A

Appeal Decision

Inquiry held on 3 & 4 June 2008
Site visit made on 4 June 2008

by Claire Sherratt **DipURP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

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Decision date:
9 July 2008

Appeal Ref: APP/K2420/A/08/2065755
Land adjacent to Lodge Farm, Wood Road, Nailstone, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Joanna Squires against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 07/01305/COU, dated 2 November 2007, was refused by notice dated 19 December 2007.
- The development proposed is change of use to residential caravan site for 4 gypsy families with 8 caravans, including construction of access, road, stables & hardstanding.

Application for costs

1. At the Inquiry an application for costs was made by Joanna Squires against Hinckley and Bosworth Borough Council. This application is the subject of a separate Decision.

Decision

2. I dismiss the appeal.

Main issues

3. I consider the main issues are:
   (a) the effect of the development on highway safety; and
   (b) whether there are other considerations, including the general need for gypsy sites and the needs of the families to which this appeal relates, that are sufficient to outweigh any identified harm.

Reasons

Highway Safety

4. The appeal site is situated to the east of Wood Road, a 'B' classified road. A new vehicular access would be created to provide access to four residential plots and a stable block. Each plot is intended to accommodate one static caravan and one touring caravan.

5. The appeal site is situated in open countryside where new residential development would normally be resisted in accordance with Policy NE5 of the Hinckley and Bosworth Local Plan (LP). As an exception to Policy NE5, LP Policy RES13 stipulates that planning permission will be granted for a gypsy caravan site where the proposal satisfies a number of criteria. It is common ground between the main parties that the criteria of this policy are met with the exception of criteria (d) which requires the proposal to have an acceptable

vehicular access and provision for parking and servicing; and (e) that it does not conflict with any other policies of the Local Plan.

6. The Council's case is that an acceptable vehicular access would not be provided and the proposal would therefore conflict with Policy RES13 (d). In addition, LP Policy T5 states that in considering proposals for new development and changes of uses which involve new accesses, the local planning authority will apply the highways design standards set out in the current edition of Leicestershire County Council's 'Highway Requirements for Development' (HRD). In my view, HRD referred to in Policy T5 is clearly a document incorporating design standards throughout. It is split into a number of parts but nevertheless clearly states that each part of the 'design standard ... should be read in conjunction with the other parts, which together form a complete guide to highway requirements related to development within the County'.

7. The HRD document has since been replaced by another document produced by Leicestershire County Council 'Highways, Transport and Development' (Htd). It was accepted by the appellant's witness that the reference to HRD in Policy T5 should simply be replaced by Htd. Htd was adopted as County Council Policy with effect from 1 January 2008 following some consultation. It is an interim version produced to ensure that Htd reflects latest national guidance, particularly PPS3, Manual for Streets (MfS) as well as PPG13. Part 1 is entitled 'Introduction' whilst Part 3 is entitled 'Design Guidance'.

8. A lot of inquiry time focused on whether all of Htd is relevant to the application of Policy T5 or simply Part 3 'Design Guidance'. In other appeal decisions that I have been referred to within the county, Inspectors appear to have considered the document as a whole. However, I am not familiar with the precise wording of the development plan policies relevant to those decisions outside Hinckley and Bosworth and whether they refer specifically to the HRD or Htd documents in a similar way to Policy T5.

9. There is no doubt in my mind that the Htd document should be read as a whole since Part 3 is cross referenced to Part 1 and visa-versa. Furthermore, the restrictions onto A and B classified roads referred to within the revised document is not unlike the general presumption against the construction of new accesses onto A and B classified roads and against the intensification in use of existing accesses that was contained in the original HRD document.

10. Part 1 of Htd contains 'policies'. Section IN5 sets out the access to the road network policy. Htd does not however form part of the development plan and can only be afforded weight as a material consideration. Paragraph 1.29 confirms that LCC will normally apply restrictions on new accesses for vehicles onto A and B classified roads which, among other considerations, have a speed limit above 40 mph or where measured speeds are in excess of 40 mph; roads without street lighting and roads where there is an existing problem with road safety. Elsewhere, on A and B classified roads, paragraph 1.30 confirms that accesses will not normally be restricted as long as its layout complies with the guidance set out in Part 3.

11. The appeal site is in a location where restrictions would normally apply. The proposal would not therefore be in accordance with policies contained in IN5 of

Htd irrespective of the ability to provide satisfactory visibility splays. This must be so, as the restrictions to be applied can not simply be to provide an access in accordance with the design guidance contained in Part 3 as this is the requirement that new accesses 'elsewhere' on A and B classified roads should meet. Whilst I accept that the visibility requirements set out in part 3 could be met, restrictions over and above the design guidance must therefore be applicable in this instance.

