

Delegated Report

Planning Ref: 23/00253/CONDIT
Applicant: Mr Mick Poole
Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: MP Engineering UK Ltd, 2 Maizefield, Hinckley

**Proposal: Variation of Conditions 2 and 4 of planning permission 22/00036/FUL.
Amendment to approved plans and elevations.**

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. This application seeks to vary Conditions 2 (approved plans list) and 4 (parking and turning facilities) of planning permission 22/00036/FUL. Application 22/00036/FUL was granted planning permission for a two storey industrial building with associated parking. The proposed changes for this site include:

- The addition of an office block
- toilet facilities and a reception area
- A new roller shutter door
- Relocation of 1 parking bay

2.2. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission. Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

2.3. A decision notice describing the new permission should clearly express that it is made under Section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.

2.4. Existing Condition 2 states:

'The development hereby permitted relates to the following approved plans only received 17 January 2022:

- *Location and Block Plan drawing ref 21/141/05*
- *Proposed Plans 21/141/04B*

Reason: To ensure the development accords with the approved details.'

2.5. Existing Condition 4 states:

'The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Hayward Architects drawing number 21/141/04B. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021)'.

- 2.6. The existing approved plans list in Condition 2 and the referenced plan in Condition 4 above need to be revised in order to allow for an alteration to the layout and elevation details. Revised drawings have been submitted as part of this application including the following:

- Site Location and Block Plan 21 141 05B
- Parking Plan 21 141 04C
- Proposed Ground and First Floor Plan 21 141 06D
- Proposed Elevations 21 141 07C
- Proposed Section 21 141 08C

3. Description of the site and surrounding area

- 3.1. The application site is located within the settlement boundary of Hinckley and is located to the north within an existing employment allocation area (ref. HIN126). The existing site comprises car parking area and a service yard. The site is bounded on two sides by existing industrial units. To the south is the car park for further units. There is an allotment area to the south of the car park.

4.0. Relevant planning history

- 4.1. 90/00075/4 – Erection of six factory units with car parking – APPROVED
01/00704/FUL – Extension to industrial premises – APPROVED
16/00146/FUL - Three storey extension to industrial unit including basement – APPROVED
22/00036/FUL - Proposed two storey industrial building with associated parking – APPROVED

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and displaying a site notice.

6. Consultation

- 6.1. No objection has been received from the following consultees:
HBBC Waste
HBBC Drainage
HBBC Environmental Health

LCC Drainage

- 6.1. Local Highway Authority - The Applicant has submitted Hayward Architects drawing number 21/141 04C which details a minor amendment to the parking layout within the site. The number of parking spaces within the site will remain the same. The LHA therefore have no objection to condition 4 being varied to include Hayward Architects drawing number 21/141 04C.

7. Policy

7.1. Core Strategy (2009)

Policy 1: Development in Hinckley

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM19: Existing Employment Sites

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

Leicestershire Highway Design Guide (2020)

8. Appraisal

8.1. Key Issues

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage
- Other matters

Principle of development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009)

(CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).

- 8.4. Since the grant of the original permission 22/00036/FUL there have been no changes in policy nationally or locally but it is to be noted that the replacement Local Plan for Hinckley and Bosworth has been delayed to 2024 and a further Regulation 19 stage is to be carried out. Therefore this document carries little weight at this time.
- 8.5. This application seeks an alteration to the external appearance and layout of the industrial unit and relocation of a parking bay previously granted under permission ref 22/00036/FUL.
- 8.6. The site lies within an established industrial estate and there are not considered to be any conflicts with Policy DM19 (Existing Employment Sites) of the SADMP. The proposal is considered to support and ensure the longevity of the business within the allocated employment site in compliance with Policy DM19 of the SADMP, and therefore the principle of development is considered to be acceptable subject to material considerations.

Design and impact upon the character of the area

- 8.7. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.8. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.9. This application seeks to alter the appearance/design of the approved industrial building by adding an office block, reception area and WC facilities, the installation of a roller shutter door and the relocation of 1 parking bay on site. The changes proposed are considered to be suitable and in keeping with the design and style of buildings within industrial areas/business parks. There are no policy considerations that would affect the proposal with respect to design and character when compared to the extant permission.
- 8.10. Overall the scheme is considered to be acceptable and in compliance with Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.12. Paragraph 130 of the revised NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder,

and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

- 8.13. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.14. The Environmental Services Team has been consulted on this application and has raised no objections nor suggested any conditions in respect of noise or lighting matters.
- 8.15. There are no new policy/guidance considerations since the grant of the original permission which would alter the assessment of the proposal with respect to residential amenity.
- 8.16. Therefore, this application is considered to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the revised NPPF (2021).

Impact upon highway safety

- 8.17. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.18. Paragraph 111 of the NPPF (2021) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.19. Paragraph 112 of the NPPF states that development should be designed to enable charging of plug in and other ultra low emission vehicles in safe, accessible and convenient locations.
- 8.20. The number of car parking spaces remains as per the extant permission however there is an amendment which includes the relocation of 1no. parking bay that was shown where the proposed roller shutter is. This space has now been added to the end of the central row of parking bays.
- 8.21. The local highway authority have raised no objections to this variation of condition application and are satisfied that the proposed amendments would not materially impact on the highway network.
- 8.22. It is considered therefore that the proposal will satisfy policy DM17 and DM10 (g) and the revised NPPF 2021 subject to an electric vehicle charging condition.

Drainage

- 8.23. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.

- 8.24. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.25. The County Council and the Council's drainage teams raise no comments or objections to the proposed changes and as such the condition attached to the original permission in relation to drainage matters will be carried forward to this permission (Condition 7).

Other Matters

- 8.26. A Section 73 application cannot be used to vary the time limit for implementation, this condition must therefore remain unchanged from the original permission.

9. Equality implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

- 9.3. There are no known equality implications arising directly from this development.

- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Recommendation

Grant planning permission subject to the following:

- Planning Conditions

Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of 22/00036/FUL (Three years from the granting of original planning permission).

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004. The development hereby approved relates to the following details:

2. The development hereby permitted shall be carried out in accordance with the following details received 16 March 2023:

- Site Location and Block Plan 21 141 05B
- Amended Parking Plan 21 141 04C received 17 April 2023
- Proposed Ground and First Floor Plans 21 141 06D
- Proposed Elevations 21 141 07C
- Proposed Sections 21 141 08C

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development shall commence on the site until such time as a construction traffic management plan, including as a minimum details of wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not lead to on-street parking problems in the area in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 the National Planning Policy Framework (2021).

4. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Hayward Architects drawing number 21/141/04C. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021).

5. The development hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking shall be provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use.

Reason: To promote travel by sustainable modes in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD 2016 and the National Planning Policy Framework (2021).

6. The development hereby permitted shall not be occupied until a scheme that makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and

confirm adequate space is provided to facilitate collection of waste via a registered waste carrier.

Reason: To ensure the satisfactory provision of waste storage in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

8. Prior to the commencement of development a scheme for the installation of electric vehicle charging points will be submitted to and approved in writing by the local planning authority. The scheme shall identify the number of units to benefit from electric charging points, together with full detail of the location and fitting of the units.

Reason: To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework.

INFORMATIVES

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent

Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.