HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Hinckley & Bosworth Borough Council

APPEAL BY JOANNA SQUIRES AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE CREATION OF A FIELD ACCESS AT LAND ADJACENT LODGE FARM, WOOD LANE, NAILSTONE, LEICESTERSHIRE.

HBBC REFERENCE 09/00336/FUL

THE PLANNING INSPECTORATE REFERENCE APP/K2420/A/09/2107400/NWF

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Section 1: Introduction

1.1 This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission 09/00336/FUL for the creation of a access to land adjacent Lodge Farm, Wood Road, Nailstone, Leicestershire.

Section 2: Site description and proposal.

2.1 The site comprises 0.239ha of what is understood to be poor quality agricultural land due to it being waterlogged. The site is predominately level and there are no buildings on the site.

2.2 The application subject to this appeal seeks planning permission for the creation of a field access to the site. The access is to the south side of Wood Road.

2.3 The principle issue in this appeal is that of highway safety.

Section 3: Site History

3.1 The site was subject to an appeal in 2007 for the creation of gypsy caravan site of four permanent residential pitches each capable of accommodating two caravans and a stable block containing three loose boxes and a tack/feed room at land adjacent to Lodge Farm, Wood Road, Nailstone. The appeal was dismissed on highway safety grounds and the appeal decision is attached at Appendix A.

3.2 Part of the site is subject to an enforcement notice in respect of the creation of an unauthorised vehicular access. The access was created by the appellant following the refusal of the planning application to which this appeal is subject. The access is of a lesser quality than that proposed in this appeal and does not benefit from appropriate surfacing and visibility splays. A copy of the notice is attached at Appendix B.

Section 4: Government Guidance

4.1 Planning Policy Statement 1: General Policy and Principles, refers to Section 54A of the 1990 Act as replaced S.38(6) of the Planning and Compulsory Purchase Act 2004 that states that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.2 Planning Policy Guidance Note 13: Transport, set to Governments agenda for the delivery of an integrated transport strategy.

Section 5: The Development Plan Policies

5.1 The Development Plan policy referred to for the purposes of the application is that provided by the Hinckley and Bosworth Local Plan (adopted February 2001).

5.2 Policy T5 of the adopted Hinckley and Bosworth Local plan requires all new development to apply the County Council highway standards when considering new development.

5.3 The Leicestershire County Council highway standards are contained with Highways, Transport and Development (HTD) and are applied in their entirety to planning proposals where appropriate. Previous appeal decisions particularly that attached at Appendix A have established the application of HTD to Policy T5 of the Adopted Local Plan. Accordingly, if a proposal is contrary to HTD, it would be contrary to Policy T5 of the Adopted Hinckley and Bosworth Local Plan.

5.4 Copies of the relevant local plan policy and explanatory text were submitted with the Appeal Questionnaire.

Section 6: The Case for the Local Planning Authority

6.1 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.

Section 7: Comments on Appellant's Grounds of Appeal

7.1 The response to the appellant's grounds of appeal will be provided by way of a separate submission by Simon Hill, Senior Technician of Leicestershire County Council. This submission will be made directly to the planning inspectorate.

Section 8: Conclusions

8.1 With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed.

8.2 The proposal is contrary to the Leicestershire County Council Document: Highways, Transport and Development and contrary to the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.

8.3 However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of conditions as set out in the separate submission referred to above in paragraph 7.1 of this submission.

8.4 The Borough Council requests that should the appellant also appeal against the enforcement notice attached at Appendix B, that appeal should be joined with the current S.78 appeal for the following reasons:

- The nature of the unauthorised development is identical to that of this appeal (creation of an access).
- The reason for issuing the enforcement notice is identical to that of the Council's reason for refusal for this S.78 appeal.
- The principle issue is identical, that of highway safety.
- The site area is identical.
- The persons served with the notice are the appellant and agent for the appeal.
- The appellant's agent has confirmed previously that he does not agree with the approach of the Borough Councils decision making and will appeal each decision to ensure the Borough Council pays the cost of defending its decision making.
- The appellant's agent has verbally confirmed to the case officer, Head of Service and Director on separate occasions that the appellant will be appealing the notice.

Section 9: Appendices (attached as separate documents)

Appendix A: Appeal Decision
Appendix B: Enforcement Notice