



**DALCOUR
MACLAREN**

Planning supporting statement Variation of condition

Client: Affinity Water
Scheme Name: Oughton Head
11 February 2025



Project Details

Project Name	Oughton Head – Section 73
Scheme Number	23009828 - EP – Oughton Head DoC

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1 Introduction

1.1 Background to the Planning Application

1.1.1 Dalcour Maclaren (DM) has been instructed by Affinity Water Limited (AWL) to submit a planning application under section 73 of the Town and Country Planning Act 1990 (TCPA) to vary the wording of a planning condition attached to permission 21/02768/FP, which granted consent for development at Oughton Head Pumping Station, Hitchin Road, Pirton.

1.1.2 Planning permission 21/02768/FP, which was issued on 28th June 2022, granted planning permission for the:

‘Upgrade of existing pumping station to provide nitrate removal plant and equipment including change of use of land for operational purposes and all associated works.’

1.1.3 This application seeks to amend the wording of planning condition 3, which relates to the delivery of improvements to the vehicular access to the site. At present the planning condition is a restrictive condition which seeks to prevent the commencement of development, save for the works to deliver the improvement to the access point, prior to the delivery of the improved access. The condition in its present form is –

‘Prior to commencement of the development hereby permitted (save for the access improvement works) the vehicular access indicated for improvement on drawing number 196112_PLN_SI_3.1_A shall be upgraded and widened to a minimum width of 5.0 metres wide and provided with kerb radii as shown on general arrangement drawing number IWP10 025 - IWS - 000 - XX - DR - M 013; to be reconstructed and tied in with over lapping layers bonded level with the adjacent carriageway in accordance with the Hertfordshire County Council industrial access construction specification for the first 12.0 metres as measured back from the near channel edge of the adjacent carriageway. To the local Planning Authority's satisfaction.

Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway’

1.1.4 This application, which is retrospective, seeks to remove the prior to commencement element of the condition to enable construction works to be delivered ahead of the completion of the access improvement works. It was through discussions with the Hertfordshire County Council, the Local Highways Authority (LHA) that it was agreed that there would be significant merit in delaying the works associated with the access improvements until after the construction works have been completed to ensure that the enhanced site access would not be damaged prior to first use of the pumping station.

1.1.5 AWL has commenced construction of the nitrate removal plant on site ahead of completion of the access improvement works, and this has been done in order to deliver the scheme as quickly as possible in order to ensure a safe and secure supply of drinking water to the Hitchin area.

1.1.6 It should be noted that AWL has fully engaged North Hertfordshire District Council, the Local Planning Authority (LPA) and the LHA in the process of seeking to discharge relevant planning condition relating to the access works.

- 1.1.7 An application to discharge condition 3 was submitted in May 2024 on the basis of the positive progress being made with the LHA with regards to the necessary submissions made to secure consent under section 278 of the Highways Act 1980, required to deliver changes to the adopted public highway at the point of access to the application site. Unfortunately, the necessary agreement with the LHA in relation to the section 278 matters could not be agreed in time to discharge the relevant condition and the discharge of conditions application was refused in September 2024. At the point of refusal, the planning officer's delegated report confirmed that the reasons for the refusal to be:

'The scheme is still in design review stage, road safety has been commissioned, until these issues have been addressed satisfactorily the condition cannot be discharged'.

- 1.1.8 It was further clarified that a road safety audit had been commissioned but not completed. It can be confirmed that this has now been completed and recommendations arising from the process accepted by relevant parties.
- 1.1.9 The applicant has continued to engage with the LPA and LHA in order to keep the authorities abreast of the situation at the application site and to continue to negotiate with the LHA in relation to the outstanding section 278 matters. At the time of submitting this application, Affinity Water's legal team and Hertfordshire County Council's legal team are working on the details of the legal agreement. Whilst good progress has been made with the legal team, a change in officer at the highways authority has caused a delay to the finalisation of the S278 agreement. It is hoped that discussions will recommence imminently to enable the S278 agreement to be completed.
- 1.1.10 Due to works progressing on site, this application seeks to amend the wording of condition 3 to reflect the onsite position and remove the prior to commencement restriction written into the condition as it is presently worded. In doing so, it will regularise the present situation on site.

1.2 Site Location

- 1.2.1 The Site is located off Hitchin Road, Pirton, Hertfordshire (nearest postcode SG5 3PZ, NGR TL 15874 29826). The proposed development will be located on AWL owned land and will be partly located within the existing abstraction site.