12. Guidance in Annex B of PPG13 relating to accesses to trunk roads stipulates that access will be most severely restricted in the case of motorways. The highest standard and most strategic routes on the core network will be subject to restrictions on access almost as stringent as those applying on motorways; and the remainder of the network will be subject to a less restrictive approach to connections, subject to consultations with the local authorities concerned. PPG13 contains examples i.e. in the case of motorways; access will be limited to junctions with other main roads, service areas, airports etc.

13. In relation to local roads, Annex B of PPG13 states that local authorities should apply the same principles applicable to trunk roads when formulating their own policy on local roads. I have been referred a recent appeal decision, by the Council, for a dwelling that would use an existing access onto an A classified road (ref: APP/F2415/A/07/2041635 – LPA Document 3). In this case, paragraph 1.29 of Htd would also apply. The Inspector finds no conflict between the County Council's guidance and PPG13 in terms of safety considerations and accords Htd significant weight. It seems to me that Htd applies a similar restrictive approach dependant on the nature of the road. I agree that it is not at odds with the advice in PPG13.

14. Whilst the capacity of the road could accommodate the additional development and adequate visibility could be achieved, unlike many of the surrounding local roads, there is no weight restriction along Wood Lane. It therefore provides part of an unrestricted network between junction 22 of the M1, via the A511 to the A447 used by HGVs as well as other traffic. I do not consider that it would cater mainly for local traffic and drivers who are familiar with the road. There are not a number of existing accesses periodically located along the road that may serve to warn drivers that there is every likelihood that vehicles may be turning. I would not expect a residential access to be signposted in any way. All in all, I consider it is a road where a residential access would be most unexpected by other road users. The nature of the road, together with the lack of street lighting would contribute to the hazard that I consider a residential access would present in this location. Furthermore, from what I saw, Wood Road presents very limited opportunities, if any, for future occupiers to go anywhere on foot. The pedestrian use of Wood Road would be extremely dangerous even during hours of daylight.

15. I acknowledge that there is an existing access to Lodge Farm that has some commercial use. This in itself would not justify a further access. The Council's highway witness described a situation that he had observed on site involving a vehicle having to swerve to miss another vehicle that had slowed down to turn into the farm access. The access to Lodge Farm may well be substandard, but this incident nevertheless serves to support the Council's reasoning and my

view that other drivers will not readily be expecting vehicles to be slowing down to turn.

16. An appeal decision (Reference APP/T2405/A/06/2022962) is cited on behalf of the appellant. In this case the Inspector allowed a gypsy site with a sub-standard access onto an unclassified road. The Inspector noted some tension between Htd and Circular 01/2006. Whilst I agree that there is some tension in so far as there appears to be restrictions applicable to accesses on all unlit roads, I consider the nature of the B classified road and its role of routeing traffic through the county can be differentiated from that case. Notwithstanding the traffic flows on this road, I consider it is more likely to cater for local traffic and there are a number of accesses along it. Whilst there is a general acceptance in Circular 01/2006 that rural gypsy sites will be acceptable in principle, that is not to say that matters such as the safety of the access should not be duly considered. Indeed PPG13 confirms that 'whatever the type of access, safety considerations will be paramount. A further appeal decision cited in support of the appellant's case refers to a gypsy site at the Paddock, Higham on the Hill (reference APP/K2420/A/06/2006830) which involved an access onto an A classified road. However, I note that there is a 'good kilometre of substantial and continuous ribbon development which terminates only one narrow field short of the appeal site' which 'has a significant urbanising effect on this stretch of the A5 road'. It has a speed restriction of 50mph. I consider this case can be clearly differentiated from the appeal before me due to the presence of a number of accesses in close proximity to it and the urbanising effect of the development in that location.

17. The Council has granted planning permission for an employment use (B1, B2, and B8), Country Park and landscaping on a former colliery site nearby. Access would be off Wood Road and it is likely to generate significant traffic. Some 4700 turning movements are predicted which is well in excess of the 40 or so per day vehicle movements likely to be associated with the proposed use. No highway objections were raised to this proposal. However visibility splays in excess of that associated with the residential proposal before me would be provided together with significant new infrastructure including a roundabout and junction improvements on the highway network. I would expect the access to this development to be readily apparent, signposted and obvious to drivers given the significance of the development. In any event, I must determine the appeal before me on its own merits.

18. To conclude on the first issue I consider that the proposed development would unacceptably prejudice highway safety and would conflict with LP Policy RES13, PPG13 and Htd in this regard.

