

**Planning Committee 7 January 2020**  
**Report of the Planning Manager**

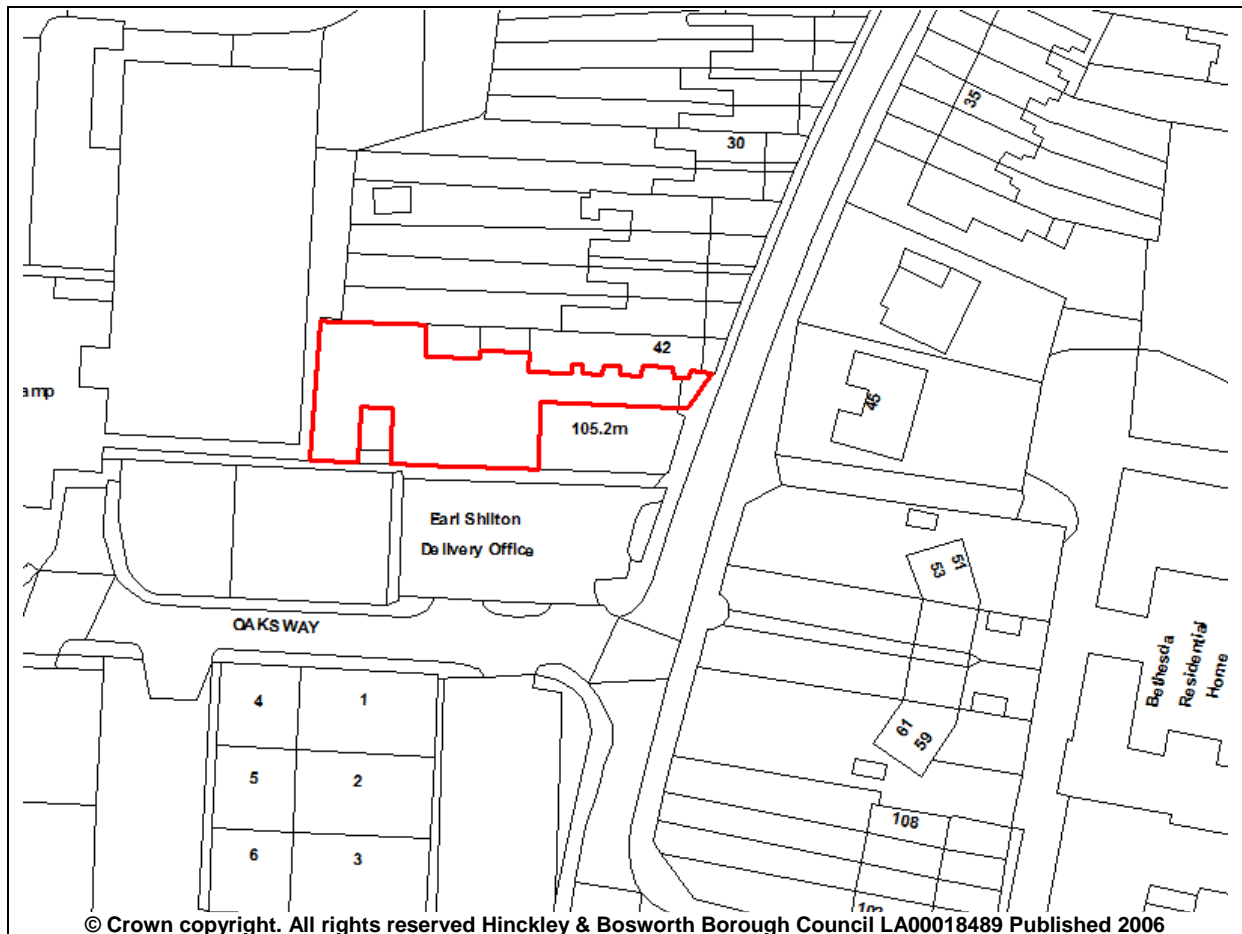
**Planning Ref:** 19/00742/FUL  
**Applicant:** Mr David Cooper  
**Ward:** Earl Shilton



Hinckley & Bosworth  
Borough Council

**Site:** 42 Station Road Earl Shilton

**Proposal:** Erection of four apartments



**1. Recommendations**

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

- 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.

**2. Planning Application Description**

- 2.1.** This application seeks full planning permission for the erection of four apartments in a two storey block comprising 2 x two bedroom units and 2 x one bedroom units. The block would be set well back from the highway towards the rear of the site and accessed by the existing shared drive owned by a third party. An amenity space and bin and cycle storage areas are provided within the proposed layout. Two off-street parking spaces are proposed to provide one space each for the two bedroom

units. The layout reflects the extent of the applicant's land ownership and the need to respect access to a third party owned parking space towards the rear of the site.

- 2.2. The block would be located adjacent to the south boundary of the site set back from the existing apartments within 42 Station Road. The main elevation facing the highway is designed with traditional two storey bay windows with soldier brick headers and cills and brick corbels at eaves. The scheme proposes external materials of blue brick plinth, red facing bricks at ground floor and through coloured off-white render at first floor to give a traditional appearance and concrete interlocking roof tiles and grey aluminium windows and doors.
- 2.3. A Design and Access Statement was submitted to support the application.
- 2.4. Amended plans have been received to address a number of issues raised during the course of the application and re-consultation has been undertaken.

