

Planning Committee 20 August 2019
Report of the Planning Manager

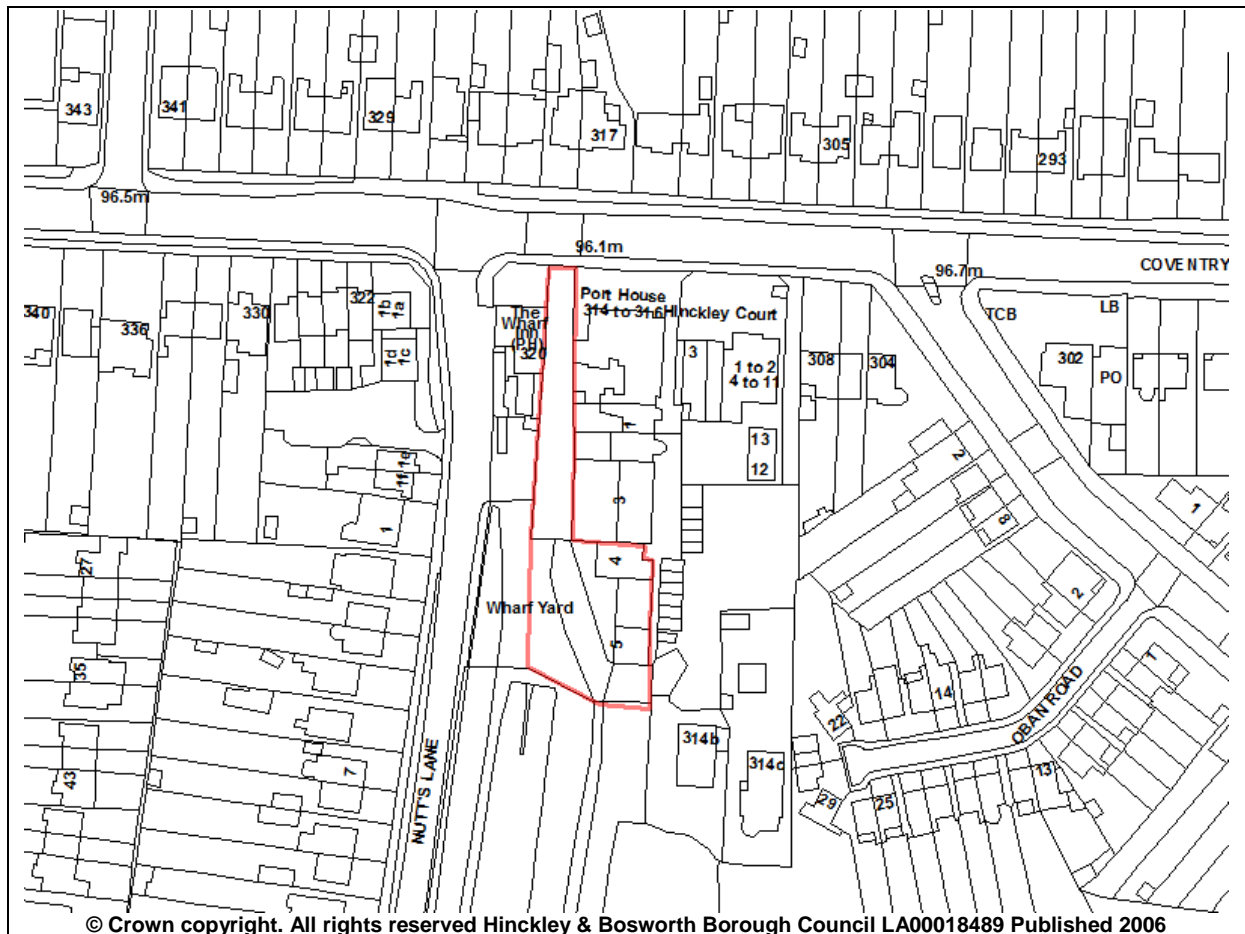


Hinckley & Bosworth
Borough Council

Planning Ref: 19/00252/FUL
Applicant: Mr J Bailey
Ward: Hinckley Clarendon

Site: 5 Wharf Yard Hinckley

Proposal: Erection of 14 apartments (revised scheme)



1. Recommendations

1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations:
 - Off-site Play and Open Space Provision £17,369.24
 - Off-site Play and Open Space Maintenance.£11,982.88
- Planning conditions outlined at the end of this report.

