-DR-A-0001 Rev. P08
- Jelson Homes drawing number ES-AGA-01 (Agricultural Access Sketch)

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 predetermination 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-commutedsums/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 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:

- 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 layout changes to include a long stretch of shared surface towards the bottom of the development means no calming features can be provided, a more traditional layout may be suitable in this area.

- 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). Alternatively sufficient space may be available on the carriageway for visitor parking. These areas will be subject to a commuted sum if they remain in the extents of the highway.

- 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.
- The Applicant should review and adjust the layout accordingly to ensure it is compliant with the LHDG, making note of the maximum number of plots served from each class of road and its type of use etc.
- 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. A notable location is the bend at Plots 49/ 50/ 61/ 62.
- 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. The bend 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.
- The turning heads are unnecessarily long, serving no additional highway purpose from looking at the swept path analysis, and does not need to be extended beyond the radii. The LHA would ask the Applicant to shorten the turning head to just beyond the tangent points of the radii and extend the private drives to suit. Further information is available within [Figure 12](#) of the LHDG.
- The shared private drives over 25m in length are required to be a minimum of 5m in width.
- 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.
- 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.

- The Applicant is required to provide [swept path analysis](#) 11.2m refuse vehicle manoeuvring around the site for review.

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](#))
- Tactile paved uncontrolled pedestrian crossings should be provided and clearly shown at junctions/where appropriate. e.g. at PROW crossings.
- Any isolated and/or interconnecting footpaths would not typically be considered for adoption e.g. the footpaths leading to the local equipped area for play and the pedestrian connections. If they were to be offered for adoption, they may incur an additional commuted sum.
- 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.

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. However the Applicant will need to consider visitor parking in line with the comments above.
- 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

The LHA response dated 5 February 2026 noted:

“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. ... 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.”

A subsequent LHA email dated 03/03/2026 sets-out requirements for the farm access in terms of vehicle, tracking, width of the farm access/public right of way, and the standard of surface construction. Recently submitted documents include a plan of Agricultural Access Tracking (Rev A) drwg. no. DES-AGA-01. This may address the first point in the 3 March 2026 LHA email, but the other 'dual status' issues are outstanding, as are other issues related to the public right of way (PRoW). The Applicant needs to submit further information before this permission could be legitimately granted.



Included above is an excerpt of the latest Proposed Site Layout J127-BRP-00-00-DR-A-0001

Revision P08 overlaid with the Definitive Map the legal record of public rights of way. The issues highlighted by this are:

1. Unauthorised PRoW Diversion: Though a new alignment (with appropriate tracking for a tractor and trailer) is required for the exit from the estate spine road for the *private vehicular access* to Lockey Farm, that does not and cannot alter the alignment of the *public right of way* which is legally 'fixed' by the Definitive Map.

On Site Layout P08 there is currently no pedestrian path between points 'C' and 'E' and at point 'D' there is a tree which would be an unlawful obstruction. Between 'C' and 'E' on the legal alignment as shown on the plan there needs to be a 2-metre-wide tarmacked pedestrian path with a 1 metre grass verge either side. There should be no planting of shrubs or trees within 1 metre of the constructed surface of the PRoW.

Site Layout P08 shows that between points 'A' and 'B' the existing PRoW legal alignment is proposed to be covered over. If the main estate spine road is confirmed to be adopted, that would provide a surfaced public highway connection between Hunts Lane and the extent of Footpath R95. However, if the spine road is not to be adopted it will be necessary for the applicant to also provide a constructed pedestrian path on the alignment 'A' to 'B'.

2. Dropped Kerbs: Whatever the status of the footways alongside estate spine road, dropped kerbs should be provided at points 'B' and 'C' on the PRoW alignment.
3. Width: Under common law the legal width of the public right of way on the farm driveway extends to the whole width of the track which is approximately 3 metres wide. The route drawn on Site Layout P08 south-westwards of point 'E' scales at 3 metres wide. However, the applicants' relevant plans need to be explicitly annotated to confirm that where the farm access and public right of way coincide the constructed surface is a minimum of 3 metres wide throughout, with a clear grass verge reflecting the current widths of verge available to the public, as these provide a refuge area for pedestrians to stand aside whilst farm traffic passes.
4. Surfacing: 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. 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. The LHA adoptions team advise the construction should accord with [Table 13](#) of the LHDG for an access for 6 to 25 dwellings. It is advisable that the applicants' relevant plans are annotated to confirm the constructed surface will meet this standard.
5. Signage: Fingerpost signs are a legal requirement where a PRoW exits from or crosses a surfaced road whether public or private. Where the need for the new sign is due to development, the developer who creates the need for a new sign is responsible for paying for it. So, a sign conforming to LHDG specification [SD/FP/7](#) is required at point 'C'. Similar fingerpost signs highlighting the access on the public right of way should also be installed at points 'F', 'G' and 'H' beside the additional paths created at the ends of new estate roads whether public or private.

To ensure the delivery of these elements, it is requested that any planning permission includes a suitably worded condition.

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. P08. 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 Highways Design Guide 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. 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 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
16 April 2026

Case Officer
Ben Dutton

Reviewer
DH

Date issued
11 May 2026