

**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: 25/01037/FUL

Highway Reference Number: 2025/1037/04/H/R1

Application Address: 39 Main Road Ratcliffe Culey Atherstone Leicestershire CV9 3NY

Application Type: Full

Description of Application: Re-consultation. Demolition of 3 agricultural barns, erection of 3 new residential dwellings and change of use 2 agricultural barns to residential dwellings

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**GENERAL DETAILS**

Planning Case Officer: Faizal Jasat

Applicant: Mr Daniel Kitchen

County Councillor: Market Bosworth ED - Joshua Melen CC

Parish: Witherley

Road Classification: Class C

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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 re-consulted by the Local Planning Authority (LPA), Hinckley & Bosworth Borough Council (HBBC), on a planning application which seeks the:

*'Demolition of three agricultural barns, erection of three new residential dwellings and change of use of two agricultural barns to residential dwellings.'*

The proposals are at 39 Main Road, Ratcliffe Culey, Atherstone, Leicestershire, CV9 3NY.

The LHA previously responded to the LPA on the 21 November 2025 requesting further information, this included the following:

- Detailed visibility splay drawing; and
- Revision to Plot A to facilitate Public Right of Way.

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

In response to the LHAs previous observations the Applicant has provided the following additional information:

- Access Arrangements with Visibility Splay, drawing number ADL\_6851-01; and
- Proposed Site Plan, drawing number 240-302 Rev D.

### **Site Access**

The LHA have reviewed the drawing titled 'Access Arrangements with Visibility Splay', drawing number ADL\_6851-01 and along with the proposed wall set-back distance are satisfied visibility splays accord with [Table 6](#) of the LHDG.

### **Internal Layout**

The LHA have reviewed the drawing titled 'Proposed Site Plan', drawing number 240-302 Rev D and note that the Applicant has revised plot A, which is welcomed by the LHA. Whilst the internal layout is not to LHDG standards, given the site is private, no further information is required in this respect.

As alluded to within the LHAs previous observations, the application site includes Public Right of Way (PRoW) Footpath T12 the route of which is accurately shown by green dashes on Proposed Site Plan, Drg No. 240-302 Rev D. An annotated excerpt of that plan is included below labelled Figure 1.



Figure 1

The National Planning Policy Framework (NPPF) paragraph 105 requires:

'Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.'

Also Planning Policy Guidance (PPG) in Circular 1/09 establishes that the effect of development on a public right of way is a material consideration in the determination of applications for planning permission. The NPPF, PPG and Circular 1/09 are applied locally by the Leicestershire Highways Design Guide (LHDG), annex on Development and public rights of way at:

<https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/public-rights-way>

The Design and Access Statement paragraph 5.6 proposes the PRow will “be sensitively enclosed and protected by a 1.8m high close-boarded timber fence forming the side boundary to House A”. This is contrary to the LHDG paragraphs 7 and 8. This also unlawfully obstructs the width of the footpath which is defined by the common law “hedge-to-hedge” or “boundary-to-boundary” presumption as being the full width between the boundaries. For further information the Applicant should contact [footpaths@leics.gov.uk](mailto:footpaths@leics.gov.uk).

Whilst this matter will need to be addressed, this can be dealt with via condition.

For the reasons set out above, the LHA would not seek to resist the application subject to the following conditions.

### **Conditions**

1. The development hereby permitted shall not be occupied until such time as the access and parking and turning facilities have been implemented in accordance with Proposed Site Plan, drawing number 240-302 Rev D. Thereafter the access and onsite parking and turning provision shall be kept available for such use in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner reduce and the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

2. No development shall take place until a scheme for the treatment of the Public Right(s) of Way 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 processes to ensure they do so in future; and any new construction works. Physical construction should address width, surfacing, drainage, structures, and impacts of any landscaping and boundary treatments in accordance with the principles set out in the Leicestershire Highway Design Guide on Development and Public Rights of Way at: <https://www.leicestershirehighwaydesignguide.uk/highway-layouts-and-design/public-rights-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 Dec 2024.

3. Prior to first occupation, a scheme for PRow barriers in land boundaries, should be formulated by the developer and approved by the Local Planning Authority in accordance with the principles set out in the Leicestershire Highway Design Guide on Development and Public Rights of Way.

Reason: to ensure the path is easier to use in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 105 of the National Planning Policy Framework 2024.

4. Prior to the completion of the development, a signage scheme in respect of the Public Right(s) of Way, should be formulated by the developer and approved by the Local Planning Authority in accordance with the principles set out in the Leicestershire Highway Design Guide on Development and Public Rights of Way.

Reason: to ensure the path is easy to follow through the development in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 105 of the National Planning Policy Framework 2024.

5. No trees or shrubs should be planted within 1 metre of the edge of the Public Right(s) of Way. Any trees or shrubs planted alongside a Public Right of Way should be non-invasive species.

Reason: to prevent overgrowth of the path in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 105 of the National Planning Policy Framework 2024.

6. The Footpath through the built-up area between points B and D should comprise a 2-metre-wide constructed surface with a 1 metre grass verge either side in accordance with the Leicestershire Highway Design Guide on Development and Public Rights of Way.

Reason: to provide an all-weather route in the interests of protecting and enhancing Public Rights of Way and access in accordance with Paragraph 105 of the National Planning Policy Framework 2024.

## **Informative**

- Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://www.leicestershirehighwaydesignguide.uk/>
- Prior to construction, measures should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works.
- Public Rights 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.

- If there are any Public Rights of Way which the applicant considers impracticable to retain on their existing lines, a separate application for diversion is required. It should be submitted under the Town and Country Planning Act 1990 to the Local Planning Authority. The applicant is not entitled to carry out any works directly affecting the legal line of a Public Right of Way until a Diversion Order has been confirmed and become operative.
- 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.
- Public Rights of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
- 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**  
**7 January 2026**

**Case Officer**  
**Neal Chantrill**

**Reviewer**  
**BD**

**Date issued**  
**21 January 2026**