Other Considerations

19. I accept that there is an identified need for further gypsy site provision in the area as identified in the Gypsy and Traveller Accommodation Assessment (GTAA) carried out on behalf of Leicester, Leicestershire and Rutland. The GTAA found a need to provide a net additional 26 pitches in Hinckley and Bosworth between 2006-2011, some of which I accept represents an immediate need; with a further pitch provision necessary in 2011-2016. The

identification and provision of sites is still someway off. The proposed site would therefore satisfy some of that immediate need.

20. It is accepted that the 4 families that intend to occupy the appeal site should the appeal be successful do not currently have a permanent site on which to reside since having to leave a tolerated gypsy site at Almond Way which they occupied for some 15 years, in 2002. Local alternative accommodation is essential to the continued education of 4 children and would ensure the enrolment of the appellant's daughter in Nailstone Primary School. The appeal site would accommodate the appellant's horses.

21. These, particularly the clear and immediate need for gypsy sites, the personal needs of the families for a permanent site and the continuity of education for 5 children, are important material consideration weighing in favour of the development. In my view the proposed access onto Wood Road would clearly compromise the safety of future occupiers of the site and other users of the road. Safety is paramount. Whilst there is a clear need for further sites to be provided now, this together with the other considerations I have referred to, would not justify the provision of a gypsy site where the safety of the occupiers of those pitches and the safety of other road users would be so significantly compromised both on a permanent basis, as sought, or for only a temporary period until alternative provision is made.

22. The Parish Council and local residents have raised additional concerns about the number of gypsy sites in the area generally. Having seen these sites, I do not consider they are in such close proximity to the appeal site that the proposal would result in an over concentration or be out of scale with nearby settlements. Furthermore, I am mindful that the appellants have moved from another site in the local area, near to Bagworth.

23. For the reasons given above I conclude that the appeal should fail.

Claire Sherratt
INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Harriet Townsend	Instructed by Hinckley and Bosworth Borough Council.
She called	
Mr M Lennon (Highways Witness)	For Leicestershire County Council, County Hall, Glenfield, Leics.
Ms C Horton (Planning Witness)	Planning Officer for Hinckley and Bosworth Borough Council.

FOR THE APPELLANT:

Bridget Forster	Instructed by Philip Brown Associates.
She called	
Jeremy P. Hurlstone BSc(Hons) CMILT, MIHT (Highways Witness)	Of The Hurlstone Partnership, Seven Oaks Farm, Crew Green, Shrewsbury SY5 9AS
Mr Philip Brown BA(Hons) MRTPI (Planning Witness)	Of Philip Brown Associates Ltd; 74 Park Road, Rugby, Warwickshire CV21 2QX

INTERESTED PERSONS:

Mrs A. McCarthy-Young	Vice Chairman of Nailstone Parish Council

CORE DOCUMENTS

CD1	Copy of Appeal Notification Letter & list of persons notified.
CD2	Suggested Conditions.
CD3	Statement of Common Ground.
CD4	Highways Requirement for Development
CD5	Written Statement of Mrs McCarthy-Young.
CD6	Closing submissions for Hinckley & Bosworth Borough Council.
CD7	Closing submissions for the appellant.

LOCAL PLANNING AUTHORITY DOCUMENTS

LPA1	Planning Permission relating to former Nailstone Colliery Site (South West Industrial Properties)
LPA2	Unilateral Planning Obligation relating to above planning permission.
LPA3	Appeal Decision reference APP/F2415/A/07/2041635 (Welland Buildings).
LPA4	Plan indicating weight restricted routes in area.
LPA5	Traffic Accident Records.
LPA6	Planning History relevant to Lodge Farm.
LPA7	Planning Permission for transit site (Mr Smith).
LPA8	Part 3 'Design Guidance' of Htd.

LPA9 Response of highway authority in relation to proposal at Lodge Farm.

PLANS

PLANS A1-A4 Application Plans

HINCKLEY & BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990

A WRITTEN STATEMENT SUBMITTED BY S. J. HILL ON BEHALF OF THE HIGHWAY AUTHORITY (LEICESTERSHIRE COUNTY COUNCIL) IN CONNECTION WITH AN APPEAL MADE BY MISS JOANNA SQUIRES IN RESPECT OF THE REFUSAL OF PLANNING PERMISSION BY THE HINCKLEY & BOSWORTH BOROUGH COUNCIL TO ALLOW NEW ACCESS TO A FIELD AT LAND ADJACENT LODGE FARM, WOOD ROAD, NAILSTONE, LEICESTERSHIRE.