1.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

1.3. That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

Planning Application Description

1.4. Full planning permission is sought for the erection of fourteen apartments.

- 1.5. Members are advised that this application is a revision of a previously approved application under 11/00808/FUL for a dental laboratory and clinic with two office units and nine apartments with vehicular access and parking. The permission has been partially implemented and building work has commenced to first floor level. The revised scheme seeks to remove the commercial element of the scheme and the undercroft parking. The application therefore seeks a new permission for 14 apartments and ancillary parking provision. The footprint of the building including its height, scale and general appearance is not subject to change.
- 1.6. The application proposes a three and a half storey building consisting of fourteen apartments. The scheme proposes 2, one bedroomed apartments, 9 two bedroomed apartments and 3 three bedroomed apartments within a similar layout to the approved scheme.
- 1.7. The building proposes to use materials to match the adjacent residential premises. The scheme also proposes 20 car parking spaces, cycle storage, refuse storage and an area for clothes drying outside.

2. Description of the Site and Surrounding Area

- 2.1. The site is accessed from the Coventry Road between the Port House and the Wharf Inn Public House.
- 2.2. Land levels differ considerably; the access slopes down from Coventry Road, the site itself is predominantly flat, whilst the land to east of the site is approximately 2.5 metres higher, thus creating a three and half storey development to the front elevation and two and half storey development to the rear elevation.
- 2.3. The adjacent site to the north, referred to as 'Phase I' was subject to an application for six apartments which was approved in 2006 (06/00757/FUL) and has subsequently been implemented. To the east of the site is a commercial yard, and parking and garaging area for a detached bungalow at 314b Coventry Road located to the south east. To the south of the site the access continues to the branch of the canal.
- 2.4. The site is located within the settlement boundary of Hinckley and within the Ashby de la Zouch Canal Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan. Wharf House (a Grade II Listed Building) is located adjacent to the site to the south.

3. Relevant Planning History

11/00808/FUL	Dental laboratory and clinic with two office units and nine apartments with vehicular access and parking	Permission	02.05.2012
11/00809/CON	Part demolition of existing buildings to facilitate development	Permission	02.05.2012

4. Publicity

- 4.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 4.2. There have been six objections from five addresses. Objections are on the following grounds:
- 1) Lack of parking
 - 2) On-going parking problems
 - 3) Problems with drainage/sewage
 - 4) Overlooking and loss of privacy
 - 5) Loss of conifer tree
 - 6) Access along unmade road is dangerous

5. Consultation

- 5.1. The following consultees have no objections, some subject to conditions:

Leicestershire County Council Highways authority
Leicestershire County Council Ecology
Lead Local Flood Authority
Environmental Health (Pollution)
Environmental Health (Drainage)
HBBC Conservation
Waste Services
Ashby Canal Association
Inland Waterways Association

6. Policy

- 6.1. Core Strategy (2009)
- Policy 1: Development within Hinckley
 - Policy 19: Green Space and Play Provision
- 6.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 6.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)

7. Appraisal

- 7.1. Key Issues
- Assessment against strategic planning policies
 - Design and impact upon the character of the conservation area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Drainage

Assessment against strategic planning policies

- 7.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) 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.
- 7.3. 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) and the Site Allocations and Development Management Policies DPD (2016).
- 7.4. The site is in a sustainable location within the settlement boundary of Hinckley where there is generally a presumption in favour of residential development under Policy 1 in the Core Strategy.
- 7.5. The housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply when using the standard method set out by Ministry Housing Communities and Local Government (MHCLG). Therefore, the application should be determined in accordance with Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 7.6. The consideration under Paragraph 11 (d) is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.
- 7.7. The site is identified on the Hinckley and Burbage Policies Map as a residential site with planning permission. In addition, the site is within walking distance from a neighbourhood centre and a regular bus service between Hinckley and Nuneaton. Therefore, the principle of residential development on the site would be acceptable in terms of adopted strategic planning policies, subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the area and the Ashby Canal Conservation Area

- 7.8. Policy DM10 of the adopted 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 that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally. Policies DM11 and DM12 seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 7.9. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of

special architectural and historic interest which it possesses. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 7.10. Section 16 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (paragraph 193).
- 7.11. The site lies within the Ashby Canal Conservation Area on the access road to a community facility. The proposal seeks to replace the approved offices and dental surgery with duplex and standard apartments so there will be elevational changes to the ground floor only. There would be no additional impact on the Ashby Canal with the revised proposal. Additionally, although there is the Grade II Listed Port House to the western boundary of the site, the development is not viewed in context with this building from any viewpoint and it is therefore not considered that the development would cause harm to the setting of this Grade II listed Building.
- 7.12. The scheme is to be sited in a linear design projecting from the southern elevation of 'Phase I'. The ridge height steps down from the adjacent development reflecting the fall in ground level. It is considered that both the siting and proportions of this development reflect that of the existing form of development.
- 7.13. The design includes features that reflect a historic wharf side warehouse by incorporating gables and large arched features, three of the arched features include glazing which gives the appearance of a modern conversion. The only elevational changes are to the frontage to flats 2, 3 and 4 and these will match the approved frontage to flat 1. The frontage to the flats will be a central double door flanked by glazing panels set within a large arch.
- 7.14. The siting, scale and revised design is considered to reflect the adjacent development while also reflecting the change in levels between the two sites. The proposal is a modern design incorporating features of a historic development and is considered to be a suitable design approach in this setting. It is considered that the proposed amended design of the building would continue to be appropriate and therefore would preserve the character and appearance and thus significance of the Ashby Canal Conservation Area. The proposal would also be compatible with the significance of the adjacent grade II listed building known as the Port House. Therefore, it is considered that such an amended proposal would comply with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservations Areas) Act 1990.

