

Planning Committee 3 January 2017  
Report of the Chief Planning and Development Officer



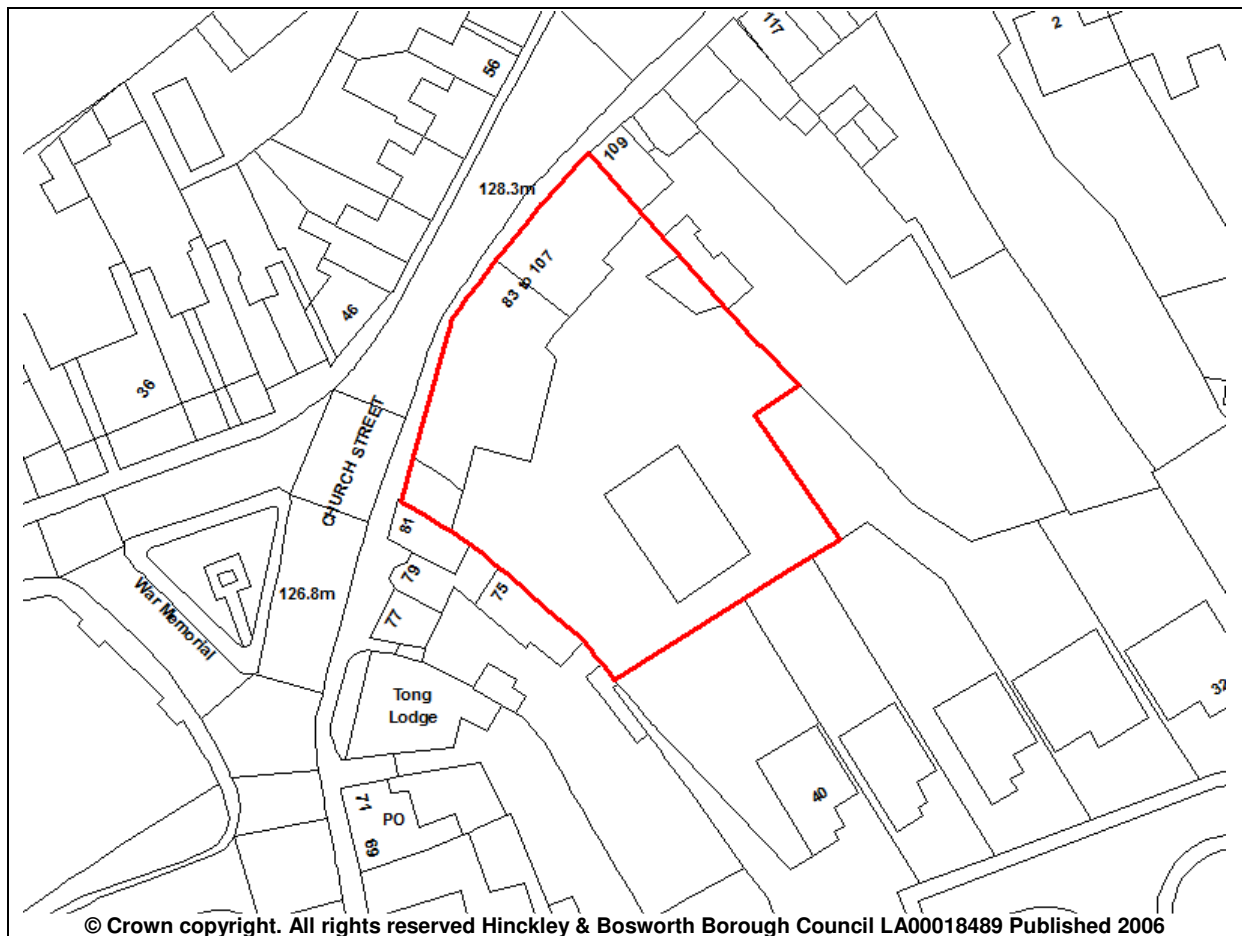
Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Planning Ref: 16/00885/FUL  
Applicant: Central England Co-operative Limited  
Ward: Burbage St Catherines & Lash Hill

