



24th November 2025

Ref: C0009-WBH-XX-XX-LT-1002

Dear Sir / Madam

RE: Hinckley & Bosworth Planning Application 23/01023/HYB and Rugby Borough Council Planning Application R23/1047

We are writing in relation to Hinckley & Bosworth Planning Application 23/01023/HYB and Rugby Borough Council Planning Application R23/1047, Construction of motorway service area comprising vehicular and pedestrian access from the A5, petrol filling station for domestic vehicles, HGV filling station, Main PFS / Services building, drive thru unit, EV charging spaces, customer parking spaces including HGV, coach and caravan provision, landscaping including picnic and dog walking areas, electric substations and retaining walls at south/western boundary fronting the M69.

1.0 Planning Conditions

Planning approvals have recently been received from both Authorities, and we are now in the process of submitting discharge of condition submissions to allow works to commence on site. We refer below to two of these pre-commencement conditions:

Hinckley & Bosworth – Planning Condition #26

“No part of the development hereby approved shall commence until full geotechnical details for the land adjacent to the A5 Trunk Road and M69 Motorway included within the full extent of the application boundary are submitted to and approved in writing by the Local Planning Authority in consultation with National Highways. These details shall include (but shall not be limited to) a certification process for the management of geotechnical risks in line with requirements of DMRB CD 622 Managing Geotechnical Risk, starting with the appointment of a new design Geotechnical Advisor and resubmission of a Statement of Intent.

Rugby Borough Council – Planning Condition #15

No part of the development hereby permitted shall commence until full geotechnical details for the land adjacent to the A5 Trunk Road and M69 Motorway included within the full extent of the application boundary, are submitted to and approved in writing by the Local Planning Authority in consultation with National Highways. These details shall include (but not limited to) a certification process for the management of geotechnical risks in line with requirements of DMRB CD 622 Geotechnics, General IMPORTANT – PLEASE READ THE NOTES ATTACHED TO THIS DECISION NOTICE information, Managing Geotechnical Risk, starting with the appointment of a new Design Geotechnical Advisor and resubmission of a Statement of Intent

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These conditions are essentially imposing the same requirement, i.e. that geotechnical details related to the Section 278 Technical Submission be made to the Local Highway Authority prior to any commencement of works on site, in accordance with CD 622.

2.0 Status of Submission

Welcome Break, with the assistance of our planning agent, Montague Evans, have provided the following information in support of discharging these pre-commencement conditions

- RGS Phase 2 Geo-Environmental Report
- M69 J1 MSA S278 to A5 Geotechnical Certificate 01
- 10705-PEF-XX-S278-TRP-G-0001 P02 Hinckley Welcome Break SOI

Furthermore, a submission has been made to National Highways, as per the condition, to confirm appointment of Nick Dewell of Pell Frischmann as the DGA for the scheme. We understand this application has been accepted by Philip Liew, the Senior Geotechnical Advisor of National Highways

3.0 Consultee Response from National Highways

As consultees to the condition, National Highways have responded as follows on the 12th of November 2025:

“National Highways recommendation is to Not discharge the condition.

We require detailed design for the Section 278 works to understand how this will interact with NH assets/ boundary. As per the paragraph in our response letter:

Note, Welcome Break are yet to receive a copy of this response letter despite further requests.

4.0 Welcome Break Response

We are unclear as to why it is suggested that insufficient information has been provided to discharge the condition. National Highways appear to be requesting that full technical details of the Section 278 design be provided in support of this condition. However, the requirement for this level of detail is beyond what is requested in the condition wording, which is clearly related to Geotechnical information only. The wording of the condition requires appointment of a DGA and submission of the SOI, both of which have been completed and approved by Philip Liew, the Senior Geotechnical Advisor of National Highways. This request by National Highways is not reasonable nor does it fall within the scope of the planning system with regard to Circular 11/95.

The request to provide full details of the S278 is already covered by Condition 9 of the Hinckley & Bosworth approval and Condition 12 of the Rugby Approval – ***“No part of the development hereby permitted shall commence until the proposed A5 access and improvements to the A5/Wolvey Road junction shown on DTP drawing number DTP/3711622/SK004 Revision D have been implemented and open to traffic.”***

It is unreasonable to link the two conditions together. Welcome Break are already obligated to provide full detailed design information to discharge Condition 9 (H&B) and therefore this request by National Highways is essentially a doubling up of the same requirement, something that Circular 11/95 specifically warns against. The condition in question only seeks to consider Geotechnical information and not full Highway Design information.

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The purpose of planning conditions is to ensure that general arrangements are satisfactory before a technical submission is made under separate legislation. This is made clear in Circular 11/95 at Para 22 which states:

Other matters are subject to control under separate legislation, yet also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary, and one whose requirements conflict with those of other controls will be ultra vires because it is unreasonable. (Emphasis added).

This is also why S73 of the Planning Act exists to capture any changes that are required by technical approvals under legislation outside of the Planning Act. In this instance, S278 is covered by the Highways Act and to apply the same rules to a condition falling under the Planning Act is a duplication, and not within the spirit or scope of the planning system.

In essence, National Highways have shifted the goalposts to request information that is not covered by the planning nor is contained with the respective planning conditions attached to the consent. This is unreasonable.

This is also at odds with the objectives of the Government and their proposals to speed up the planning system. The Government have made clear statements on their intentions to speed up planning by reducing red tape and compliance costs. The requests by National Highways are not only at odds with the established planning rules but also seek to ignore the Government's plans to speed up the system. In fact, National Highways is looking to follow the opposite approach and delay the process further, at additional cost, by seeking to replicate requirements falling under the Highways Act.

5.0 Summary

In summary, we would respectfully request that National Highways reconsider their response to recommend non-discharge of the planning condition.

Welcome Break have provided the level of Geotechnical Information deemed appropriate for this stage of the design and liaised positively with the Senior Geotechnical Advisor of National Highways to confirm their acceptance that we are working within the requirements of CD622. To request full S278 detailed design at this stage is unreasonable and would delay discharge of this condition, and ultimately our commencement of works on site, by at least 12 months while we work through the Technical Approval process with National Highways.

We trust this request is suitable and look forward to your positive response and discharge of the conditions.

Regards,



John Diviney
Chief Executive Officer, Welcome Break