Impact upon neighbouring residential amenity

- 7.15. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings. The NPPF seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
- 7.16. The proposed development would not result in any increase in the built form of development previously approved and implemented. The 5 new units will be incorporated into the ground floor where commercial units and undercroft parking were originally approved and these will have no impact on neighbouring amenity.
- 7.17. The residential dwelling most immediately impacted upon as a result of the proposal would be No. 314b Coventry Road located to the south east of the application site.

- 7.18. Due to the difference in land levels and siting of the neighbouring dwelling, it is sited approximately 2.5 metres higher than the ground level on the application site. For this reason it is not considered that the proposed development would have a significant detrimental impact upon the neighbouring dwelling.
- 7.19. The original permission conditioned obscure glazing within four windows on the eastern elevation with some lower panes of obscure glazing on the southern elevation to prevent overlooking towards the adjacent bungalow (319b). This arrangement is proposed to be replicated within this application and therefore the windows to these units are acceptable. The proposal is considered to have minimal impacts upon the amenity of neighbouring residents and accords with Policy DM10 of the SADMP.

Impact upon highway safety

- 7.20. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision. Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. The applicant has proposed 20 car parking spaces for the 14 dwellings proposed.
- 7.21. There is visibility of 42 metres at the junction with Coventry Road which is commensurate with the 20 mph zone (with capacity of up to 60 metres) with 1metre x 12 metres visibility for pedestrians.
- 7.22. There are 20 parking spaces proposed for the 14 units and this is sufficient for the amount of development. The LHA originally considered that the turning facilities were substandard. Although a revised plan has been submitted with each parking space complying with the Design Guide, there have been no revised comments from LHA thus far. However, it is considered that there is sufficient space for vehicles to turn within the site and both access and egress the site in a forward gear.
- 7.23. The development makes provision for bicycle storage which is anticipated to aid with the sustainable transport options to the site and which is expected to be utilised given the town centre location.
- 7.24. In regard to the level of vehicular parking provided, the scheme is acceptable and complies with Policy DM17 and DM18 of the SADMP.

Drainage

- 7.25. Policy DM7 of the adopted SADMP requires that development proposals demonstrate that they would not create or exacerbate flooding.
- 7.26. Drainage details are similar to those approved under the previous application (11/00808/FUL). Although there have been no comments received from Severn Trent Water, as per the previous application, STW had agreed that both Surface and Foul water disposal could connect into the public sewer, which would require a section 106 sewer connection approval via themselves.
- 7.27. The previous application has been implemented with the building above ground floor level. As the previous condition requiring a drainage scheme has been discharged with STW agreeing that connections could be made to the public sewer for both foul and surface water, it is considered that there is no requirement for an additional drainage condition. There have been comments made on existing problems relating to drainage. However, this appears to be an on-going issue and it

is not considered that, if the development is properly connected to the public sewer as agreed, that the proposal for 14 new dwellings would cause additional problems.

- 7.28. In this regard, the proposal complies with Policy DM7 of the SADMP.

Other Matters

- 7.29. There have been objections raised in regard to the loss of a conifer tree, the erection of gates and the deterioration of the service road between the site and Coventry Road.
- 7.30. These matters have been queried with the applicant and confirmation has been received that the conifer tree adjacent to the southern boundary of the site is not on land under the applicant ownership or control and the tree is not to be felled as part of this application.
- 7.31. Although the original application proposed a gate on the northern boundary of the site but this has been omitted from this scheme. The gates to the Boat Club on the southern end of the site are to be slightly re-positioned but will remain for access to the boat club, with no obstructions for members of the Boat Club or other community uses within the land to the south.
- 7.32. Although the access road to Coventry Road has been included within the red line, this is not within the ownership of the applicant and therefore there would be no requirement on the applicant to improve this land. This would be a private matter between all those with an easement over the land.