Site: 83 - 103 Church Street Burbage

Proposal: Change of use of part of existing retail unit to either a retail unit (A1) or hot food takeaway (A5). Change of use of office (B1) and dance studio (D2) to residential (C3) to form 5 flats. Demolition of part of outbuilding to rear and erection of a two storey side extension



**1. Recommendations**

**1.1. Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

**1.2.** That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

## **2. Planning Application Description**

- 2.1. This application seeks full planning permission for the refurbishment of the existing ground floor retail use and subdivision of the existing unit to form either an additional retail unit (A1) or a hot food takeaway (A5). The proposal also aims to convert the existing office and first floor dance studio to form 5 flats. Additionally the proposal includes part demolition of the existing outbuilding and the erection of a two storey side extension to the existing office.
- 2.2. There are minimal changes proposed to the existing front elevation of the main buildings with changes only to the ground floor. A new powder coated shopfront is proposed for the smaller A1 or A5 use with a new powder coated aluminium window. The existing aluminium shopfront to the vacant retail use is to be refurbished and repainted with a replacement powder coated aluminium glazed door and side screen. A replacement powder coated aluminium glazed door is proposed to serve the apartments.
- 2.3. Changes are proposed to the rear elevation of the main building with new air conditioning units on the existing flat roof, new air intake and extract ducts with louvres and a new ramp with 1.1 metre high metal railings to create access to the new doors serving the refurbished funeral home unit. The funeral home unit does not require planning permission as no change of use is proposed as a funeral home unit is an A1 use.
- 2.4. Access to the parking, situated at the rear of the site, is through an existing archway from Church Street. This application proposes to formalise the existing car park, identifying and maintaining the proposed and allocated car parking spaces. 20 parking spaces are proposed to the rear of the site with the funeral vehicle space to be hatched in 50mm wide yellow lining. This equates to 2 spaces for each flat, 3 for the existing dentist, 2 for the new retail unit or hot food takeaway, 2 for the office unit, 1 for the funeralcare unit and 2 visitor spaces. A bin store would be located to the rear of the site.

## **3. Description of the Site and Surrounding Area**

- 3.1. The application site is located within the settlement boundary and conservation area of Burbage. The built form in the surrounding area is predominantly two storey, with the existing building itself being two storey. The building curves round reflecting the curved nature of Church Street. Adjacent to the site is an existing dentist unit which is to be retained with parking spaces for the dentist provided within the rear of the site. Adjacent the main property and located opposite the application site are two storey terraced residential properties.

## **4. Relevant Planning History**

03/00609/FUL	Installation of disabled ramp	Permitted	17.07.2003
03/01197/FUL	Retention of ATM satellite dish	Permitted	26.11.2003
04/00005/FUL	Rear extensions and alterations to extend storage	Permitted	01.03.2004
05/01151/COU	Change of use to retail warehouse / showroom	Refused	08.12.2005

08/00363/FUL	Proposed roller shutter to existing entrance	Permitted	29.05.2008
09/00320/ADV	Erection of fascia sign and window graphics.	Advertisement Consent	13.07.2009
09/00473/COU	Change of use to office (b1)	Permitted	18.08.2009

## 5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2. Neighbour contributions from seven addresses raising the following concerns:

- 1) Over proliferation of hot food takeaways within the area
- 2) Limited number of parking spaces
- 3) Noise disturbance from users of the hot food takeaway
- 4) Noise disturbance from ventilation, cooling and air conditioning units
- 5) Smells from A5 use (hot foot takeaway)
- 6) Vermin and litter within the rear of the site
- 7) Loss of the dance school
- 8) Increase in anti-social behaviour
- 9) Increase in traffic
- 10) Movements of a funeral vehicle
- 11) Increase in pedestrian traffic
- 12) A5 use not in keeping or sympathetic with the conservation area
- 13) Access to the site is inadequate
- 14) Funeral home unit would be emotionally detrimental
- 15) Extension to the rear building would result in a loss of view

