**HINCKLEY AND 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 MR BALLY CHAUHAN IN RESPECT OF THE REFUSAL OF PLANNING PERMISSION BY THE HINCKLEY AND BOSWORTH BOROUGH COUNCIL TO ALLOW THE PROPOSED ERECTION OF ONE NEW DWELLING AT BROOMCROFT, BRADGATE HILL, GROBY, LEICESTERSHIRE.**

**Planning Ref: 08/00463/OUT D.O.E. Ref: APP/K2420/A/09/2098739/WF**

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## THE APPEAL SITE AND THE HIGHWAY

1. The appeal site is identified in the planning application forms as domestic garden and garage. The site forms part of the curtilage of the property Broomcroft which is a single dwelling in planning terms.

2. The site is located to the north-east of A50, Bradgate Hill, Groby and benefits from direct frontage access onto this road.

3. The existing access to the premises is approximately 3.0 metres wide at the position of existing gates which are at a distance of approximately 5.6 metres from the carriageway boundary and approximately 1.0 metre from the highway boundary. A metalled surface is available at the access. There are dropped kerbs at the access at the carriageway boundary over a distance of approximately 7.3 metres.

4. Bradgate Hill, at the site frontage, is a restricted (50mph) section of the Class I Primary road A50. This section of the A50 extends for a distance of approximately 8.0 miles and runs from Leicester City Centre to M1 junction 22 where it adjoins the A511 Little Shaw Lane. It acts as a vital link from the north-west and western areas of the County to Leicester and to the A46.

5. From its junction with B5327 Blackbird Road within the city boundary, this section of the A50 is a dual carriageway with 2 lanes in each direction.

6. Adjacent to the appeal site access, to the north-east of the road, there is a highway verge with an approximate width of 3.3 metres, leading to a wall. There is then a footway with an approximate width of 0.6 metres, then a verge with a width of approximately 1.1 metres adjacent to the carriageway. The south-eastbound carriageway has a width of approximately 7.3 metres between kerbs. There is a central reservation with an approximate width of 2.0 metres. The north-westbound carriageway has a width of approximately 7.2 metres between kerbs. To the south-west of the carriageway, there is a verge with an approximate width of 1.1 metres, followed by a footway having a width of approximately 1.0 metres and another verge with a width of 2.2 metres leading to a wall.

7. Bradgate Hill in the vicinity of the appeal site frontage benefits from appropriate street lighting.

8. Across the frontage of the premises there are appropriate centre of carriageway and edge of carriageway road markings and road studs on both carriageways. At the point of the existing access to the property a deceleration lane for the benefit of Bradgate House starts, which extends towards the junction of the private access to that premises with Bradgate Hill.

9. It would appear that visibility out of the proposed new access onto A50 Bradgate hill is approximately 140.5 metres to the right hand side from a set back distance of 2.4 metres. It would appear that visibility out of the existing access is approximately 155.5 metres to the right hand side from a set back distance of 2.4 metres.

10. Broomcroft is one of a group of 18 dwellings sited on both sides of Bradgate Hill which are remote from the village centres of Groby (approximately 2.07 km away on foot) and Markfield (approximately 2.5 km away on foot).

11. The nearest bus stops for travel towards Leicester and in a direction towards destinations in the north and west are at distances of 813 metres and 688 metres from the appeal site, respectively. The appeal site is therefore not well served by public transport links.

**TRAFFIC**

12. There is no up to date Leicestershire County Council survey data to identify the speed of traffic that uses Bradgate Hill (A50) adjacent to the appeal site frontage. On the basis of several passes in a motor vehicle across the frontage of the appeal site and taking into consideration the forward visibility, it would be reasonable to suggest that motorists travelling in a south-easterly direction would feel reasonably confident with speeds that are at or even greater than the speed limit (50mph). Whilst there are signs alerting drivers to the presence of traffic safety (speed) cameras on the A50 and there is a permanently sited camera at a distance of approximately 858 metres to the south-east of the appeal site frontage at the frontage of 258 Markfield Road, Groby it would appear that the familiarity of many drivers with this section of road is such that some drivers are not deterred from exceeding the speed limit.

13. A 12hr directional classified vehicle count carried out by Leicestershire County Council at a point approximately 1.15 km south-east of the appeal site on Thursday 15th March 2007 revealed that there were 13755 south-eastbound movements and 13783 north-westbound movements in A50 Markfield Road (total 27538, appendix 1). A 12hr directional classified vehicle count carried out by Leicestershire County Council at a point approximately 787 metres north-west of the appeal site on Tuesday 27th April 2004 revealed that there were 13895 south-eastbound movements and 13735 north-westbound movements in A50 Leicester Road (total 27630, appendix 2). Whilst the 2 traffic counts are at some distance from the appeal site, the similarity in the numbers of vehicles recorded in the surveys on sections of the A50 on each side of the appeal site and the absence of highway junctions between the locations of the 2 counts are such that it would be reasonable to suggest that the figures recorded are indicative of the level of traffic at the site frontage and that Bradgate Hill (A50) should be regarded as a busy road.

