

Delegated Report

Planning Reference 25/00438/FUL
Applicant(s) Mr Mike Watts
Ward Ratby, Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Application Site Holywell Farm, Desford Lane,
Ratby

Proposal Subdivision of the existing dwelling into two dwellings

Case Officer Ashleigh Gade (Senior Planning Officer)

1. Recommendations

- 1.1. **Grant planning permission** subject to:
- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. This planning application seeks full planning permission for the subdivision of the existing dwelling at Holywell Farm, Desford Lane, Ratby, into two dwellings including alterations to the existing building.
- 2.2. The application site contains a three-storey detached farmhouse dwelling, an access drive from Desford Lane, existing parking and turning areas to the east of the dwelling, and associated private amenity space to the north.
- 2.3. The application dwelling is a three-storey, five-bedroom dwelling of brick construction with a tiled roof. It has a multi-gable roof form and two-storey bay windows on the western elevation, as well as a previous dual-gabled side extension.
- 2.4. The proposed subdivision of the dwelling would create two semi-detached dwellings each containing three bedrooms. Each dwelling would retain two first floor bedrooms and the existing large second floor bedroom would be halved to create a third bedroom for each resulting dwelling. The kitchen and living area for each dwelling would be located on the ground floor, with the new division passing through the existing dining room.
- 2.5. The proposal does not involve any extension to the existing building and maintains the existing building footprint.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located within the designated open countryside to the west of the settlement boundary of Ratby. Ratby is a Key Rural Centre located on the periphery of Leicester.
- 3.2. The application site consists of the existing Holywell Farm farmhouse, its parking and turning areas, private garden amenity space, and the extended access drive from Desford Lane.
- 3.3. The wider Holywell Farm site contains a number of agricultural fields to which the cluster of buildings containing the application building is centrally located. The cluster of buildings at the end of the access drive contains a number of outbuildings and former agricultural buildings, all of which are now in derelict condition.
- 3.4. The Holywell Farm site contains the Scheduled Monument, Bury Camp, an Iron Age hillfort which is located approximately 160 metres north-west of the application site.
- 3.5. The existing access from Desford Lane is hardsurfaced at the point of entrance with passing room for vehicles traveling in either direction. The remainder of the access is via a long and narrow farm track. Desford Lane is an adopted and classified 'C' road subject to a 60mph speed limit.
- 3.6. A public bridleway (R42) follows most of the access drive and passes to the south of the application building. To the east of the application site public footpath (R42) crosses the access drive and meets with the public bridleway.
- 3.7. The application site is immediately surrounded by land within the designated open countryside, though it is not far removed from the outskirts of Ratby. To the east of the site beyond other farms is Ratby Medical Centre and the Ratby Sports Club, which mark the western entry to Ratby along Desford Lane.
- 3.8. The application site is immediately surrounded by land within the designated open countryside, though it is not far removed from the outskirts of Ratby. To the east of the site beyond other farms is Ratby Medical Centre and the Ratby Sports Club, which mark the western entry to Ratby along Desford Lane.

4. Relevant Planning History

4.1 05/00117/CLU

- Certificate of Lawfulness for an existing use as a residential dwelling house and its curtilage within Class 3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987
- Certificate of Lawful Existing Use
- 26.05.2005

4.2 13/00719/FUL

- Subdivision of existing dwelling into two dwellings
- Planning Permission
- 11.12.2013

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents, and a site notice was also posted within the vicinity of the site.
- 5.2 No responses have been received.

6. Consultation

- 6.1 Leicestershire County Council (LCC) Highways, the Local Highway Authority (LHA) referred the Local Planning Authority (LPA) to standing advice. The LHA noted that the Applicant should be mindful of the Public Right of Way (PROW) along the access track to the development site, though they noted that they were satisfied that the development would not significantly affect the PROW.
- 6.2 Hickley and Bosworth Borough Council (HBBC) Drainage provided advice to the Applicant regarding surface water drainage.
- 6.3 LCC Archaeology have advised that the proposal does not appear to include any works that could potentially disturb archaeological buried remains present within the site. As such, no further archaeological action is warranted.
- 6.4 The Environment Agency advised that the site is within Flood Zone 1 and as such they had no further comments.
- 6.5 LCC Minerals and HBBC Environment Services Pollution advised they have no objection to the development.
- 6.6 No response was received from Ratby Parish Council, National Grid or HBBC Waste.

7. Policy

- 7.1 Core Strategy (2009):
- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres Relating to Leicester
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation

- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2024)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

8.1. Key Issues:

- Assessment against strategic planning policies
- Housing land supply
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Assessment against strategic planning policies

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions. Paragraph 3 of the NPPF confirms that it should be read as a whole.

8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.

8.4 However, Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

8.5 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF.