## 6. Consultation

6.1. No objection subject to conditions from the following:

LCC Highways  
 HBBC Environmental Health  
 HBBC Waste

6.2. No objection from the following:

HBBC Conservation Officer  
 HBBC Drainage  
 LCC Ecology  
 LCC Drainage

6.3. Burbage Parish Council raise concerns regarding the take-away use and the impact upon the conservation area and the neighbouring properties and impact upon highway safety.

## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 4: Development in Burbage
- Policy 5: Transport Infrastructure in the Sub-regional Centre
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 24: Sustainable Design and Technology

### 7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highway Safety
- Policy DM18: Vehicle Parking Standards
- Policy DM22: Vitalising District, Local and Neighbourhood Centres
- Policy DM23 : High Quality Shop Fronts and Advertisements
- Policy DM25: Community Facilities

### 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

## **8. Appraisal**

### 8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area and the Burbage Conservation Area
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Drainage
- Ecology
- Other Issues

#### Assessment against strategic planning policies

8.2. Paragraphs 11-13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision making. The NPPF is a material consideration in determining applications. The development plan in this instance consists of the Site Allocations and Development Management Policies (SADMP) DPD (2016) and the Core Strategy (2009).

8.3. Policy DM1 of the adopted SADMP and paragraph 14 of the NPPF provide a presumption in favour of sustainable development with planning applications that

accord with the policies in the Local Plan should be approved unless material considerations indicate otherwise.

- 8.4. The application site is located within the settlement boundary and conservation area of Burbage. Policy 4 of the Core Strategy identifies Burbage as a key centre where residential development is generally supported within the settlement boundary, subject to consideration of all other material planning considerations. Policy 4 also aims to support the Burbage local centre and ensure that the village's infrastructure can accommodate new development.
- 8.5. The site is designated as a Neighbourhood Centre within Policy DM22 of the SADMP. Policy DM22 states that 'the change of use or loss of A1 or A2 uses within the neighbourhood centres will only be permitted where it would not reduce the community's ability to meet its day to day needs.'
- 8.6. The proposed use would retain a large amount of ground floor space for an A1 use and only a minor part of the building would be potentially for an A5 use. The funeralcare unit would be situated in the existing retail unit and the proposed A5 use would be located in the existing storage area for the retail unit with a small amount of customer space (approximately 29.25 square metres). Due to the large floor space of A1 use to be retained and the number of existing A1 uses within the neighbourhood centre it is not considered that the proposed A5 use and loss of approximately 67.5 square metres of A1 floor space would reduce the community's ability to meet its day to day needs and is therefore in accordance with Policy DM22.
- 8.7. Policy DM22 of the SADMP supports the use of upper floors of retail premises within local and neighbourhood centres for residential use where they accord with other policies in the Development Plan.
- 8.8. The development is sustainably located in regards to access to services, facilities and modes of public transport and would therefore be in accordance with Policies 4 and 5 of the Core Strategy and DM22 of the SADMP.
- 8.9. The principle of retail and residential development and the retention of the office use to the rear are considered in accordance with Policy 4 of the Core Strategy and Policy DM22 of the SADMP and is therefore acceptable in principle, subject to all other planning matters being appropriately addressed.

#### Impact upon the character of the area and the Burbage Conservation Area

- 8.10. Policy DM10 requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features.
- 8.11. The built form in the surrounding area is predominantly two storey, with the existing building itself being two storey. The building curves round reflecting the curved nature of Church Street.
- 8.12. Minor changes are proposed to the front elevation with only one new entrance for the smaller retail unit. All existing openings are to be reused and either refurbished or replaced with a powder coated aluminium glazed door and shopfront.
- 8.13. The premises are an important local building within the Burbage Conservation Area. Its timber sash windows and gated service entrance maintain the traditional

appearance of the building despite the modern interventions around the shop entrance, and it contributes positively to the character and appearance, and thus significance of the conservation area.

