

Jane Steel

From: Andrew Poole (PROW) <Andrew.J.Poole@leics.gov.uk>
Sent: 06 July 2023 16:01
To: Planning Folder New
Cc: Lesley Keal
Subject: 23/00543/DISCON | Application to discharge conditions ... 18, (Public Right of Way) re: application 20/00511/FUL | Land Beech Drive Thornton Bagworth And Thornton Leicestershire
Attachments: Cond 18 Plan Prow Plan and Sections Dwg No. EDp140_d039-a-.pdf; PRoW R85 Def Map and Cond 18 Plan.pdf

Dear Hinckley and Bosworth Borough Council

RE: 23/00543/DISCON | Application to discharge conditions ... 18, (Public Right of Way) relating to application 20/00511/FUL | Land Beech Drive Thornton Bagworth and Thornton Leicestershire

These comments supplement the Local Highway Authority substantive response by the County Council's Highway Development Management team, who agreed to this further submission as staff leave meant their internal deadline was partly missed by the Rights of Way section.

Condition 18 of the Decision Notice can not be discharged because there is a lack of clarity about how the public right of way Public Footpath R85 will be accommodated in future. Whilst this is inferred by the 20/00511/FUL Planning Statement paragraphs 7.71 and 7.72, there appears to be no explicit plan with either of the two applications.

Included with application 23/00543/DISCON is the plan C18, Prow Plan and Sections Dwg No. EDp140_d039-a- (first attached) but this substantially confuses the issue. Second attached is that C18 plan overlaid with an extract from the Definitive Map of public rights of way (the official legal record) which highlights the PRoW is a through route to the southeast of the village. Any legal diversion of the PRoW needs to not make it substantially less convenient.

Whereas the 'sections' at the bottom of C18 sheet and alignments labelled on the key as a Primary Recreational Route either surfaced by tarmac or self-binding yellow gravel are what might be classed as 'permissive paths' around the public open space and tree planting. Whilst those might be popularly called 'Footpath' they are nothing to do with public right of way to which Condition 18 solely relates and so the drawing is no answer to that condition.

Also there is a need for the developer to get on with promptly submitting an application for legally diverting the public right of way. Applications for that under the Town and Country Act Planning Act can not be retrospective. *'The power contained in section 257 is only available if the development, insofar as it affects the path or way, is not yet substantially completed'* as the Planning Inspectorate themselves note (see para 4.1.7

<https://www.gov.uk/government/publications/rights-of-way-advice-note-9-general-guidance-to-inspectors-on-public-rights-of-way-matters>)

Yours sincerely

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