14. The appeal site is located on a section of Bradgate Hill that is between 2 changes in alignment. To the north-west, the road bends towards the north and to the south-east the road bends towards the south. The A50 runs predominantly downhill from the settlement of Markfield to the north-west, to a point approximately 1.4 km to the south-east of the appeal site. This fact encourages higher vehicle speeds at the site frontage.

**ACCIDENTS**

15. This section of the A50 has a poor accident record throughout its length. There have been 3 recorded personal injury accidents within 400 metres in either direction from the appeal site during the 5 years up to present date (appendix 3).

16. All accidents occurred as a result of drivers failing to perceive slowing or stationary vehicles within the carriageway. Two of the accidents (marked 1 and 3 on appendix 3) occurred as a consequence of turning manoeuvres across the central reservation.

17. Taking into consideration the characteristics of the accidents it would be reasonable to suggest that a significant contributory factor was poor judgement while travelling at speed.

**TRIP GENERATION**

18. The Leicestershire County Council is a license holder and has access to the TRICS (Trip Rate Information Computer System) Database. Information provided on this database suggests that on a weekday privately owned housing generates a mean of 6.83 trips per household.

19. Whilst it should be used with caution, the data from TRICS is reasonably reliable and generally accepted as indicative of the potential for traffic generation at similar sites.

20. As described above, the existing lawful permitted use of the land under the control of the Appellant in planning terms is a residential dwelling and garden. The proposal is for the creation of a new additional dwelling and would therefore be likely to lead to a 100% increase in traffic at the premises, leading to a total of 13.66 trips per day.

**POLICY AND GUIDANCE**

21. The Leicestershire County Council design policy guide “Highways, transportation and development” was drawn up by a working party comprising engineers from Leicestershire County Council. 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.

22. 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.

23. The current document was adopted as a policy document by Leicestershire County Council on 22/9/04. The document replaces 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.

24. 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 to be published in January 2008, 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, the County Council's walking and cycling strategies and its road safety plan.

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

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

27. 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.

28. The policy regarding access to the road network is stated clearly in Section IN5 paragraphs 1.27 to 1.35 (appendix 4). 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.

29. 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 or where there is an existing problem with road safety.

30. 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".

31. The December 2001 edition of Government Circular "Control of Development Affecting Trunk Roads and Agreements with Developers" supersedes Circular Roads (CR) 4/88. In the light of the guidance identified in paragraph 30 above, the contents of this latest circular should be taken into consideration. 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".

32. 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.

33. 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".

34. 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%".

35. 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".

36. In 1987 The Government published a report "Road Safety ---- The Next Steps" which set out targets to reduce road casualties by a third by the year 2000. More recent press notices announced further road casualty reductions by the year 2010.

37. Leicestershire County Council supports the Government objectives. This has resulted in the production of a policy document known as the “Road Safety Plan” where the Authority sets out its policy to reduce the number of road accident casualties in Leicestershire. It was intended that this would be achieved by means of information, road improvements, education and training. Also involved is the development control function.

38. The hazards associated with accesses, particularly in rural areas, as highlighted in the statistics mentioned above and the accident reduction targets published by The Government and the County Council support the guidance set out in the policy document “Highways, transportation and development”.

## OBSERVATIONS REGARDING THE APPEAL

39. An objection to the proposed development relates to the increase of turning traffic onto and off Bradgate Hill (A50). Any turning manoeuvre onto or off any road represents a potential hazard. 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.

40. Appropriate visibility splays for an access onto a highway should be set out in accordance with the guidance contained in the Leicestershire County Council publication "Highways, transportation and development" (appendix 5).

41. With reference to the guidance identified in paragraphs 30-35 of this statement the visibility standards referred to above are supported by details contained in the Highways Agency technical directive TD41/95 Chapter 2 page 2/4 Clauses 2.21 and 2.22.

42. On the basis of the submitted plans, the proposed new access and the existing access to the site will function as shared private drives, providing access/egress to the existing and proposed dwellings.

43. The appropriate visibility for a shared private drive onto a major road where the speed limit is 50mph (85kph design speed) should therefore be 2.4m x 160m. Taking into consideration the speed achieved by several passes in a car (50mph) the desirable visibility should be at least 160m. If the 85%ile wet weather speed of south-eastbound vehicles passing the site frontage is between 54 mph and 62 mph (100 kph design speed), the desirable visibility should be at least 215m.

44. Observation on site shows that the achievable visibility to the right hand side towards oncoming traffic (i.e. 2.4m x 140.5m from the proposed access and 2.4m x 155.5m from the existing access, paragraph 9) would appear to be significantly less than the desirable standard.