- 8.14. 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.
- 8.15. Section 12 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 132 of the NPPF states that 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.
- 8.16. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.17. The proposal to bring the building back into use is welcomed and the limited number of refurbishments proposed to the frontage of the building will slightly enhance its appearance. The small office outbuilding to the rear is of no historic or aesthetic significance, but the proposed demolition and alterations to the building will provide it with a more traditional appearance and will enhance the setting of the main building.
- 8.18. The proposed air conditioning units, intake and extract ducts and potential flue would be located to the rear of the site and would not be visible from the street scene and there would therefore be no impact upon the character of the area or the Conservation Area.
- 8.19. The works will provide a minor enhancement to the character and appearance of the conservation area. The proposal will enhance the significance of the conservation area and it therefore complies with Policies DM11 and DM12 of the SADMP, section 12 of the NPPF and the statutory duty of section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 8.20. Due to the nature of the site and the proposed location of the bin store, a scheme which makes adequate provision for waste and recycling and collection across the site would need to be submitted to ensure that there is no impact from waste on the street scene or the conservation area. It is recommended that this be secured by condition.
- 8.21. The proposal would therefore be in accordance with Policy DM10, DM11 and DM12 of the adopted SADMP.

#### Impact upon neighbouring residential amenity

- 8.22. Policy DM10 of the SADMP state that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.23. No extensions are proposed to the main building with the only significant alteration resulting from the part demolition of the outbuilding and a two storey side extension to allow for access to the first floor. The proposed extension would project

approximately 2.7 metres from the existing building and would be sited approximately 4 metres from the boundary with the residential properties to the rear of the site. Therefore due to the siting of the extension from the neighbouring properties, there would be no impact upon residential amenity from the proposed outbuilding.

- 8.24. Air conditioning units are to be relocated to the extension of the outbuilding and new air conditioning units are proposed to the existing flat roof to the rear of the main building. New air intake and extract ducts with louvres are also proposed to the rear and side of the site. Environmental Health have assessed the noise report submitted and considers there will be no harm caused to residential amenity from these air conditioning units. To ensure that there would be no impact upon residential amenity, a condition is recommended to secure the noise levels of the units.
- 8.25. There is no end user identified currently for the hot food take away aspect. The type of hot food which is served at a take away dictates the type of ventilation which is needed and therefore the full details for ventilation and the assessment of its acoustic impact have not been submitted with this application.
- 8.26. Whilst the full details cannot be provided the applicant has indicated an indicative location for a potential extraction flue. Environmental Health have assessed the application and consider that a flue could be installed in this location which would not have a detrimental impact upon the residents of the first floor and the residents adjacent the site. To ensure this, a condition is recommended to require full details to be submitted and approved prior to the conversion of the unit to A5.
- 8.27. The proposed A5 use would also have opening hours from 8am to 11 pm in the evening and again this would be conditioned to ensure the development would not be detrimental to residential amenity.
- 8.28. The proposed first floor residential flats would be situated on the front of the building, with a communal corridor separating the residential accommodation with the rear elevation of the building. As such, there would be distance between the first floor apartments and the proposed air conditioning units and the possible indicative location of the flue.
- 8.29. Therefore the proposal is considered to comply with Policy DM10 of the SADMP.

#### Impact upon Highway Safety

- 8.30. Policy DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.31. The proposed access to the site is from Church Street, using an existing access through an archway under the proposed residential flats. It is proposed to formalise and allocate parking spaces within the existing car park to the rear of the site. It is proposed to have a total of 20 parking spaces with space for a funeral vehicle reserved by hatched yellow lines. The applicant has submitted a Transport Assessment which looks at all aspects of the proposed development. At this point, the road has a 20 mph speed limit.
- 8.32. Revised plans have been received amending the size of the parking spaces to be in accordance with the minimum size of parking spaces, altering the visibility splays and showing pedestrian visibility.