Planning Ref: 09/00336/FUL **D.O.E. Ref: APP/K2420/A/09/2107400**

THE APPEAL SITE AND THE HIGHWAY

1. The appeal site is identified in the planning application forms as a vacant field. The appeal site forms part of a larger field under the control of the Appellant, shown within a blue boundary on the submitted plan. The field is located to the south-east of B585 Wood Road, Nailstone, Leicestershire.

2. The field does not benefit from any lawful existing pedestrian or vehicular access onto the highway.

3. The junction of the proposed field access and B585 Wood Road is approximately 1180 metres north-east of the village of Nailstone.

4. On the basis of the submitted plans, the proposed access to the appeal site will be approximately 7.5 metres wide at the highway boundary and approximately 6 metres wide at a distance of approximately 5.4 metres from the highway boundary up to the proposed gates at a distance of approximately 14.4 metres from the highway boundary. No formal radius kerbs are proposed.

5. Wood Road where it passes the location of the proposed access to the field is an unrestricted (60mph) Class II County road (route number B585) which links principle roads, namely the A447 to the south west with the A511 to the north east. The B585 is a strategic lorry route. At a point adjacent to the proposed access to the field, the highway has an approximate overall width of

8.75 metres, comprising an approximate 1.5 metres wide strip of verge on the opposite side of the road, a carriageway of some 6.3 metres wide and an approximate 0.95 metres wide verge leading to the top of a ditch on the appeal site side of the road.

6. At the location of the proposed access to the field there are appropriate centre of carriageway road markings and road studs and edge of carriageway road markings. These markings do not preclude overtaking on either approach to the site access.

7. There are no separate footway or street lighting facilities within the vicinity of the appeal site.

8. The vehicular access to Lodge Farm is situated approximately 117 metres to the south-west of the appeal sites southern boundary with Wood Road

9. It would appear that visibility in both directions from a set back point of 2.4 metres at the centre of the access is appropriate (i.e. 160 metres).

10. An unauthorised access to the land within the blue boundary indicated on the submitted location plan has been created onto Wood Road at a distance of approximately 50 metres to the north of the proposed access. The new unlawful access is currently the subject of enforcement action by Hinckley and Bosworth Borough Council.

COMMITTED DEVELOPMENT

11. The Planning Inspectorate have recently allowed an appeal at the former Nailstone Colliery site to the north east of the appeal site for the redevelopment of the site to include storage and distribution uses (Class B8), small business units (Classes B1), B2 and B8), a country park and landscaping. The amount of traffic using Wood Road and passing the appeal site will increase as a direct result once this consent has been implemented.

TRAFFIC

12. A traffic speed survey was carried on 14/11/06 to the south west of the appeal site in the vicinity of the Lodge Farm vehicular access. Measured 85th percentile wet weather speeds for vehicles travelling to the north-east were

52.5 mph and 50.6 mph for those travelling to the south-west (appendix 1) [Advice Note TA22/81 states that the wet weather traffic speed may be calculated by subtracting 4kph (2.49 mph) from the observed dry weather 85th percentile traffic speed].

13. A traffic flow survey was carried out on 9th May 2003 to the north of the appeal site (appendix 2) which indicated a combined 2 way flow of 2843 vehicles over a 12 hour period. The busiest peak hour is between 8.00 a.m. to 9.00 a.m. when 367 vehicles passed the site. This suggests that the route is moderately trafficked.

ACCIDENTS

14. There have been 6 recorded personal injury accidents within 695 metres in either direction from the proposed access during the 5 years up to present date (appendix 3). There has been 1 recorded personal injury accident on Wood Road within the vicinity of the appeal site. The accident occurred on the bend to the south-west, adjacent to the Lodge Farm access (approximately 120 metres from the proposed access) and it resulted in a serious injury. There have been 5 recorded personal injury accidents at the staggered B585/B582 junction within the last five years. The presence of these injury accidents confirms that hazards exist along Wood Road and that with the exception of accident 5, turning traffic and speed were the likely contributory factors in each case.

TRIP GENERATION

15. On the basis of the submitted planning application forms, the appeal site is identified as a vacant field. Whilst the existing lawful permitted use of the land within the blue boundary is agricultural land it does not benefit from a lawful vehicular or pedestrian access directly from the public highway. Therefore, the existing use of the site would generate 0 trips.

16. The Countryside Agency published a report in May 2002 titled "Traffic and Transport Issues in Farm Diversification" (Their Ref CAX 108). The report is an analysis of questionnaires returned from 28 case study farms recording traffic movements over a complete week associated with the residential, business and operational use of the farms.

