

ebDelegated Report

Planning Reference 26/00568/CONDIT
Applicant C/O Mr Tim Williams
Ward Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Application Site Land south of A5 Watling Street
& west of petrol filling station, Hinckley

Proposal Variation of conditions 2, 3, 4, 5, and 6 of planning permission 23/00613/FUL. Amendments to access, reduction in the number of pump islands from 12 to 10, gated access to the gas connection facility and other modest scheme layout updates

Case Officer Sullivan Archer (Senior Planning Officer)

1. Recommendations

- 1.1. **Grant planning permission for the variation of 23/00613/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. In this case, planning permission for 23/00613/FUL granted full planning permission for the creation of a Bio-Compressed Natural Gas ('BIO-CNG') vehicle fuelling facility at the land south of Watling Street ('A5') and to the west of petrol filling station, Hinckley. The scheme included 12 fuel pump dispenser islands positioned in two rows of six islands at the centre of the site, a plant compound, landscaping, access and associated highways works.
- 2.3. This Section 73 application seeks planning permission for the variation of Conditions C2 (Approved Plans), C3 (Construction Environment Management Plan), C4 (Construction Traffic Management Plan), C5 (Access Arrangements), and C6 (Parking and Turning Facilities) of that planning permission.

- 2.4. These proposed amendments include alterations to the proposed vehicular access arrangements from a left in/right out only arrangement to a new give way junction with a deceleration lane to enable access and egress into the site via either a right in/left out, or a left in/left out. The alterations would also include reducing the number of fuel dispenser islands and their associated task lights to ten, the replacement of the HV/LV transformer with a new transformer, the provision of a new storeroom and workshop adjacent to the LV switch room, the reconfiguration of the substation and the proposed car parking spaces, the construction of a new trailer gas loading heat exchanger and associated gas loading chillers, the relocation of one of the CCTV and associated task lights towards the southern boundary, the provision of a new access gate along the southern boundary of the site, as well as the development of new palisade fencing and associated landscape amendments.
- 2.5. The amendments are proposed to improve the operation and efficiency of the development, to ensure the safe and free movement of the wider highway network, and to ensure a viable gas connection to the development.

3. Description of the Site and the Surrounding Area

- 3.1. The 0.92ha application site is located on the southern side of Watling Street ('A5') in the designated open countryside. The site is in Flood Zone 2 and parts of the proposed access are within Flood Zone 3. The site itself consists of a flat agricultural field that is bounded by further open fields to the west and south. An existing fuelling station is immediately to the east of the site. To the north of the site on the opposite side of the A5 is an existing gypsy and traveller site followed by the wider built form of Hinckley.

4. Relevant Planning History

- 4.1 **23/00613/FUL** Permitted (determined: 02.07.2024)

Proposed BIO-CNG vehicle fuelling station comprising fuel dispenser islands, plant compound, landscaping, access, associated highway works and associated development.

5. Publicity

- 5.1 In accordance with Planning Practice Guidance ('PPG'), provisions relating to 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.

- 5.2 In this instance, the application has been publicised by sending out letters to local residents, a site notice was posted within the vicinity of the site, and a notice was displayed in the local press. No responses have been received.

6. Consultation

- 6.1 In accordance with the PPG, provisions relating to statutory consultation 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 and in this instance the Council consulted statutory consultees on the application.
- 6.2 No objections have been received from the Council's Drainage and Environmental Health Departments, National Gas, Leicestershire County Council as the Local Highway Authority, the County Council's Ecology Department, National Highways, Rugby Borough Council, nor Warwickshire County Council's Highway Authority.
- 6.3 Leicestershire County Council as the Lead Local Flood Authority did not comment on the application.
- 6.4 No further responses have been received.

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 DM2: Delivering Renewable Energy and Low Carbon Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework ('NPPF') (2026)
- National Design Guide ('NDG') (2019)
- Planning Practice Guidance ('PPG')

7.4 Other Relevant Local Authority Guidance:

- The Council's Good Design Guide ('GDG') (2020)
- Leicestershire Highway Design Guide ('LHDG') (2024)

8. Appraisal

8.1. In accordance with the PPG, 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 of the permission. The operative part of the planning permission being the description of the development.

8.2. The principle of development and its siting and design have already been established through the earlier grant of the extant planning permission on the site. The key issues in respect of this application would therefore be:

- Impact upon parking provision and highway safety
- Other issues
- Conditions

Impact upon Parking Provision and Highway Safety

8.3 NPPF Policy TR6(4) states that development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety.

8.4 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe. Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. Any reduction below minimum standards will require robust justification.