- 8.33. The amended transport statement details the stopping site distances that show that approaching vehicles would be able to see a vehicle exiting from the site. The site has an existing access, with an existing A1 use class and it is considered that the proposals will not lead to a material increase in traffic to/from the site. There are sufficient parking requirements provided in accordance with Leicestershire County Council's 6c's design guidance and as such the proposal provides adequate parking provision which should not lead to an increase in on-street parking in the area.
- 8.34. The swept path analysis for the funeral vehicle shows that on one of the manoeuvres of this vehicle, the vehicle would slightly go over into the opposite carriageway. However as the existing use is an A1 use and the proposed funeral home unit is also an A1 use, it is considered that the refurbishment to a funeral home unit and all associated movements could occur without the requirement to apply for planning permission. Therefore limited consideration should be given regarding the movements associated with the hearse. Further to this, due to the infrequent nature of these trips, the layout of the road, and the likely speeds this will not constitute severe harm in accordance with Paragraph 32 of the NPPF.
- 8.35. The amended plans now show a single warning sign within the site for vehicles leaving the site to be careful and watch out for pedestrians. To ensure there is no impact upon pedestrians and to ensure vehicles exit the site slowly, a condition is recommended for a scheme of warning signs to be erected within the site.
- 8.36. To ensure vehicles can stand clear of the highway, a condition is recommended to ensure that no gates or barriers are erected at the site entrance.
- 8.37. Although the site access falls short of current highway standards, the proposed use does not result in a demonstrable increase in traffic over the current lawful use of the site. This is a key factor when considering the impact on highway safety for development on brownfield sites.
- 8.38. LCC Highways have assessed and considered the application and the submitted details and have stated that the residual cumulative impacts of the development can be mitigated by condition and the design of the parking layout and are not considered severe in accordance with Paragraph 22 of the NPPF.
- 8.39. The proposals would not have a severe adverse impact upon highway safety and would therefore be in accordance with Policy DM17 and DM18 of the SADMP.

#### Drainage

- 8.40. Policy DM7 of the SADMP states that adverse impacts from pollution and flooding will be prevented by ensuring that the development does not create or exacerbate flooding. Paragraph 103 of the NPPF requires that development does not increase flood risk elsewhere.
- 8.41. The proposed parking spaces will be permeable. The existing drainage channel located on-site is also to be retained and repaired/widened/generally improved as necessary, which will help to increase flow rates off of the site. There would be a designed solution to the site drainage during construction as opposed to the ad-hoc strategy which currently exists on site. Therefore the proposal would have no impact upon flooding or drainage in accordance with Policy DM7 of the SADMP.



### Ecology

- 8.42. Leicestershire County Council Ecology has been consulted and has no objection. A Bat Survey has been submitted as part of the application.
- 8.43. The surveys show that there was no evidence of bats.

### Other Issues

- 8.44. Policy 19 of the Core Strategy and Policy DM3 of the SADMP requires new residential development to contribute towards the provision and maintenance of public play and open space facilities for children. However, Paragraph: 031 Reference ID: 23b-031-20160519 of the Planning Practice Guidance, which is a material consideration, notes that tariff style planning obligations cannot be sought for developments of 10 units or less and which have a maximum combined gross floor space of no more than 1000sqm. In light of the guidance in the PPG and the fact the application is recommended for refusal, a contribution towards play and open space provision is not being sought.
- 8.45. Concerns have arisen regarding the loss of the dance school. The dance school is not recognised as a protected community facility under Policy DM25 of the SADMP and therefore there is no requirement for the justification of the loss of the dance school. Notwithstanding the above, the applicant has confirmed that the dance school is to be retained and relocated to a nearby dance studio within the vicinity of the area within Burbage.
- 8.46. Concerns have arisen regarding an increase in anti-social behaviour. There are no known issues in the area and it is not considered that this small A5 unit would result in an anti social behaviour problem in the area.
- 8.47. Concerns have arisen regarding the potential for vermin on the site, emotionally detrimental, loss of view. However these are not material planning considerations in the determination of 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 in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