17. In general the study revealed that the average number of vehicular movements (trips) associated with the residential, business and operational use of the farms was 126 trips per week. (Between 18 and 21 trips per day i.e. 6 or 7 day week). As the site that is the subject of the appeal is not the residential, administrative and operational headquarters of a working farm, but only agricultural land, it is likely that as a result of the proposed access it would generate only a small percentage of these trips. Traffic generation associated with an agricultural use is not consistent, is subject to seasonal fluctuation and on average is low key.

18. The appeal site is not at a sustainable location in proximity to built up areas and is not well served by public transport links and so it can be predicted that a very high percentage of journeys to the site would be by motor vehicle.

POLICY AND GUIDANCE

19. The design policy guide covering Leicestershire is "Highways, transportation and development" (Htd). Originally developed by Leicestershire County Council it has since been adopted by Leicester City Council, Derbyshire County Council and Nottinghamshire County Council. It was drawn up by a working party comprising officers from Leicestershire County Council and a representative of the district planning authorities. The working party consulted widely with a range of public and private bodies, almost 3000 Leicestershire households, all other Leicestershire local authorities and the emergency services before presenting its proposals for approval.

20. The project team consulted with Government Office East Midlands (GOEM) regarding the content and status of "Highways, transportation and development". GOEM advice was that in view of changes in the planning legislation it would be appropriate to adopt the document as County Council Policy.

21. Htd was adopted as a policy document by Leicestershire County Council on 22/9/04. The document replaced the previous publication "Highway Requirements for Development". Since 22/9/04, it has been regularly reviewed to ensure that it remains relevant and up to date.

22. The document "Highways, transportation and development" reflects government policy and guidance, particularly PPS3, PPG13, and the most

recent version, adopted by full Council in December 2007 and updated in April 2009, has been prepared to take account of the Manual for Streets and the new Guidance on Transport Assessments. The guidance it contains reflects the evidence based work carried out to support the Manual for Streets. It is also supported by other local policies and strategies, including the Local Transport Plan and the County Council's walking and cycling strategies. The authorities who have adopted the document are to continue to develop Htd to ensure that it reflects national, regional and local policies.

23. The Leicestershire County Council document "Highways, transportation and development" can be accessed by the web at www.leics.gov.uk/htd.

24. In connection with previous appeals, Planning Inspectors have attached significant weight to the document and have accorded it supplementary planning guidance status.

25. The Leicestershire County Council's Highways Development Control policy is stated clearly in Section IN4 paragraphs 1.24 to 1.26 (appendix 4). It is reasonable to conclude from the policy statements that development should only be considered acceptable where access roads are suitable for the type of development and it must be safe for all road users, promote road safety and reduce personal safety risks whether real or imagined.

26. The policy regarding access to the road network is stated clearly in Section IN5 paragraphs 1.27 to 1.35 (appendix 5). The Highway Authority will expect that access layout will comply with appropriate design guidance and it will recommend refusal of any planning application that raises concern about highway safety.

27. Generally, in accordance with Section IN5 paragraph 1.29, on A and B Class roads, new accesses and the increased use of existing accesses will normally be resisted where the road is without street lighting, where the speed limit is greater than 40mph and where there is an existing problem with road safety.

28. Annex B of the March 2001 edition of Planning Policy Guidance Note (PPG13) provides guidance for the control of development with access to trunk roads. Furthermore specific clauses from Annex B state that:-
"Whatever the type of access, safety considerations will be paramount"

"Local Authorities should apply the same principles when formulating their policy on local roads".

29. The December 2001 edition of Government Circular "Control of Development Affecting Trunk Roads and Agreements with Developers" superseded Circular Roads (CR) 4/88. Selected text from Part 1 (Access to all-purpose trunk roads) of the document refers to research into accidents and states that:-

> "Vehicles about to leave the main road are bound to slow down in relation to the higher traffic speed of those staying on the main road, while vehicles joining the main road will take time to match the speed of traffic already on it. Tail end collisions can take place in these circumstances. Safety issues also arise in the case of an access that provides for a right turning movement across the opposing traffic flow. There is then the added hazard of collision between a faster moving vehicle and one that is effectively stationary".

30. The principles contained in the Highways Agency Technical Directives TD9/93, TD 41/95 and TD42/95 and Department of Transport Advice Note TA 57/87 should also be taken into consideration when dealing with the control of development.

31. Department of Transport Advice Note TA 57/87, Roadside Features and more recently Highways Agency Advice Note TD 41/95, Vehicular Accesses To All Purpose Trunk Roads, cite the results of studies into accidents. TA 57/87, paragraph 9.3.1 states that: -

> "In 1985 60% of all personal injury accidents on roads occurred at junctions of which 10736 (or 4.4%) were described as private drives or entrances".