Fig 1: Site Location

- 1.2.2 The Site is bounded by:
- AWL owned and managed land with agricultural land beyond to the north;
 - AWL owned land, a Restricted Byway (Pirton 020) and agricultural land beyond to the east;
 - Hitchin Road with agricultural land beyond to the south; and
 - Hitchin Road and agricultural fields beyond to the west.
- 1.2.3 The Site is located partly within Flood Zone 3 and located approximately 230 metres from the River Oughton, which is not an Environment Agency (EA) main river according to the EA flood maps.
- 1.2.4 Although not within it, the Site is close to the Hitchin Road verge Local Wildlife Site and 30m west of the western edge of the Oughton Head Common Wildlife site and within 500m of the Oughton Head Local Nature Reserve.
- 1.2.5 The Site is located in the Pirton Archaeological Alert Area.
- 1.2.6 The Site is located covered by the London Area Green Belt in the North Hertfordshire District.
- 1.2.7 The site is not located within any National Landscape (formerly AONB). However, the Chilterns National Landscape boundary is just outside the western boundary of the Site.
- 1.2.8 There are no other known constraints.

2 The Proposal

2.1 Description of Development

- 2.1.1 As described, the proposal relates to the works consented by planning permission 21/02768/FP and described as:

'Upgrade of existing pumping station to provide nitrate removal plant and equipment including change of use of land for operational purposes and all associated works.'

- 2.1.2 Specifically, it is condition 3 that variation is sought and it is presently worded as follows:

'Prior to commencement of the development hereby permitted (save for the access improvement works) the vehicular access indicated for improvement on drawing number 196112_PLN_SI_3.1_A shall be upgraded and widened to a minimum width of 5.0 metres wide and provided with kerb radii as shown on general arrangement drawing number IWP10 025 - IWS - 000 - XX - DR - M 013; to be reconstructed and tied in with over lapping layers bonded level with the adjacent carriageway in accordance with the Hertfordshire County Council industrial access construction specification for the first 12.0 metres as measured back from the near channel edge of the adjacent carriageway. To the local Planning Authority's satisfaction.

Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway'

- 2.1.3 To account for the works starting ahead of the access being upgraded it is proposed that condition 3 is varied accordingly (note the text been struck through to be removed and text in blue to be added):

*~~'Prior to commencement of the development hereby permitted (save for the access improvement works) the~~ **Prior to first use of the site, the** vehicular access indicated for improvement on drawing number 196112_PLN_SI_3.1_A shall be upgraded and widened to a minimum width of 5.0 metres wide and provided with kerb radii as shown on general arrangement drawing number IWP10 025 - IWS - 000 - XX - DR - M 013; to be reconstructed and tied in with over lapping layers bonded level with the adjacent carriageway in accordance with the Hertfordshire County Council industrial access construction specification for the first 12.0 metres as measured back from the near channel edge of the adjacent carriageway. To the local Planning Authority's satisfaction.*

Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway'

3 Planning Policy Review

3.1 National Planning Policy Framework

3.1.1 The National Planning Policy Framework (NPPF) was issued in March 2012 and was most recently amended in December 2024. The NPPF sets out the planning policies set by the Government for England and how they should be applied to planning decisions. The NPPF supersedes all previous planning policy and guidelines. Additionally, it sets out that planning law requires that applications for planning permission be determined in accordance with the Local Development Plan unless material considerations indicate otherwise.

3.1.2 The planning policies within the NPPF relevant to this planning application are given below.

3.1.3 As the development is located in the Green Belt paragraphs 153 and 154 are applicable. Paragraph 153 says relates to inappropriate development and the need to demonstrated very special circumstances:

‘When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, including harm to its openness. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations’.

3.1.4 Paragraph 154 lists the type of development that are considered exceptions to the rule that new buildings in the Green Belt are inappropriate. This includes development such as engineering operations providing the preserve the openness of the Green Belt.

3.1.5 The NPPF also covers matters relating to sustainable transport and highway safety. Paragraph 116 says 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, following mitigation, would be severe, taking into account all reasonable future scenarios’.

3.2 Local Planning Policy

3.2.1 Section 38 of the Planning and Compulsory Act 2004 replicates the provisions of Section 54A of the Town and Country Planning Act 1990 (as amended) and requires that where in making any determination, regard is to be held to the Development Plan, and that determination shall be made in accordance with the Plan unless material considerations indicate otherwise.

3.2.2 The current adopted Local Plan for the area is North Hertfordshire District Local, adopted in November 2022.

3.2.3 The policies relevant to the proposed development are listed in Table 1 below, with a full planning policy appraisal provided in Section 4.

Policy No.	Policy Description
North Hertfordshire District Local Plan	
Policy SP5 (Countryside and the Green Belt)	The policy confirms that the LPA will only permit development proposals in the Green Belt where they would not result in inappropriate development or where very special circumstances have been demonstrated. This approach broadly aligns with the approach to development in Green Belt set out at national level by the NPPF.
Policy SP6 (Sustainable transport)	Sub section f of the policy requires proposals to demonstrate highway safety.
Policy SP7 (Infrastructure requirements and developer contributions)	The policy confirms the procedures that the LPA will put in place to ensure appropriate levels of infrastructure is delivered in order to support growth within the district.

4 Planning Appraisal

4.1 Principle of Development

- 4.1.1 The proposed alteration to the wording of the condition should not alter the assessment already undertaken by the LPA in deciding planning permission 21/02768/FP. The proposal does not materially alter the principle of the development consented. There are no physical alterations, merely the change to the timing at which the consented access improvements are delivered. Furthermore, we believe there to be no fundamental changes to local policy which would lead the LPA to reach a different conclusion in relation to the principle of development. Therefore, we submit that the principle of development remains acceptable.

