
APPLICATION DETAILS:

Planning Application Number: 26/00126/ROW

Public Rights of Way Case Reference: 2694

Application Address: Land North Of A47 Normandy Way And East Of Stoke Road Hinckley
Leicestershire

Description of Application: Application to divert footpath T60/2 in relation to permission
25/00537/REM

Applicant Name: Olivia Tibbles for Countryside Properties (UK) Ltd T/A Vistry South
East Midlands

Date:

Hyperlink:

GENERAL DETAILS:

Access Officer: Andrew Poole

Planning application 22/00318/OUT (permitted by appeal decision APP/K2420/W/23/3323113) and planning permission 25/00537/REM necessitate diverting public right of way Footpath T60. In such cases there is no Decision Notice, but the diversion is done by a legal 'Public Path Order' made by the local planning authority (LPA) which granted the permission. The procedures are in The Town and Country Planning Act 1990 (TCPA90) section 257 and regulations (see www.legislation.gov.uk/ukxi/1993/10/made). Any legal diversion must be acceptable to the local highway authority (LHA), as the LHA then takes on oversight of the route. Reflecting the Public Path Order the LHA will also modify the Definitive Map of public rights of way (the official record) so the changes appear on Ordnance Survey maps and on the LHA's public mapping portal at: www.leicestershire.gov.uk/roads-and-travel/cycling-and-walking/where-to-walk-and-ride-in-leicestershire.

The decision APP/K2420/W/23/3323113 was made by the Planning Inspectorate who omitted consideration of the public right of way. With permission 25/00537/REM the LHA's responses highlighted the existence of the public right of way but, for various reasons, no specific conditions were included in the LPA's Decision Notice. The issues outstanding have subsequently been raised via the Section 38 agreement process. Included below is a plan comprising part of the S38 Adoption Plan 1 overlaid with an excerpt from the Definitive Map.

To reflect the requirements of the TCPA90 section 257 and the LHA's Leicestershire Highways Design Guide (LHDG), the LHA advises that the LPA's Public Path Order for this diversion should contain the following sections:

3. The diversion of the footpath shall have effect on the date on which, on behalf of Hinckley & Bosworth Borough Council, the Leicestershire County Council certifies that the terms of Article 2 above have been complied with.
4. The following works shall be carried out in relation to the highway described in Part 2 of the Schedule namely:

(a) The alternative Footpath T60 shall have a 2.0 metres wide asphalt surface (reflecting the LHA standard specification for footways on drwg. SD/1100/05) with a minimum of 1.0 metre clear grass verge on either side unimpeded by any tree or shrub planting.

(b) Where Footpath T60 meets or crosses an estate road, dropped kerbs should be installed at the crossing points.