32. TD 41/95 Annex 1, paragraphs A1.13 and A1.14 state:-

> "There was a reduction in personal injury accidents in Great Britain between 1980 and 1992, the latest year for which figures are available. As indicated in paragraph 1.8, accidents associated with junctions and accesses have not fallen as fast as others. Although accidents at junctions and direct accesses have only fallen by 2% there has been a significant reduction in the severity with fatal and serious accidents falling by 36% in

urban areas and by 11% and 32% respectively in rural areas. Slight accidents on the other hand increased by 4% in urban areas and soared by 49% in rural areas to just over 18000. Considering just those accidents reported as occurring at private drives or entrances (the least used of accesses), these have risen by 15% between 1980 and 1992. On rural roads, fatal accidents have increased by 28%, but serious accidents (considerably more), have fallen by 32%. Slight accidents have increased by 42% to 2319. Overall, on rural roads, personal injury accidents have increased by 16%".

33. TD 41/95 continues in paragraph 1.17 with respect to private drives and entrances and states:-

"It has to be recognised that conflicting traffic movements in and out of them are quite low and accidents are therefore sparsely distributed among numbers of lightly trafficked accesses, nonetheless they do constitute a very real risk".

34. In 2000, the report "Tomorrows Roads- Safer for Everyone" was published by the Department of the Environment, Transport and the Regions which set out the Government's road safety strategy and casualty reduction targets for 2010. This included 3 targets: "a 40% reduction in the number of people killed or seriously injured in road accidents; a 50% reduction in the number of children killed or seriously injured; and a 10% reduction in the slight casualty rate". The DfT is currently consulting on a new road safety strategy to cover the period 2010 to 2020. 'A Safer Way: Making Britain's Roads the Safest in the World' looks to continue the progress made in the last 10 years and rise to particular challenges such as reducing the number of road deaths, improving safety on rural roads and encouraging more walking and cycling by reducing the risk to individual walkers and cyclists on the transport network. The proposed strategy increasingly recognises the key role that improving road safety will play in supporting wider Government objectives such as supporting the economy, protecting the environment and improving public health.

35. Reducing road casualties is a priority in the Leicestershire Local Transport Plan 2006-2011 (LTP2), published in March 2006. The strategy for improving road safety contained in the LTP2 includes challenging casualty reduction targets. The strategy is based upon providing a safer road environment, managing speed, improving safety for vulnerable road users and for people in

disadvantaged communities and encouraging safer driving. The role of infrastructure design and access to new development is acknowledged. Key outcomes are currently monitored through a robust performance management regime. Significant progress has been made in the first 3 years of LTP2 in reducing the number of people and children killed & seriously injured, the number of motorcyclists killed & seriously injured and the number of slight injuries on Leicestershire's roads.

36. The Leicestershire County Council publication 'Highways, transportation and development' supports the strategy and targets for improving road safety contained in the LTP2 and in Government road safety strategy documents.

OBSERVATIONS REGARDING THE APPEAL

37. The objection to the proposed development relates to the increase of turning traffic onto and off a high speed (60mph), B Class road (B585) at a location where there is evidence of a poor accident record. Any turning manoeuvre onto or off any road represents a potential hazard. The introduction or intensification in use of a junction or access onto a highway away from the built up limits would be a source of danger to road users. The danger is not only dependant upon the speed and/or volume of the traffic on the road, but whether drivers travelling along the road would be expecting/anticipating such turning movements to take place.

38. This section of Wood Road is subject to only a 60mph speed limit, there is no street lighting and there are recorded accidents in the vicinity. Therefore, it is considered that the proposal is contrary to the Leicestershire County Council access to the road network policy contained in section IN5 and highways development control policy contained in section IN4 of 'Htd'.

39. Wood Road has no street lighting and so vehicles waiting to turn out of the access may not have good visibility of vehicles travelling on the main road that would be approaching. The absence of street lighting makes it more difficult to make judgements regarding the speed of oncoming traffic and to allow time to accelerate up to the general speed of the traffic on the highway. Visits to the site may be for the purposes of looking after animals grazing in the field and may be early in the morning or in the evening and especially in winter months, this could be in the hours of darkness.

40. Visitors to the site who are not familiar with the access may have difficulty in finding the location of the access and seeing in advance where it is. This would be exacerbated by bad weather or dark conditions in the absence of street lighting.