Infrastructure contributions

- 7.33. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities.
- 7.34. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

Public open space/public realm

- 7.35. Policies 1 and 19 of the adopted Core Strategy seek to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within Hinckley. The Open Space, Sports and Recreational Facilities (PPG17) Study provides further advice on the quality of facilities at each designated public open space.
- 7.36. The site is located within 400 metres of Langdale Road Recreation Park which include a children's play area and outdoor sports facilities, Brodrick Road amenity green space and allotments. According to the Open Space and Recreation Study October 2016 the park has a score of 74 points. It has been confirmed by HBBC Green Spaces that improvements at Langdale Park would include additional play items to the existing play area, improvements to the cricket square (outdoor sports) new site furniture (casual/informal) and some bulb and wildflower planting (Natural Green Space). The contribution of £29,352.12 has been identified towards improving these facilities. The request for these monies is CIL compliant.

	Policy Requirement per dwelling based on 2.4 people per dwelling using CENSUS average	Off site provision	Off site maintenance
Equipped Children's Play Space	3.6	£9,169.27	£4,425.12
Casual/Informal Play Spaces	16.8	£1,044.29	£1,270.08
Outdoor Sports Provision	38.4	£4,865.28	£2,311.68
Accessibility Natural Green Space	40	£2,290.40	£3,976.00

University Hospitals of Leicester NHS Trust

- 7.37. A contribution of £4,970 is sought towards to gap in funding created by each potential patient from this development in respect of A&E and the evidence provided by the UHL is not sufficiently robust to conclude that the CIL Regulation 122 test can be satisfied. Therefore the contribution is not considered to be CIL compliant and will not be sought for this development.

Education

- 7.38. LCC Education are not seeking any contributions towards education facilities.

8. Equality Implications

- 8.1. 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.

- 8.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

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

- 8.4. 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).

9. Conclusion

- 9.1. The site is allocated as a residential site with planning permission on the Hinckley and Burbage Policies Map. The proposed amended design of the building would continue to be appropriate and therefore would preserve the character and appearance and thus significance of the Ashby Canal Conservation Area. Parking provision is adequate for the number of dwellings to be provided. The scheme as amended is acceptable under Policy 1 and Policy 19 of the Core Strategy, Policies DM1, DM3, DM7, DM10, DM11, DM12 and DM18 of the SADMP, and is therefore recommended for approval subject to conditions.

10. Recommendation

- 10.1. **Grant planning permission** subject to :

- The prior completion of a S106 agreement to secure the following obligations:
 - Off-site Play and Open Space Provision £17,369.24
 - Off-site Play and Open Space Maintenance.£11,982.88
- Planning conditions outlined at the end of this report.

- 10.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

- 10.3. That the Planning Manager be given delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

10.4. Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this 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:

Ground Floor plan, Dwg no 4524/110 Rev C

First Floor Plan, Dwg no 4524/11 Rev C

Second Floor Plan, Dwg no 4524/12 Rev C

Third Floor Plan, Dwg no 4524/13 Rev C

Cross Sections and Construction Notes Dwg no 4524/15 Rev C

All received by the Local Planning Authority on 1 March 2019

Site location and Block Plan - Dwg no 4524/01 received by the Local Planning Authority on 8 April 2019

Site layout plan, Dwg no 4524/02 Rev B received by the Local Planning Authority on 16 July 2019

Elevations, Dwg no 4524/14 Rev B received by the Local Planning Authority on 25 July 2019

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. The materials to be used on the external elevations of the proposed extension including details of doors, windows, eaves, verge treatment, guttering and downpipes (including method of fixing) shall accord with the approved drawings:

Elevations, Dwg no 4524/14 Rev B

Sections and Construction Notes, Dwg no 4524/15 Rev C

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. Prior to first occupation of the development hereby permitted, the scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, shall be carried out in accordance with approved Site Layout drawing no 4524/02 Rev B received by the Local Planning Authority on 16th July 2019. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

5. The finished floor levels of the development shall be implemented in accordance with the approved Site Layout plan, Dwg no 5424/02 Rev B received by the local Planning Authority on 16th July 2019.

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development hereby permitted shall not be occupied until such time as the car parking and cycle spaces provision (with turning facilities) has been provided, hard surfaced and demarcated in accordance with the approved Site Layout plan drawing number 4524/02 Rev B. 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 the interests of highway safety and in accordance with Policy DM17 and 18 of the Site Allocations and Development Management Policies DPD (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

7. The development, hereby approved, shall not be occupied until the provision for waste and recycling storage and collection across the site has been constructed in accordance with Site Layout plan, Dwg no 4524/02 Rev B received by the Local Planning Authority on 16th July 2019.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

10.5 **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 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. This decision is also conditional upon the terms of the planning agreement which has been entered into by the developer and the Council under Section 106 of the Town and Country Planning Act 1990 (as amended). The Agreement runs with the land and not to any particular person having an interest therein.