HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

STATEMENT ON BEHALF OF HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY MR BALLY CHAUHAN

AGAINST THE REFUSAL OF OUTLINE PLANNING PERMISSION

FOR ERECTION OF NEW DWELLING AT

BROOMCROFT, BRADGATE HILL, GROBY, LEICESTERSHIRE, LE6 0FA

HBBC REFERENCE 08/00463/OUT

THE PLANNING INSPECTORATE REFERENCE APP/K2420/A/09/2098739/WF

APRIL 2009

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Section 1: Introduction

1.1 This statement is a written submission in support of the decision by Hinckley and Bosworth Borough Council to refuse outline planning permission for the erection of a new dwelling and associated new vehicular access on garden land adjacent to an existing dwelling known as Broomcroft, Bradgate Hill, Groby, Leicestershire (Planning Application reference number 08/00463/OUT). It should be read in conjunction with the information previously supplied as attachments to the Appeal Questionnaire.

1.2 The property known as Broomcroft, Groby is a large detached 1½ storey house with a 2 storey front projecting gable with white rendered walls and slate tiled roof located on the north east side of the A50 (Bradgate Hill) to the north west of Groby. It is located outside any established settlement boundary in the countryside but within a linear development of large detached residential properties either side of this dual carriageway section of the A50 and occupies a large rectangular plot that has open fields to the south east and north east. It is also located within the National and Charnwood Forest Areas. The existing curtilage extends 82 metres in depth and is 58 metres wide and the existing dwelling is set back approximately 48 metres from the highway. At the time of the site visit there was detached single storey double garage adjacent to the north western boundary though this was to be demolished. There are a number of trees within the curtilage that are subject to a Tree Preservation Order.

Section 2: Site History

2.1 A planning application (reference No 05/01298/FUL) for an extension was approved on 15th February 2006.

2.2 A planning application (reference No. 05/00955/FUL) for extensions and alterations was approved on 4th November 2005.

2.3 A planning application (reference No. 91/00606/4) for the erection of a dwelling and alterations to the access was refused on 20th August 1991.

2.4 A planning application (reference No. 83/0927/4) for the erection of a bungalow was refused on 20th December 1983.

Section 3: Central Government Guidance and Development Plan Policies

3.1 Planning Policy Statement 1 (PPS1): Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning system. Planning should promote sustainable and inclusive patterns of development by making suitable land available for development and protect and enhance the natural environment and the quality and character of the countryside. The Government is committed to protecting and enhancing the quality of the natural environment, in both rural and urban areas.

3.2 Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. It seeks to deliver housing development in suitable locations which offer a good range of community facilities with good access to key services (para.10). In determining planning applications Local Planning Authorities should have regard to the suitability of a site for housing, including its environmental sustainability (para.69). Annex B to PPS3 states that even if land has been previously developed there is no presumption that it is necessarily suitable for housing development nor that the whole of the curtilage should be developed.

3.3 Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas sets out the Government's objectives for rural areas and promotes sustainable development that respects and enhances the intrinsic qualities of the countryside and protection of the open countryside for the benefit of all. New building development in the open countryside away from existing settlements should be strictly controlled; the Governments aim is to protect the countryside for the sake of its intrinsic character and beauty so it may be enjoyed by all (para.1(iv)). Planning Authorities should strictly control new house building (including single dwellings) in the countryside, away from established settlements (para.9(ii)) and isolated new houses in the countryside will require special justification for planning permission to be granted (para.10). Planning Authorities should ensure that the quality and character of the wider countryside is protected and, where possible, enhanced. They should have particular regard to any areas that have been statutorily designated for their landscape qualities where greater priority should be given to restraint to potentially damaging development (para.15). The Government recognises and accepts that there are areas of

landscape outside nationally designated areas that are particularly highly valued locally (para.24).

3.4 Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation states that planning decisions should aim to maintain and enhance biodiversity conservation interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment (para.1(ii)). The aim of planning decisions should be to prevent harm to biodiversity conservation interests (para.1 (vi)). Sites of local biodiversity interest have a fundamental role to play in meeting overall national biodiversity targets.

3.5 At the time that the decision was made, the adopted Regional Strategy for the East Midlands (RSS8) (March 2005) was material to the determination of the application. Policy 2: Locational Priorities for Development provided a sequential approach to the selection of land for development. Policy 3: Sustainability Criteria provided a list of criteria from which to assess the suitability of land for development. This document has since been superseded by the East Midlands Regional Plan (March 2009).

3.6 There are a number of saved policies from the adopted Hinckley and Bosworth Local Plan (adopted February 2001) that are material to the determination of the application. The site is not within any established settlement boundary as designated on the proposals map and is therefore in the countryside. It is also within the National and Charnwood Forest areas of particularly attractive countryside as defined on the proposals map.