41. Whilst the Highway Authority has specifically sought to resist this proposal, it was also mindful in coming to its recommendation what effect this development would have on its ability to seek to resist future additional proposals at sites of a similar nature along Wood Road. A precedent would be set, and the Highway Authority would find it difficult to sustain reasonable grounds for refusal of future similar proposals and each in turn could lead to incremental increases in turning traffic movements onto and off Wood Road to the further detriment of Highway safety.

OBSERVATIONS ON THE GROUNDS OF THE APPEAL

42. "The reason for refusal states 'The proposal would result in the creation of a new vehicular access onto an unlit section of Class II road ...' The Appellant has offered to pay to have street lighting installed to this section of the road."

If street lighting was to be installed, the speed of vehicles would still be above 40 mph, the road would still be essentially rural in nature and there would still be an existing problem with road safety and so the proposal would fail to comply with the Leicestershire County Council access to the road network policy contained in section IN5 of 'Htd'. A scheme of street lighting may be objected to by nearby residents and therefore may not be deliverable. The nearest existing street lighting is approximately 890 metres from the point of the access and so this is likely to lead to a cost implication for any proposed new street lighting. Furthermore, an order would be necessary as part of any street lighting scheme to amend the speed limit upwards from the 30 mph limit that would normally be imposed on a road by street lighting and this would also have a cost implication.

43. "The proposed access meets the requirements of the Highway Authority as it was based on the LCC Standard Drawings SD/3/27 and SD/11/9 and complies with the LCC 'Highway Requirements for Developments' (now superseded) and current LCC 'Highways, Transport & Development' (Htd) with regards to visibility splays for vehicles travelling at speeds 45-53 mph. As it is deemed that this Appeal complies with the 'Highway Authority's policies',

it is also deemed to comply with Policy T5 of the Adopted Hinckley & Bosworth Local Plan."

The proposal fails to comply with the Leicestershire County Council access to the road network policy contained in section IN5 of 'Htd'. In their decision in respect of a previous appeal on land within the blue boundary of the current appeal [APP/K2420/A/08/2065755 (appendix 6)] in paragraph 9 the Inspector concluded that "there is no doubt in my mind that the Htd document should be read as a whole" and "the proposal would not therefore be in accordance with policies contained in IN5 of Htd irrespective of the ability to provide satisfactory visibility splays".

44. "The previous appeal on this site was for 'a residential caravan site for 4 gypsy families with 8 caravans ... stables'. The Inspector dismissed the appeal based on the number of vehicle movements this would have created on a road with speeds in excess of 40 mph. This is no longer relevant as this application is for access to a field for grazing horses, therefore there would be a maximum of 4 vehicle movements per day."

In their decision in respect of the previous appeal (APP/K2420/A/08/2065755) the Inspector concluded that "the proposal would not therefore be in accordance with policies contained in IN5 of Htd", "there are not a number of existing accesses periodically located along the road that may serve to warn drivers that there is every likelihood that vehicles may be turning" and "drivers will not readily be expecting vehicles to be slowing down to turn". These points in the Inspectors decision are still of key relevance to the current proposal, irrespective of the level of traffic generation.

45. "The Inspector also concluded in paragraph 14 'All in all, I consider that it is a road where a residential access would be most unexpected by other road users.' This is no longer a 'residential access' but purely access to a field which other road users would expect in a rural area. The site is also sited next to an industrial estate which generates numerous HGV, light goods vehicle and service vehicle movements on a regular basis."

As described above, the Inspectors decision at the previous appeal is still of key relevance to the current proposal, irrespective of the level of traffic generation and the nature of the use in planning terms.

46. "Again the inspector reports in paragraph 14 'The pedestrian use of Wood Road would be extremely dangerous even during hours of daylight', again this is no longer relevant as the site will be used for grazing horses."

This point in the Inspectors decision is still of relevance because pedestrians could potentially access the site to look after animals grazing in the field.

OTHER RELEVANT APPEALS

47. Appeal Ref: APP/F2415/A/07/2041635 Welland Buildings, Lutterworth Road, Husbands Bosworth, Lutterworth LE17 6LZ (appendix 7). Consideration has been given to an appeal at the above site in respect of a proposal for the conversion and extension of existing barns to create 1 dwelling and associated works to access driveway. The proposal was to use an existing access onto A4304 Theddingworth Road, an unrestricted (60 mph) Class 1 primary road. The appeal site access was onto a section of the A4304 outside of the built up limits where speeds were at or even above the speed limit, where there was no street lighting and where there was an accident record.