- 8.6 Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Nevertheless, in accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 8.7 Chapter 11 of the NPPF promotes an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. This demonstrates that safeguarding and improving the environment is an effective use of land.
- 8.8 As a result, outside defined settlement boundaries, the designated open countryside is not generally regarded as a sustainable location for new development. Paragraph 84 of the NPPF states that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- (a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
 - (b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
 - (c) the development would re-use redundant or disused buildings and enhance its immediate setting;
 - (d) the development would involve the subdivision of an existing residential building; or
 - (e) the design is of exceptional quality, in that it:
 - i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - ii. would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
- 8.9 This approach to safeguarding the countryside from inappropriate development is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. To ensure this, Policy DM4 of the SADMP only considers development in the countryside sustainable where:

- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 8.10 Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.11 The proposal involves the subdivision of the existing residential dwelling to change its use from one residential dwelling to two residential dwellings. Therefore, the proposal is considered to comply with Paragraph 84(d) of the NPPF and to likely comply with Policy DM4(b) of the SADMP, subject to ensuring that the scheme leads to an enhancement of the immediate setting.
- 8.12 Given the above, it is considered that the proposal is offered support by Paragraph 84 of the NPPF and likely Policy DM4 of the SADMP. Notwithstanding its location within the designated open countryside, it is considered that the development is acceptable in principle given the site-specific circumstances, subject to the assessment of all other material considerations.
- 8.13 Other material considerations are set out within the next sections of the report.

Housing land supply

- 8.14 Chapter 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim should be to meet an area's identified housing need, including an appropriate mix of housing types for the local community.
- 8.15 Paragraph 73 of the NPPF states that small and medium-sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area and are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built out relatively quickly.

- 8.16 In order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.
- 8.17 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.18 The Planning Policy team are currently reviewing the latest revisions to the NPPF within the 2024 version of the document and its implications for the Council's Five-Year Housing Land Supply. A revised position will be published once the monitoring for the 2024/25 year has been completed. It is however likely that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published.
- 8.19 In light of this, and due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered in accordance with Footnote 8 and Paragraph 11 of the NPPF. For decision-taking, Paragraph 11(d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.20 Footnote 9 of the NPPF confirms that these key policies include Paragraphs 66 and 84 of Chapter 5 (Delivering a Sufficiently Supply of Homes), 91 of Chapter 7 (Ensuring the Vitality of Town Centres), 110 and 115 of Chapter 9 (Promoting Sustainable Transport), 129 of Chapter 11 (Making Effective Use of Land), and 135, and 139 of Chapter 12 (Achieving Well-Designed Places).
- 8.21 In this instance, Key Policy Paragraphs 84, 115, 129, 135, and 139 are applicable to the proposed scheme.
- 8.22 The proposal is for the subdivision of one residential dwelling into two residential dwellings, resulting in the provision of one additional residential unit.

- 8.23 Though it is likely that the Council will be unable to deliver a five-year supply of land for housing, the benefit of providing one dwelling within the application site is considered to attract limited weight in the planning balance.

Design and impact upon the character of the area

- 8.24 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Key Policy Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.25 Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.26 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.27 This application seeks to subdivide the existing residential dwelling, the Holywell Farm farmhouse, to create an additional residential dwelling.
- 8.28 The subdivision of the existing building results in two external alterations to the existing building; the addition of an entrance door on the front (eastern) elevation and the replacement of an existing window on the rear (western) elevation with a door.
- 8.29 The proposed additional entrance door on the front elevation matches the dimensions and materials of the existing corresponding door. The proposed door on the rear elevation maintains the existing lintel detail and opening width of the window it replaces and is therefore considered to sit comfortably in its context.
- 8.30 There are no extensions proposed to the existing building, and it therefore remains consistent in its size, scale, mass and footprint.
- 8.31 To ensure that sufficient private amenity space is provided to each building, the proposal will also include the establishment of new boundary treatments to the rear of and between the proposed dwellings. This would be in the form of timber fencing.
- 8.32 It is considered that the addition of timber fencing necessary to ensure privacy between the gardens would create a minor urbanising effect on the immediate surrounds of the proposed dwellings. Notwithstanding this, the application building is not visible from surrounding roads and is not prominently visible from surrounding public footpaths or bridleways by virtue of the surrounding topography and established mature trees.

- 8.33 It is therefore considered that the proposal would not result in any significant adverse impacts to the character of the surrounding area, nor to the intrinsic value, beauty, open character, and landscape character of the countryside. The proposal is considered to be consistent with Policies DM4 and DM10 of the SADMP.