## 10. Conclusion

- 10.1. The proposal, due to the size, scale, bulk and design, would not have an adverse impact with regards to the visual appearance and character of the area and the Burbage Conservation Area. The proposal would respect the scale and character of the existing building and street scene and would not adversely affect the amenities of the occupiers of neighbouring properties and it is assessed that there would be no intensification of the site and the proposal would not have a severe adverse impact upon highway safety. The proposal is considered to be sustainable development in accordance with Policies DM1 of the SADMP together with paragraph 14 of the NPPF. The application is considered to be in accordance with Policy DM1, DM7, DM10, DM11, DM12, DM17 and DM18 of the SADMP and is therefore recommended for approval subject to conditions.

## 11. Recommendation

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

- Planning conditions outlined at the end of this report.

- 11.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

### 11.3. 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 51 of 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: Proposed Elevations Drg. No. 3138-SK-120 Rev. A (scale 1:100), Proposed First Floor Plan and Basement Drg. No. 3138-SK-061 (scale 1:100) and Site Location Plan Drg. No. 3138-SK-001 (scale 1:1250 and 1:500) received by the Local Planning Authority on 22 September 2016, Proposed Site Plan Drg. No. 3138-A-010 Rev. B (scale 1:100) received by the Local Planning Authority on 10 November 2016 and Proposed Site and Ground Floor Plan Drg. No. 3138-SK-060 Rev. B (scale 1:100) received by the Local Planning Authority on 23 November 2016.

**Reason:** To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site have been submitted to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The development shall thereafter be carried out in accordance with the approved details.

**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.

4. Prior to first occupation of any dwelling, retail unit or office unit hereby approved, parking and turning facilities, as shown on approved drawing 3138/SK/060 Rev. B (scale 1:100) received by the Local Planning Authority on 23 November 2016, shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter, park, and leave in a forward direction. The parking spaces and turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

**Reason:** To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users and to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

5. No gates/barriers/bollards/chains or other such obstructions shall be erected to the vehicular access.

**Reason:** To enable a vehicle to pull clear of the highway in accordance with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

6. No development shall commence on site until a scheme that makes provision for on-site signage works have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

**Reason:** To reduce vehicle speeds to ensure that there would be no impact upon highway safety in accordance with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

7. No development shall commence in relation to the hot food take away until a scheme for ventilation of the premises, which shall include installation method, maintenance and managements, has been submitted to and approved in writing by the Local Planning Authority. These details shall be fully implemented prior to first use of the A5 unit and thereafter maintained as such at all times.

**Reason:** To ensure satisfactory extraction/ventilation/filtration of the premises and to protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory odour, noise, disturbance and vibration in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

8. The proposed hot food take-away shall not be open to the public outside the following hours:  
08.00 - 23:00, Monday - Sunday including Bank Holidays.

**Reason:** To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with

Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

9. The level of noise emitted from the extraction/air conditioning units of the retail and office unit hereby approved shall be in accordance with the noise levels as outlined in section 7 - Noise Mitigation of the submitted Environmental Noise Assessment Report received by the Local Planning Authority on 22 September 2016.

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

#### 11.4. 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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. The existing sewerage network in the locality is likely to have limited capacity, and the opportunity should be taken to relieve this system of unnecessary surface water as and when brownfield development occurs within its drainage area. It is important, therefore, that a sustainable drainage approach is applied to surface water management in the proposed development, and peak runoff rates should be returned to greenfield levels wherever possible. The preferred use of infiltration devices (soakaways, pervious paving, filter drains etc.) will depend on suitably permeable ground strata and the site being free from a previous land use legacy of ground contamination. Source control techniques and runoff attenuation systems should be considered and incorporated where possible.