45. Another objection to the proposed development relates to the increase of turning traffic onto and off a busy A Class road (A50). The proposal does not comply with Leicestershire County Council policy contained in Section IN5 (paragraph 1.29) of 'Highways, transportation and development' as it would lead to the creation of a new access or an increase in use of an existing access onto an A Class road where the speed limit is greater than 40mph. This section of the A50 is designated a Primary route and it is therefore an important strategic route between Primary destinations and one of the highest in the road hierarchy. Routes of primary traffic importance form a national network between major towns.

46. Because of the nature of A50 Bradgate Hill, in general, drivers would not expect to encounter turning traffic at the location of the appeal site.

47. The dangers to road users presented by stationary or slow moving vehicles are highlighted by the accident record in the vicinity of the access.

48. At a distance of approximately 118 metres to the south-east of the appeal site, adjacent to the private access to Bradgate house, there is a gap in the central reservation. A road sign indicates that U-turn manoeuvres are prohibited for vehicles over 7.5 tonnes. However, vehicles below 7.5 tonnes, such as cars, are allowed to make a U-turn at this location. It is likely that this would be a desirable choice of route for traffic leaving the proposed dwelling wishing to travel in a north-westerly direction as the alternative is to proceed further to the south-east to the junction with Lena Drive, or Wallace Drive where a vehicle may leave the A50 in order to turn around to come back past the site. An increase in U-turn manoeuvres at this location on a busy road where speeds are high and there is insufficient room for cars making such a manoeuvre to wait within the central reservation would lead to increased dangers to road users and would not be in the interests of highway safety.

49. 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.

50. The A50 has a significant existing accident record. It is not possible to conclude that because there have not been any personal injury accidents within the last 5 years at the existing access to the development site with a low key level of use a proposal that would lead to a significant increase in traffic generation would not result in an unacceptable increase in dangers to road users.

## OBSERVATIONS ON THE GROUNDS OF THE APPEAL

51. "The initial proposal was for the new house to share the existing established entrance to 'Broomcroft'. Following discussions with the Planning Department, a new proposal was submitted showing a new and separate access, which could have allowed ingress and egress, to the new and existing properties or individual access to each. Either way there would not be an increase in traffic and visibility would remain unchanged or could be improved at detailed design stage."

    As described above, the proposal would be likely to lead to a 100% increase in traffic at the premises. On the basis of the land shown as under the control of the Applicant on the submitted site location plans, visibility at the proposed and existing accesses is restricted by neighbouring boundaries which are owned by third parties. The use of planning conditions will therefore not guarantee appropriate visibility splays over land that is owned by others.

    The proposal was refused on the grounds of the Leicestershire County Council Access onto the road network policy as stated in paragraph 1.27 to 1.35 of "Highways, transportation and development" in addition to on the grounds of substandard visibility.

52. "The concern about increased traffic using the existing access, could have been addressed by the later proposal to provide a new / separate access."

    As described above, visibility at both the existing and proposed accesses is less than the desirable standard.

## OTHER RELEVANT APPEALS

53. Appeal Ref: APP/F2415/A/07/2041635 Welland Buildings, Lutterworth Road, Husbands Bosworth, Lutterworth LE17 6LZ (appendix 6). Consideration has been given recently 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 busy 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 a high accident record.

54. 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."

55. The Inspector's judgement on this occasion would appear to be relevant in this case.

**CONCLUSION**

The proposal, if permitted could result in an unacceptable increase in traffic using an access which lacks appropriate visibility for the speed of traffic on the main road which could lead to increased dangers for road users.

The proposal, if permitted could result in an unacceptable increase in traffic turning onto or off a class I road in an area remote from main development and where traffic speeds are generally high. Such an increase would not be in the best interests of Highway safety.

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

**CEng Ref: - 2008/0463/04/Bradgate Hill/A50/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, the existing gates to the vehicular access shall be removed. Any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum

distance of 5 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 gradients of the access drives shall not exceed 1:12 for the first 5 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 occupation of the dwelling 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 occupation of the dwelling hereby permitted, car parking provision shall be made within the curtilage of the new and the existing dwellings on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

Before first occupation of the dwelling hereby permitted, each 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 5 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.)

Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the Highway boundary and have 4 metres control radii at its junction with the adopted road carriageway. 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.

Details of suitable signing in respect of the existing and proposed properties, to be located at the frontage to the premises shall be submitted to the Local Planning Authority for approval in writing prior to development commencing. Before first occupation of the dwelling hereby permitted, the approved scheme shall be provided and thereafter shall be so maintained.
Reason: Given the distance of the dwellings from the highway, drivers may not readily locate the dwellings from A50 Bradgate Hill. The signing is in the interests of the safety of road users.