4.2 Green Belt

- 4.2.1 The proposed development is located within the Green Belt and therefore relevant national and local planning policies apply and these have been detailed in the pre-ceding section. The consideration of the acceptability of the overall scheme was undertaken when determining planning application 21/02768/FP, and planning officers found that there were very special circumstances present to outweigh harm by reason of inappropriateness. In concluding the planning assessment of the proposal, the officer's report stated:

'The development would increase water resilience within the district that would prevent future potential water shortages and the reliance upon importing water to the Hitchin Area. It is considered therefore that the adverse impacts of the proposals are limited and would be significantly and demonstrably outweighed by the benefits when assessed against the policies set out in the NPPF as a whole and that planning permission should be granted.'

- 4.2.2 It remains, that as this proposal relates to the timings of when the access improvements are delivered, there is still a very special circumstances case in place to justify the proposal.
- 4.2.3 Notwithstanding the position relating to the very special circumstances case to justify the proposed development, and in specific reference to the site access work, the site access works can be classed as engineering works which is a type of development that is considered not to be inappropriate in the Green Belt as long as they preserve Green Belt openness, as confirmed by NPPF paragraph 154 h) ii. As the access works in question primarily relates to hard surfacing and thus at ground level, there will be no perceptible impact upon Green Belt openness.
- 4.2.4 Therefore, it is deemed the proposed development accords with National Planning Policy and with Policies SP5 relating to Green Belt matters and SP7 of the North Hertfordshire District Local Plan which ensure appropriate levels of infrastructure is delivered in order to support growth within the district.

4.3 Highway safety

- 4.3.1 It was confirmed through planning application 21/02768/FP that the proposed access upgrades were acceptable subject to planning conditions. In responding to the planning application, comments from the Highways Authority considered the following in relation to the access improvements

‘HCC has recommended that hard surfacing should be provided at the site access in order that drivers have increased control of their vehicles using the access during inclement weather which may prevent any vehicle from sliding uncontrolled into the adjacent carriageway.

- 4.3.2 The proposal continues to deliver the requirement to provide a hard surfaced site access, and it will be delivered to a specification agreed with the Highways Authority through the section 278 process.

- 4.3.3 In the same response, the highways authority saw fit to request an informative to be included on the planning permission in order to direct the applicant to engage with the section 278 process, relating to works in the public highway. It says:

‘Notwithstanding the above highway safety comments, the Highway Authority has considered that any conditional grant of permission would require the existing access to undergo some improved construction work for hard surfacing this is in order that the predicted additional number of vehicles generated in connection with the new development are accommodated without any deterioration of the connection to the adjacent carriageway without which may be to the detriment of highway safety. The above highway informative has therefore been recommended to ensure the applicant contacts HCC Highways Office to obtain their requirements for the ‘tie-in’ works required to provide a smooth and safe surface connecting the access to Hitchin Road. Hertfordshire County Council as Highway Authority has considered that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways subject to the inclusion of the above planning conditions and highway informative.’

- 4.3.4 It is relevant to this application that the applicant has thoroughly engaged with the Highways Authority through the appropriate legal mechanisms in order to secure the improvements. These discussions are at an advanced stage and therefore the proposed amendment to the wording of the planning condition does not jeopardise the Highways Authority ability to secure the improvements through the section 278 process. The requirements of the informative have been fully adhered and a safe site access will be delivered .

- 4.3.5 For the reasons set out above, the proposal does not lead to adverse impacts in highways safety terms and thus the proposal does not conflict with paragraph 116 of the NPPF.

5 Conclusion

- 5.1.1 This planning application relates to the timing of the consented vehicular access works and the removal of the pre-commencement development restriction which requires the access upgrades to be delivered ahead of construction works commencing.
- 5.1.2 In order to deliver the significant benefits of the proposal and prevent undue delay to the delivery of the necessary water infrastructure to ensure a safe and secure supply of drinking water to the Hitchin area., the applicant has commenced construction works ahead of condition 3 being discharged. It should be noted that the applicant has engaged with the Local Planning Authority through out the process of discharging planning conditions, however despite ongoing cooperation with the Highways Authority in relation to securing a section 278 agreement relating to work in the public highway, it was not able to be completed ahead of works commencing. This process has been ongoing and is due to be completed imminently.
- 5.1.3 The proposal will continue to deliver all of the benefits of the scheme consented by planning permission 21/02768/FP and this application seeks to regularize the present on site situation.
- 5.1.4 This statement and supporting information supplied within this application have demonstrated that the proposed development continues to be acceptable in planning terms and there continues to be a very special circumstances case that weighs significantly in favour of the proposal, outweighing any identified harm to the Green Belt.
- 5.1.5 In view of this information provided within this statement, it is considered that there are no material reasons why planning permission should not be granted.



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