3.7 Policy BE1 of the adopted Hinckley and Bosworth Local Plan: Design and Siting of Development states that the Borough Council will seek to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development complements or enhances the character of the surrounding area; avoids the loss of open spaces, important gaps in development, vegetation and features that contribute to the quality of the local environment; has regard to the safety of individuals; incorporates landscaping to a high standard; ensures that there is adequate highway visibility for road users and manoeuvring facilities.

3.8 Policy NE5 of the adopted Hinckley and Bosworth Local Plan: Development in the Countryside states that the countryside will be protected for its own sake. However, planning permission will be granted provided that the development is either important to the local economy and cannot be provided within or adjacent to an existing settlement; is for the change of use, reuse or extension of existing buildings or is for sport or recreation purposes and only where it does not have an adverse effect on the appearance or character of the landscape, it is in keeping with the scale and character of the existing buildings and general surroundings; where necessary it is effectively

screened by landscaping or other methods and the proposed development will not generate traffic likely to impair road safety.

3.9 Policy NE19 of the adopted Hinckley and Bosworth Local Plan: Charnwood Forest states that within the Charnwood Forest, planning permission will not be granted for proposals that would diminish the unique character and amenity of the Charnwood Forest.

3.10 Policy NE21 of the adopted Hinckley and Bosworth Local Plan: Principles of Development in the National Forest states that the Borough Council will only grant planning permission for built development within the National Forest where the development is of a high quality.

3.11 Policy T5 of the adopted Hinckley and Bosworth Local Plan: Highway Design and Vehicle parking Standards states that in considering proposals for new development which involve new accesses, new highways and other works, the local planning authority will apply the highway design standards set out in the current edition of the Leicestershire County Council's highway requirements for development. The Leicestershire County Council's document "Highways, Transportation and Development" provides current guidance to developers in respect of highway design.

3.12 Full copies of the relevant Development Plan policies and explanatory text have been included in the Appeal Questionnaire.

Section 4: The Local Planning Authority's Case

4.1 The main considerations in respect of this appeal are the principle of residential development in the countryside and the impact of the proposed development on the character and appearance of the surrounding landscape, on highway safety and on the ecology of the site.

4.2 In the opinion of the Local Planning Authority, the proposed development constitutes the erection of a new dwelling in an unsustainable location, outside any settlement boundary within the countryside and without any special justification. The principle of such development is contrary to central government guidance in PPS1, PPS3 and PPS7, policies 2 and 3 of the then adopted Regional Spatial Strategy for the East Midlands (RSS) (March 2005) and policies BE1, NE5, NE19 and NE21 of the adopted Local Plan that seek to protect the countryside for its own sake and from unwarranted development. The proposal would be detrimental to the general appearance and character of the landscape in an area of particularly attractive countryside within the Charnwood Forest and National Forest by consolidating residential development in the countryside and could, if permitted, lead to a proliferation of new dwellings in such locations. This is consistent with reasons for refusal of previous planning applications for the erection of a new dwelling on this site.

4.3 The Highway Authority has raised objections to the proposed development on highway safety grounds consistent with previous recommendations for the erection of a new dwelling on this site. The creation of a new vehicular access and the increase in the number of vehicles turning off and onto a Class 1 road (dual carriageway) remote from main development where traffic speeds are generally high would be detrimental to highway safety. The proposed access also lacks appropriate visibility for the speed of traffic on this Class 1 road and would lead to increased dangers for road users. The proposed development would be contrary to central government guidance in PPS3 and to policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan together with highway design guidance in the Leicestershire County Council's document 'Highways, Transportation and Development'.

4.4 The Director of Community Services (Ecology) raises issues regarding the potential presence of protected species within the site. This concern relates to the demolition of a detached garage building as part of the development, the presence of ponds within 500 metres of the site and to the previous identification of fields surrounding Broomcroft as having Parish Level ecological significance. It is recommended that before planning permission is determined, a full and comprehensive survey for such species, including bats and nesting birds and great crested newts, should be conducted by an appropriately licensed person to ensure that the full impact of the development on the ecology of the site is fully understood before the principle of development is established at this outline stage. This would be in accordance with central government guidance contained in PPS9.

4.5 The refusal of the application is also consistent with a recent appeal decision (Planning Inspectorate appeal reference APP/K2420/A/07/2049940/NWF). This appeal related to the decision to refuse an application for extensions and alterations to remodel an existing dwelling known as Caldecott Croft, Leicester Lane, Desford, Leicestershire LE9 9JJ. In this case, no additional dwelling was being proposed but the existing dwelling was being demolished and completely rebuilt. The dwelling was located in the countryside but within a linear development of existing dwellings, similar to the site that is subject to this appeal. The appeal was dismissed as the development was tantamount to the erection of a new dwelling in the countryside without special justification and would cause harm to the objective of protecting the appearance and character of the countryside.