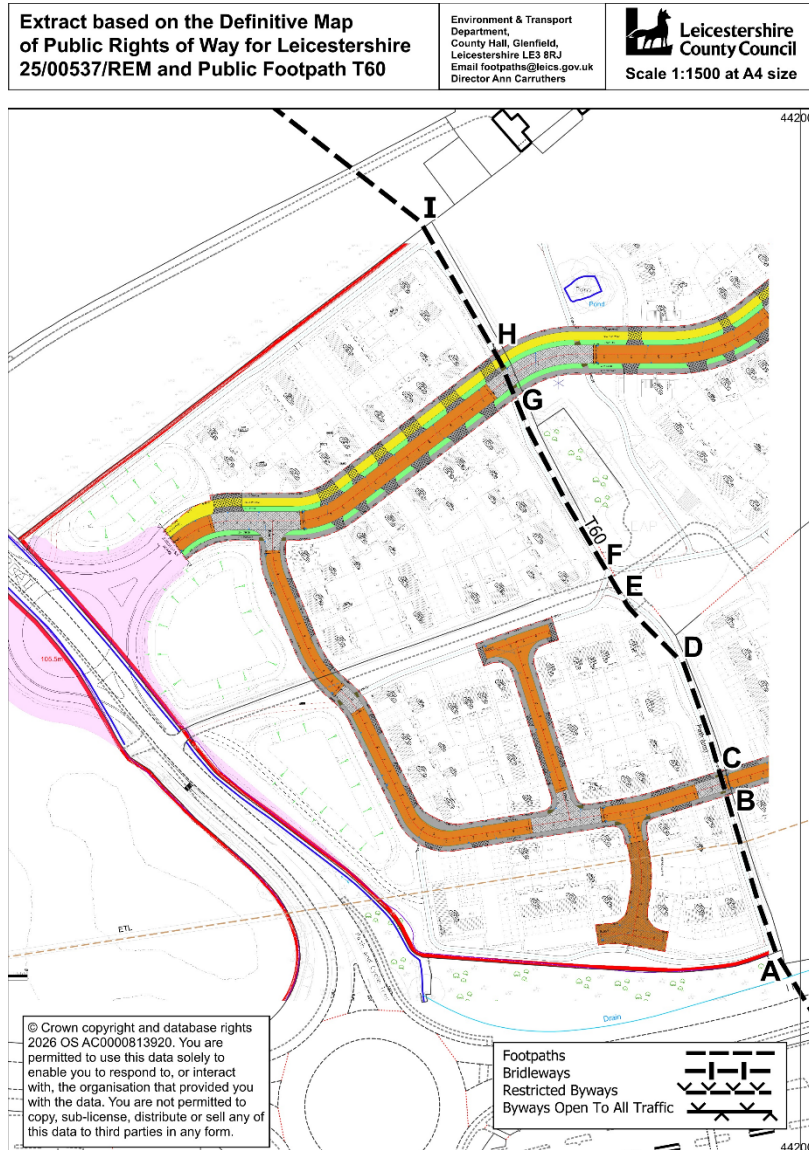
(c) There shall be fingerpost signs (conforming to LHA standard design SD/FP/7) where the alternative Footpath T60 diverges from, or crosses over, estate roads (whether public

or private) and also where needed to maintain the identity of the right of way as a through-route. There shall be a yellow-topped marker post (conforming to LHA standard design SD/FP/6) at the point where Footpath T60 exits the northern site boundary.

(d) Any stiles in the site boundaries should either be replaced with a minimum 1.0 metre gap in the boundary, or if a barrier remains necessary, with a low maintenance metal kissing gate (reflecting LHA standard specification SD/FP/12) to comply with the government's 'least restrictive' option policy under the Equality Act 2010.

5. Countryside Properties (UK) Ltd T/A Vistry South East Midlands, 1 Penman Way, Enderby, Leicester, LE19 1SY are hereby required to pay the costs of carrying out the said works.

To clarify the comments above, for section 4.(b) dropped kerbs should be installed at points 'B', 'C', 'G', and 'H' on the plan above. For section 4.(c) fingerpost signs are needed at the road crossing points 'B-C' and 'G-H' and in several places between points 'D' and 'F' where the proposed east-west physical path has priority over the existing north-south right of way.



Planning case law requires that a TCPA90 section 257 Public Path Order must be made and legally 'confirmed' before the development is substantially complete, otherwise the LPA's legal powers to make the order will lapse. The LHA supports any Public Path Order that conforms with the recommended order sections outlined above. If the LPA cannot ensure that a legal order is made and legally confirmed within the timescale set by planning law, then the LHA objects to the current application.

The LHDG includes the LHA's standard specifications for Footways, Cycleways etc. at: www.leicestershirehighwaydesignguide.uk/materials-and-construction/standard-drawings-and-specification/series-1100-kerbs-footways-cycleways, and the LHA's standard specifications for other aspects of Public Rights of Way at: www.leicestershirehighwaydesignguide.uk/materials-and-construction/standard-drawings-and-specification/rights-way-standard-drawings.

To satisfy section 4.(c) the applicant may install the fingerpost signs themselves or, by prior agreement, the LHA can source and install suitable fingerpost signs the costs being recharged to the applicant.

Notes to Applicant

The following notes should be drawn to the applicant's attention:

- a) 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.
- b) 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.
- c) 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.
- d) 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.
- e) Public Rights of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
- f) 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.
- g) 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.

Kind Regards

Andrew Poole
Access Officer, Blaby + Hinckley & Bosworth
Safe and Sustainable Travel Team
Environment and Transport
Leicestershire County Council

Please note that the contents of this email including any attachments are offered as my officer opinion and will not prejudice any future decision the Highway Authority may make in relation to this matter.