

Delegated Report

Planning Reference: 25/00272/CONDIT
Applicant(s): Michael Poole
Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Application Site: MP Engineering UK Ltd, 2 Maizefield, Hinckley

Proposal: Variation of condition 2 and 4 of planning permission 22/00036/FUL. Amendment to design and scale of industrial building and layout of car park.

Case Officer: Ashleigh Gade (Senior Planning Officer)

1. Recommendations

1.1. **Grant planning permission for the variation of 22/00036/FUL** subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.

2.2. The previous planning permission in this case is 22/00036/FUL which granted full planning permission for the construction of a two-storey industrial building with associated parking at MP Engineering UK Ltd, 2 Maizefield, Hinckley.

2.3. This Section 73 Application seeks planning permission for the variation of Condition 2 (Approved Plans) and Condition 4 (Parking and Turning Facilities) of planning permission 22/00036/FUL to enable amendments to the design and scale of the industrial building and the layout of the car parking area and reduction to the number of car parking spaces.

2.4. Condition 2 of 22/00036/FUL 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

2.5. Condition 4 of 22/00036/FUL 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.

- 2.6. The amendments to the design and scale of the industrial building involve the reduction in the length and width of the building from 27 metres by 21 metres to 25 metres by 20 metres. The height of the building has been reduced from 7.6 metres to 5.5 metres at the eaves and 9.9 metres to 8.1 metres at the ridge. The pitched roof form has been amended from an off-centre ridge to a traditional central ridge.
- 2.7. The amendments to the layout of the car parking area involve removal of parking spaces running parallel to Maizefield in favour of all parking spaces running perpendicular to Maizefield and parallel to the existing industrial buildings in the north of the site. The amendments to the layout reduce the number of car parking spaces from 38 to 33.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located within the settlement boundary of Hinckley and is within an existing employment allocation area.
- 3.2. The application site contains two existing two-storey industrial buildings to the north and north-west and a car parking and service yard area to the south and south-east.
- 3.3. The surrounding area predominantly comprises industrial or commercial sites within the employment allocation area. Further to the south are allotments and residential development within Hinckley. To the north the A47 serves as the boundary between the settlement of Hinckley and land within the designated open countryside.

4. Relevant Planning History

4.1 23/00401/FUL

- Proposed V mesh fencing
- Planning Permission
- 25.05.2023

4.2 23/00253/CONDIT

- Variation to Conditions 2 and 4 of planning permission 22/00036/FUL. Amendment to approved plans and elevation.
- Planning Permission
- 09.05.2023

4.3 22/00036/FUL

- Proposed two storey industrial building with associated parking
- Planning Permission
- 05.09.2022

5. Publicity

- 5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interested parties.
- 5.2. In this instance, the application has been publicised by advertisement in the Hinckley Times, displaying a notice in vicinity of the site, and sending out letters to local residents.
- 5.3. No responses were received.

6. Consultation

- 6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 6.2 In this instance, the Local Planning Authority consulted Severn Trent Water, Hinckley Area Committee, the Local Highway Authority, the Local Flood Authority, and Council's Drainage, Pollution, Waste, Planning Policy, and Section 106 Monitoring Officers.
- 6.3 No response was received from Severn Trent Water, Hinckley Action Committee and Council's Waste Officer.
- 6.4 There were no objections to the proposal from Council's Pollution and Drainage Officers.
- 6.5 The Local Flood Authority and Council's S106 Monitoring Officer advised that they had no comments.
- 6.6 Council's Planning Policy Officer advised that the proposal did not meet the agreed consultation threshold for comment.
- 6.7 The Local Highway Authority (LHA) advised that despite the reduction in car parking spaces, the associated reduction in scale of the building and the other opportunities on the site for parking meant that they did not object to the variation of conditions 2 and 4.

7. Policy

- 7.1 Core Strategy (2009):
- Policy 1: Development in Hinckley

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (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) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2024)

8. Appraisal

8.1. In accordance with Planning Practice Guidance, there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part ('the description') of the permission.

8.2. The principle of the development has already been established through the earlier grant of the extant planning permissions on the site. Therefore, the key issues in respect of this application are:

- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon highway safety and parking provision
- Conditions

Design and impact upon the character of the area

8.3 Paragraph 140 of the NPPF confirms that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme; for example, through changes to approved details such as the materials used.