- 8.5 The proposed amendments to the site access and the associated parking areas for the development have been assessed in conjunction with National Highways, Warwickshire County Council's Highways Authority, and Leicestershire County Council as the Local Highway Authority, who all raised no objections with the proposed works. National Highways confirmed that the proposals would not be expected to result in any detrimental impact upon the Strategic Route Network.
- 8.6 In light of the above, the proposed amendments to 23/00613/FUL would not be considered to create an unacceptable impact on highway safety or the road network. Therefore, these alterations would be considered to ensure the extant scheme's compliance with NPPF Policy TR6, Policies DM17 and DM18 of the SADMP, and the LHDG.

Other Issues

- 8.7 The proposed amendments would be considered to have a minor impact on the layout and appearance of the development, which would not be considered to result in any significant adverse impacts to the character of the site or the surrounding area in comparison to the extant planning permission.
- 8.8 The development is separated from neighbouring properties by the A5, and the proposed amendments would reduce the capacity of fuel pump dispenser islands within the scheme from 12 to 10. No objections have been raised by the Council's Environmental Health Department regarding the revised scheme's impact on the future users of the site or the residential amenity of neighbouring properties.
- 8.9 Given the above, the proposed amendments to the development would be considered to complement the character of the surrounding area and ensure that no significant adverse impacts to neighbouring residential amenity. Therefore, these alterations would be considered to ensure the extant scheme's compliance with NPPF Policies DP3 and P3, and Policies DM4 and DM10 of the SADMP.

Conditions

- 8.10 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.

- 8.11 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.
- 8.12 Planning permission 23/00613/FUL was subject to 11 conditions.
- 8.13 Development has not commenced on site yet, and time cannot be extended or altered for Section 73 applications. As such, Condition 1 (Time) would need to be amended refer to the original 3-year time scale for implementation of the development in the interests of clarity.
- 8.14 Amendments are proposed to Conditions C2 (Approved Plans), C3 (Construction Environment Management Plan), C4 (Construction Traffic Management Plan), C5 (Access Arrangements), and C6 (Parking and Turning Facilities), and therefore these conditions would need amending to refer to the new plans and details.
- 8.15 To ensure that the Condition 2 complies with the necessary planning condition tests detailed at NPPF Policy DM6, new implementation conditions would be required regarding the recommendations and proposed plans within the submitted Site Investigation and Ground Assessment, Arboricultural Impact Assessment, and Ecological Impact Assessment. The order of the planning conditions would need to be re-ordered in light of this in the interests of clarity.
- 8.16 Condition 7 would need to be amended to refer to the new proposed Drainage Strategy and Condition C8 (External Lighting) would need to be amended to refer to the new proposed Lighting Strategy.
- 8.17 Conditions C9 (Land Contamination), and C10 (Noise) would remain reasonably necessary protect the future users of the site, and to protect the residential amenity of neighbouring properties from noise and disturbance respectively.
- 8.18 Condition 11 (Signage and Limitations on Use) would be re-worded in the interests of clarity.
- 8.19 To conclude, subject to the amendments to Conditions C1, C2, C3, C4, C5, C6, C7, C8, and C11, all the conditions would remain reasonable and necessary to ensure satisfactory development of the site. Additional conditions are considered to be necessary to ensure that the existing conditions comply with the necessary tests for planning conditions. The revised planning conditions were agreed with the Applicant on 26 August 2026.

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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission for the variation of 23/00613/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 the expiration of three years from the date of the original planning permission 23/00613/FUL on 02 July 2024.

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 received by the Local Planning Authority as follows:

Submitted: 11 August 2026

- Eastern Vertical Visibility Access Layout (22 240 122B)
- Proposed Highways Widening Works (22 240 124A)
- Proposed Right Turn Layout (22 240 120E)
- Western Vertical Visibility Access Layout (22 240 125A)

Submitted: 19 June 2026

- CNG Watling Street External Lighting Scheme – 6518 LTG 001 Rev P5
- Landscape Proposals – D333_L_001_Rev E
- Location Plan – 042-01-CNG-101-I
- Proposed Catchment Plan – TC P9298 23 103 H
- Proposed Site Block Plan – 042-01-CNG-103-M
- Proposed Site Elevations – 042-01-CNG-105-H
- Proposed Site Layout – 042-01-CNG-104-M
- Proposed Site Lighting – 042-01-CNG-106-L
- TC P9298 23 101 I – Proposed Drainage Layout Sheet 1 of 2
- TC P9298 23 102 F – Proposed Drainage Layout Sheet 2 of 2

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall be constructed in strict accordance with the mitigation measures and practises within the Environmental Management Plan and Health and Safety Plan detailed

at Section 5 of Construction Environment Management Plan (submitted: 19.06.2026).