Section 5: Comments on Grounds of Appeal

5.1 Whilst the appellant’s agent provides no details regarding the “new development on the opposite side of the road” referred to in the grounds of appeal, it is assumed that this is a reference to a planning permission for the alteration and extension to an existing dwelling known as Forest Edge to create two dwellings now known as Forest Edge and White Gables (reference No. 02/00467/FUL) dated 31st May 2002. In the opinion of the Local Planning Authority this does not

set a precedent for the erection of a new dwelling in the countryside as this application involved modest extensions to the existing building and the removal of a middle section of the existing much larger dwelling and its division into two separate dwellings. This application and planning permission reference No. 05/01298/FUL for extensions to Broomcroft were both granted planning permission as they were extensions and alterations to existing buildings rather than the erection of a new dwelling and were not detrimental to the general appearance or character of the area. They were, therefore, considered acceptable in terms of adopted planning policies, in particular to the criteria of policy NE5 of the adopted Hinckley and Bosworth Local Plan. The erection of new dwellings in unsustainable locations in the countryside is not supported by either Government guidance in PPS1, PPS3 and PPS7 or by adopted Development Plan policies.

5.2 Leicestershire County Council as the Highway Authority will submit a separate statement in support of their recommendation for refusal of the application on highway related grounds. However, in short, it is clear that the addition of a new dwelling within the site would undoubtedly lead to a 100% increase in traffic turning into and off a Class 1 (dual carriageway) road in an area remote from main development and public transport, where traffic speeds are generally high. This situation would be the case whether the proposal involved sharing the use of the existing access to Broomcroft or using the proposed newly formed access. In either case, adequate visibility splays could not be provided to the satisfaction of the Highway Authority for the speed of traffic on this busy Class 1 road. Contrary to the assertion of the appellant's agent, this outline application clearly sought approval for access and layout and such details would not have been able to be considered at the detailed design (reserved matters) stage.

5.3 Whilst the Design and Access Statement submitted in support of the application included a section in respect of biodiversity (ecology) the contents were very generalised observations and do not appear to have been made by a suitably experienced and licensed ecologist that would provide satisfactory information to properly inform the application. The extension to Broomcroft (reference No 05/01298/FUL) was in a different location within the site and is not relevant to the determination of the application that is the subject of this appeal.

5.4 Whilst each planning application is judged on its own merits, the approval of a development of this nature would set a dangerous precedent for the proliferation of new dwellings within similarly large plots within the National Forest, Charnwood Forest and the general countryside throughout the Borough to the detriment of the appearance and character of the countryside that should be protected for its intrinsic character and natural beauty for the enjoyment of all. Whilst the site may have development potential in terms of its physical extent, this does not necessarily indicate that development is acceptable.

5.5 In the opinion of the Local Planning Authority, the appellant has failed to provide details of any other special circumstances or relevant material considerations in the grounds of appeal to justify departure from central government guidance and adopted Development Plan policies.

Section 6: Conclusions

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permissions and appeals to be determined in accordance with the Development Plans for the area unless material considerations indicate otherwise. The proposal for the erection of a new dwelling in this countryside location is considered to be contrary to central government guidance in PPS1, PPS3, PPS7 and PPS9; Policies 2 and 3 of the Regional Spatial Strategy for the East Midlands (RSS8) and to Policies BE1, NE5, NE19, NE21 and T5 of the adopted Hinckley and Bosworth Local Plan. The proposed erection of a new dwelling would result in development in the countryside that would be detrimental to the general appearance and character of an area, which should be protected for its own sake; development in an unsustainable location within the Charnwood Forest area of particularly attractive countryside and the National Forest, to the detriment of the appearance and character of the landscape. In addition, the creation of a new access or increase in use of an existing access without suitable visibility for the speed of traffic on this busy Class 1 road would be detrimental to highway safety. Approval of such a proposal would set a precedent for future applications of a similar nature on similar plots to which the Local Planning Authority would also object but would subsequently be difficult to resist.

6.2 There are no other material considerations that indicate that the appeal proposal should be determined otherwise than in accordance with the adopted Development Plans. On the basis of the information contained in this written statement and to previous information attached to the Appeal Questionnaire the Local Planning Authority respectfully requests that the appeal be dismissed.

6.3 If the Inspector were minded to approve the appeal the Local Planning Authority would request the inclusion of the conditions itemised in Appendix A.

Appendix A: Suggested Conditions if the Appeal is allowed:-

Condition

Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason

To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

Condition

Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:

i) The scale of the proposed dwelling in relation to its surroundings.
ii) The appearance of the development including the aspects of the dwelling that determine the visual impression it makes.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

Condition

The reserved matters application shall include the following information for the prior approval by the Local Planning Authority.

i) The external building materials
ii) The method of disposal of surface and foul water drainage, which shall be on separate systems
iii) The provision to be made for screening by walls and fences
iv) The floor levels of the proposed dwelling in relation to the existing ground level and the finished levels of the site.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason

This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

Further Conditions

In addition to the above conditions, the Highway Authority will suggest additional highway related conditions in the separate statement to be submitted.