48. In their judgement the Inspector commented: - "I therefore consider that in terms of intensification of use of the access and the regularity, frequency and detailed nature of its use, allowing this proposal would result in increased highway safety risks to future users of the access and drivers of vehicles travelling on the A4304. Those increased highway safety risks would primarily result from an increased number of turning manoeuvres into and out of the existing access point". In connection with Leicestershire County Council policy contained in 'Highways, transportation and development' the Inspector commented "the County Council's approach is clearly stated in Section IN5 and, in my view, fits with the requirement for local authorities to apply the same principles when formulating their policy on local roads, as referred to in PPG 13."

49. Appeal Ref: APP/K2420/A/08/2077986 Amblyn Stud Farm, Hinckley Road, Cadeby, Hinckley, CV13 0BD (appendix 8). Consideration has recently been given to an appeal at the above site in respect of a proposal for the change of use from agricultural store to residential use. The proposal was to use an existing access onto A447 Hinckley Road, an unrestricted (60 mph) Class 1 primary road outside of the built up limits, where there was no street lighting and where there was an accident record.

50. In their judgement the Inspector commented: - "The Council's principal highway safety objections therefore relate to the additional traffic likely to be generated by the proposed change of use, and the number of additional turning manoeuvres onto and from Hinckley Road". "Driver confusion is likely to occur to the detriment of road safety, particularly given the close proximity of the access to the crossroads junction with Rectory Lane/Brascote Lane. The absence of footways or street lighting on either side of the road adds to my concerns on this issue, as the additional pedestrian movements engendered by the proposal would be a potential source of danger and conflict, to both pedestrians and other road users alike. I conclude on this issue that the proposed change of use would be significantly harmful to road safety, having regard to the additional traffic likely to be generated and the number of turning manoeuvres onto/from Hinckley Road".

51. The Inspector's judgement on both of these occasions would appear to be relevant in this case.

CONCLUSION

The proposal, if permitted, would result in the creation of a new vehicular access onto an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. An increase in turning traffic in such a location would not be in the best interests of Highway safety. The proposal is contrary to the Highway Authority's access to road network and development control policies.

In respect of refusal of planning permission by the Local Planning Authority, the Inspector is requested to dismiss the appeal.

CEng Ref: - 09/0336/04/Wood Rd/B585/Appeal

SUGGESTED CONDITIONS

The following conditions are suggested in the event that the Inspector is mindful to allow the Appeal but the suggestions should not be interpreted as an indication

that the development is acceptable in highway terms and should not be taken into consideration in the determination of the Appeal.

Before first use of the development hereby permitted, visibility splays of 2.4 metres by 160 metres shall be provided at the junction of the access with Wood Road. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 14 metres behind the Highway boundary and shall be hung so as to open inwards only.
Reason: To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway.

The gradient of the access drive shall not exceed 1:12 for the first 7 metres behind the Highway boundary.
Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety.

Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does 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.

Before first use of the development hereby permitted, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
Reason: To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users.

Before first use of the development hereby permitted, the vehicular access to the site shall be provided with 6 metre control radii on both sides of the access.
Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety and to afford easy access to the site and protect the free and safe passage of traffic in the public highway.

Before first use of the development hereby permitted the access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 7 metres behind the Highway boundary and shall be so maintained at all times.
Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

The proposed access shall have an EFFECTIVE width of a minimum of 5 metres for a distance of at least 7 metres behind the Highway boundary. The access drive once provided shall be so maintained at all times.
NOTE: If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.
Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.

Hinckley & Bosworth Borough Council

A Borough to be proud of

Town and Country Planning Act 1990

REFUSAL OF PLANNING PERMISSION

Name and Address of Applicant
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c/o The Agent
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CV13 0JD

Name and Address of Agent (if any)
Mr Aaron Smith
The Gables
Bagworth Road
Barlestone
Warwickshire
CV13 0JD

Part I - Particulars of Application

Date of Application	**Application No.**
6 May 2009	09/00336/FUL

Particulars and location of development:

NEW ACCESS TO A FIELD

Land Adjacent Lodge Farm Wood Road Nailstone Leicestershire CV13 0PQ

Part II - Particulars of decision

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council refuses to permit the carrying out of the development referred to in Part I hereof for the following reason(s) :-

1. The proposal would result in the creation of a new vehicular access onto an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. An increase in turning traffic in such a location would not be in the best interests of highway safety and the proposal is contrary to the Highway Authority's access to road network and development control policies contained within Highways Transport and Development. The proposal is contrary to the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.

T. M Prowse

Date :10 June 2009

TREVOR PROWSE
PROPER OFFICER OF THE COUNCIL

IMPORTANT – PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

JH

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.

2. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission he may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within **six months (see para 2a below)** of the date of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Room 305(K), Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or by telephoning 0117 372 6372). The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him.

2a. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within **six months** of the date of this notice.

3. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

4. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

RNOTES