8.4 Paragraph 139 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.

- 8.5 Policy DM10 of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.5 The proposed amendments seek to reduce the scale of the proposed industrial building by decreasing the height, length and width of the building. It also changes the appearance of the building through bringing the ridge of the pitched roof to the centre of the building.
- 8.6 The proposed amendments modestly reduce the visual impact of the building and better reflect the roof styles seen in the surrounding area. The general design of the building remains typical for an industrial building of its type within an industrial or business park setting.
- 8.7 It is considered therefore that the amendments to the scale and roof form of the development are acceptable and maintain compliance with the NPPF and Policy DM10 of the SADMP.

Impact upon residential amenity

- 8.8 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.
- 8.9 Paragraph 135 of the NPPF states that planning decisions should ensure that developments 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.
- 8.10 Paragraph 198 of the NPPF states that planning 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.
- 8.11 No objections have been raised by HBBC's Environmental Services (Pollution) Officers on the amendments to the development proposed in this application, nor have they suggested any conditions relating to noise or lighting matters.
- 8.12 There are not considered to be any new considerations with regard to residential amenity either by way of application site context or through any policy changes since the determination of the original permission.

- 8.13 The proposal is therefore not considered to result in any significant adverse impacts to neighbouring residential amenity and the development remains compliant with the NPPF and Policy DM10 of the SADMP.

Impact upon highway safety and parking provision

- 8.14 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, that would not have a significant adverse impact upon highway safety, and can demonstrate that residual cumulative impacts on the transport network would not be severe. Policy DM18 of the SADMP requires new development to provide an appropriate level of parking provision.
- 8.15 The relevant highway design standards are set out in the most up to date guidance adopted by the relevant Local Highway Authority (LHA) which is currently the Leicestershire Highway Design Guide (LHDG) (2024).
- 8.16 Paragraph 117 of the NPPF states that development should be designed to enable charging of plug in and other ultra-low emissions vehicles in safe, accessible and convenient locations.
- 8.17 Paragraph 116 of the NPPF states 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.
- 8.18 The proposed amendments involve amendments to the layout of the car parking area and a resulting reduction in car parking spaces from 38 to 33. The LHA have raised no objection to the amendments.
- 8.19 It is therefore considered that the development would not result in any unacceptable impacts to highway safety and would provide an appropriate level of off-street parking, in compliance with Policy DM17 and DM18 of the SADMP. A condition regarding electric vehicle charging will be imposed, as it was in related application 23/00253/CONDIT, to ensure the development satisfies Paragraph 117 of the NPPF.

Conditions

- 8.20 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. A new permission sits alongside the original permission, which remains intact and unamended. It is open to the Applicant to decide whether to implement a new permission or the one originally granted.
- 8.21 Therefore, in accordance with PPG, a Section 73 Decision Notice should set out all 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.

- 8.22 Planning permission 22/00036/FUL was subject to seven conditions.
- 8.23 As a Section 73 application cannot be used to vary the time limit for implementation, Condition 1 of the original permission will remain unchanged.
- 8.24 Conditions 2 (Approved Plans) and 4 (Parking and Turning Facilities) will be amended to refer to the amended plans submitted as part of this application.
- 8.25 Conditions 3 (Construction Traffic Management), 5 (Cycle Parking), 6 (Waste and Recycling) and 7 (Drainage Plan) all remain reasonable and necessary to the ensure satisfactory development.
- 8.26 An additional condition to secure electric vehicle charging points was considered necessary on previous variation of condition application 23/00253/CONDIT and is considered to remain relevant to the amendments proposed in this application.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination 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. Conclusion

- 10.1 It is considered that the proposal has demonstrated sufficient compliance with all relevant national and local planning policies, and it is therefore recommended that planning permission be granted, subject to conditions.

11. Recommendation

- 11.1 **Grant planning permission for the variation of 22/00036/FUL** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before 5 September 2025 (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.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Site Location Plan, Proposed Block Plan, Drg No. 25-501 100 (received: 03.07.2025)
- Proposed Elevations, Layout, Drg No. 25-501 200 (received: 17.03.2025)

Reason: To ensure a satisfactory form of development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy S8 of the adopted Sheepy Parish Neighbourhood Plan (2022).

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 CDC Architecture drawing number 25-501 100 received 03.07.2025. 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 in writing 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.

Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.
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.