Impact upon residential amenity

- 8.34 Key Policy Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.35 Policies DM10(a) and (b) of the SADMP state that development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.36 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 8.37 The Good Design Guide seeks that a principal window to a habitable room should be no less than 8 metres from the blank side of a single storey neighbouring property, rising to 14 metres for a two-storey property. In addition, the separation distance between two principal windows to habitable rooms should be a minimum of 21 metres. The exception to this is where amenity and overlooking are dealt with by good design.
- 8.38 Further, the Good Design Guide requires that dwellings of three or more bedrooms provide a minimum of 80 square metres of outdoor amenity space with a minimum length of 7 metres.
- 8.39 Notwithstanding this, every application is to be assessed on its own merits depending on the individual characteristics of the site such as orientation, ground levels, window positions, garden size, and shape.
- 8.40 There are no other residential properties within proximity to the application building. Furthermore, it is understood that at the time of writing none of the surrounding former agricultural buildings are in active use, due to their dilapidated condition. As such, the amenity impacts of the proposal pertain to the host building itself.
- 8.41 The two existing two-storey bay windows have side glazing that allows views toward the neighbouring bay window. This is not the primary outlook on either bay window, which in both cases looks directly out over the proposed private garden space. Furthermore, on the ground floor these views will be interrupted by the proposed timber fencing, while on the first-floor level the bay window corresponds with two non-habitable rooms (bathrooms).

- 8.42 All other existing windows on the host building look over the parking and turning areas, out toward the open countryside, or over the proposed private garden areas.
- 8.43 Both proposed dwellings provide a sufficient quantum of private amenity space.
- 8.44 To support the residential amenity of future occupiers of new residential development, the Good Design Guide seeks to ensure that development will exceed the internal space standards set by the Nationally Described Space Standards (NDSS) (2015) wherever possible.
- 8.45 In accordance with Paragraph 10(c) of the NDSS, to provide one bed space, a single bedroom should have a floor area of at least 7.5sqm, and a width of at least 2.15m. In order to provide two bed spaces, a double or twin bedroom should have a floor area of at least 11.5m, and a width of 2.75m for the master bedroom, and a width of 2.55m for every other bedroom in accordance with Paragraphs 10(d) and (e) of the NDSS.
- 8.46 All proposed bedrooms comply with the minimum requirements for double bedrooms.
- 8.47 Given the size of the proposed bedrooms, each dwelling is considered to have a six-person capacity across the proposed three-bedrooms. Each dwelling has three storeys. The NDSS therefore seeks a minimum overall floor space of 108 square metres and a minimum of 2.5 square metres of built-in storage.
- 8.48 The proposed dwellings each provide in excess of 108 square metres of floor space. No built-in storage has been demonstrated on the plans; however the Applicant has drawn the Planning Officer's attention to areas of the floor plan clearly capable of providing sufficient storage space.
- 8.49 It is therefore considered that the proposal would not result in any significant adverse impacts to the residential amenity of the future occupants of the scheme and accords with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon parking provision and highway safety

- 8.50 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.51 All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority. This is currently the Leicestershire Highway Design Guide (LHDG) (2024).

- 8.52 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. The LHDG states that dwellings comprising up to three bedrooms should provide 2 off-street parking spaces per dwelling.
- 8.53 The proposal utilises the existing access to the site from Desford Lane which is already used in association with the existing dwelling. The access has recently been improved by the widening and hardstanding of the first 12 metres of the drive from Desford Road, at a width of 5 metres.
- 8.54 Though the access track narrows closer to the application building it is noted, as has been acknowledged in previous applications on the wider site, that the nature of the existing drive and its surrounds make passing along the track possible. For a proposal providing only one additional residential property at the end of the track, it is not considered that any upgrading to the existing situation is required to make the proposal acceptable on highways grounds.
- 8.55 The proposal provides two parking spaces per dwelling within the existing courtyard area, directly east and in front of the application building. All four parking spaces meet the minimum dimensions required by the LHDG.
- 8.56 It is therefore considered that the proposal would not create an unacceptable impact upon highway safety and would provide adequate parking, in accordance with Policies DM17 and DM18 of the SADMP, and the requirements of the LHDG.

9 Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.

- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10 Conclusion

- 10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11 Recommendation

- 11.1 **Grant planning permission** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Site Location Plan – 13.81.OS
 - Proposed Plans / Elevations – 13.81.20
- Both submitted 29.04.2025.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The materials to be used on the external elevations of the proposed alterations shall match the corresponding materials of the existing dwelling.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the Proposed Plans / Elevations – 13.81.20 (submitted: 29.04.2025). Thereafter the onsite parking (and turning) provision shall be kept available for such uses 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).

5. Notwithstanding the provisions of Classes A, AA, B, C, D, and E of Part 1 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To protect the character of the surrounding area and to safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.
2. Where work is on or near public rights of way, the Applicant needs to be aware that:
 - a) 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.
 - b) 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.
 - c) The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
 - d) If the Applicant 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.

- e) 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.
- f) 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.