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall be constructed in accordance with the Construction Strategy and Management Plan, the vehicle access and routing, and the implementing, monitoring and updating processes detailed at Sections 5.0, 6.0 and 7.0 of the Construction Management Plan – 22-240-07C – Issue 1 (submitted: 19.06.2026).

Reason: In the interests of highway safety in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and the Department for Transport's Circular 01/2022.

5. The development hereby permitted shall be constructed in accordance with the recommendations for successful tree retention detailed at Section 5 and the recommendations at Section 6 of the Arboricultural Impact Assessment (submitted: 19.06.2026).

Reason: To ensure that the existing trees on the site are retained and protected and to ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development hereby permitted shall be constructed in accordance with the recommendations detailed at Section 5.0 of the ecology Technical Note (submitted: 19.06.2026).

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The development hereby permitted shall be constructed in accordance with the contamination assessment recommendations, including, but not limited to, processes regarding infiltration rates, geotechnical assessment, and waste soil management as detailed at Section 6 of the Site Investigation & Ground Assessment (submitted: 19.06.2026)

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first use of the development hereby permitted.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. Prior to the first use of the development hereby permitted, details of signage or other methods of control to ensure that the refuelling of private cars is prohibited shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall then be carried out as per the approved details and the CNG fuelling station shall not be used for the refuelling of private motor cars.

Reason: To control future use of the site in the interests of highway safety in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Prior to the first use of the development hereby permitted, the access arrangements detailed on the Eastern Vertical Visibility Access Layout (22 240 122B), the Proposed Highways Widening Works (22 240 124A), the Proposed Right Turn Layout (22 240 120E), and the Western Vertical Visibility Access Layout (22 240 125A) plans submitted on 11 August 2026 shall be implemented in full. The access arrangements shall thereafter be maintained in perpetuity in accordance with the approved details.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of highway safety and in accordance with Policy DM17 of the

adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. Prior to the first use of the development hereby permitted, the parking and turning facilities detailed on the Proposed Site Layout – 042-01-CNG-104-M plan submitted on 19 June 2026 shall be implemented in full. The on-site parking and turning families shall be kept available for such uses thereafter in perpetuity.

Reason: To ensure that adequate off-street parking provision is made and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. Prior to the first use of the development hereby permitted, the development shall be undertaken in strict accordance with the Surface Water Drainage Strategy detailed at Paragraph 5.7 of the Flood Risk Assessment and Drainage Strategy (submitted: 19.06.2026), TC P9298 23 101 I – Proposed Drainage Layout Sheet 1 of 2 (submitted: 19.06.2026), TC P9298 23 102 F – Proposed Drainage Layout Sheet 2 of 2 (submitted: 19.06.2026), and the Proposed Catchment Plan – TC P9298 23 103 H (submitted: 19.06.2026).

Once provided, the Drainage Strategy shall be so maintained in perpetuity. No surface water shall be permitted to run off from the development hereby permitted on to the Strategic Road Network or into any drainage system connected to the Strategic Road Network. No drainage connections from any part of development hereby permitted may be made to any Strategic Road Network drainage systems.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site, and to minimise the risk of pollution in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and in the interests of highway safety and the safe and efficient operation of the Strategic Road Network, and to protect the integrity of the Trunk Road drainage asset in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and the Department for Transport's Circular 01/2022.

13. Prior to the use of the development hereby permitted, the proposed external lighting shall be constructed in accordance with the Proposed Site Lighting – 042-01-CNG-106-L (submitted: 19.06.2026), the CNG Watling Street External Lighting Scheme – 6518 LTG 001 Rev P5 (submitted: 19.06.2026), and the details of the proposed luminaires, the LED colour temperatures, and the lighting controls between Pages 11 and 15 of the External Lighting Proposal – Issue 6 (submitted: 19.06.2026). The external lighting shall thereafter be maintained in perpetuity in accordance with the approved details.

Reason: In the interests of highway safety in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. The rating level of the noise emitted from any plant located at the site should not exceed the representative background level by more than 3dB at any premises used for residential purposes surrounding the site when assessed in accordance with BS4142:2014+A1(2019).

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

a. Notes to Applicant(s)

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. Any works affecting National Gas Transmission's apparatus, easement rights or future access requirements may require separate assessment and approval outside of the planning process.
3. In relation to Conditions 07 and 08, advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation of land contamination is in accordance with their policy.