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

- 3.1. The application site lies within the settlement boundary of Earl Shilton close to the town centre on the west side of Station Road. The site measures approximately 750 square metres and comprises an unused area of land previously used as garden and hardstanding serving the original host dwelling.
- 3.2. The host dwelling, a two storey dual aspect traditionally styled end terrace house with bay windows, decorative stone headers and cills, has been subdivided and converted to two apartments. The external walls have been finished in a grey render and headers and cills painted white. It lies along the northern site boundary. The remainder of the north boundary is enclosed by a 3 to 4 metre high brick wall.
- 3.3. The host dwelling is set much further forward of the application site with only a small front garden enclosed by a metre high boundary retaining wall. A tarmac driveway to the immediate south of the host dwelling provides shared access to the site. There is a visibility splay defined by another metre high brick retaining wall and higher pillar to the south side of the access.
- 3.4. There are two storey terraced residential properties with long rear gardens and small front gardens on a staggered building line to the north of the site. Lower density dwellings in larger plots to the east of the site. A Co-op superstore building to the immediate west of the site and a commercial scale building used as a post office sorting depot and public car park on a lower ground level to the south of the site.
- 3.5. There are a number of mature/semi-mature trees along the southern boundary of the application site that are managed by the Borough Council and contribute significantly to the visual amenity of the site and the wider Station Road street scene.

### **4. Relevant Planning History**

14/01185/OUT	Erection of two new dwellings (outline - access only)	Permitted	23.01.2015
15/00181/OUT	Erection of up to 4 dwellings (outline - access, layout and scale)	Permitted	20.11.2015
18/00710/FUL	Erection of 4 flats	Withdrawn	29.05.2019

### **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. Responses from six separate addresses have been received as a result of public consultation raising objections and concerns on the following grounds:-

- 1) Overdevelopment and will stretch the amenities/infrastructure of the nearby area;
- 2) Insufficient parking/adverse impact on parking availability;
- 3) Additional traffic using an access with substandard visibility on a busy road;
- 4) Narrow pathway with restricted space for bin collection and bin storage area not big enough;
- 5) Overshadowing and overlooking and loss of privacy to rear aspect and gardens;
- 6) Encroachment of third party owned land and inadequate labelling on plans;
- 7) Insufficient space available for the proposed parking and turning provision due to existing uses serving the other dwellings within the site;
- 8) Adverse impact on pedestrian safety from additional vehicular use of the access;
- 9) Loss of green space;
- 10) Negative visual impact;
- 11) Potential damage to existing dwellings, driveway and boundary walls during construction phase;

## **6. Consultation**

6.1. No objection, subject to conditions, has been received from:

Leicestershire County Council (Highways)  
Environmental Health (Pollution)  
Environmental Health (Drainage)  
Street Scene Services (Waste)  
Arboricultural Officer

6.2. Earl Shilton Town Council are pleased to see retention of the trees to the frontage but object on the grounds of inadequate off-street parking provision and highway and pedestrian safety grounds in respect of additional ingress and egress from the existing access.

## **7. Policy**

7.1. Earl Shilton and Barwell Area Action Plan (AAP)(2014)

- No relevant policies

7.2. Core Strategy (2009)

- Policy 2: Development in Earl Shilton
- Policy 19: Green Space and Play Provision

7.3. 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 DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Infrastructure contributions
- Other issues

#### Assessment against strategic planning policies

- 8.2. 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), the Earl Shilton & Barwell Area Action Plan (ES&BAAP) 2006-2026 and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.3. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. 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 identified in the Government's Housing Delivery Test and the Council is currently unable to demonstrate a 5 year housing land supply.
- 8.4. Notwithstanding this, Policy 2 of the adopted Core Strategy supports housing development within the settlement boundary of Earl Shilton. The application site is located within the settlement boundary in a sustainable urban location close to a full range of services and facilities that can be accessed by sustainable transport modes where residential development is generally acceptable in principle and supported by the overarching principles of the NPPF. The proposal would therefore be in accordance with adopted strategic planning policies, subject to all other planning matters being satisfactorily addressed. Outline planning permission for up to 4 dwellings on the site was permitted in 2015 but has now expired.

#### Design and impact upon the character of the area

- 8.5. 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 with the intention of preventing development that is out of keeping with the character of the surrounding area.
- 8.6. An objection has been received on the grounds of negative visual impact.
- 8.7. Overall, the surrounding area has a mixed character with residential, retail and commercial/industrial buildings adjacent to the site. To the north of the application site there are two storied traditionally styled terraced houses on a staggered building line and with long rear gardens. The host dwelling has been converted to two apartments with shared amenity and parking spaces. The conversion has already changed the character of the application site from that of a private rear garden. The site is well screened to the south boundary by a line of mature trees

and a commercial scale industrial building and from the west by a Co-op superstore building.

- 8.8. The proposed apartment block would be set back much further from the Station Road highway than the host building. The siting of the block and parking spaces reflects the two separate parcels of land within the wider site owned by the applicant and the desire for a layout that enables retention of a number of mature trees along the southern boundary with the public car park that add significantly to the visual amenity of the Station Road street scene. The Borough Council's Arboricultural Officer considers that conditions could be imposed to ensure satisfactory protection of the trees during construction should the application be approved.
- 8.9. By virtue of the existing mature trees that are to be retained and the commercial scale industrial building adjacent to the south boundary, the proposed apartment block would not be overly prominent in the Station Road street scene or adversely affect the visual appearance of the surrounding area. Proposed levels information has been submitted to demonstrate that the scheme would result in a satisfactory relationship with existing neighbouring buildings. The design includes traditional architectural features and detailing such as two storey bay windows and brick corbelled eaves to reflect the traditional style of the host dwelling. Proposed materials include red facing bricks at ground floor and off-white render at first floor which also reflects a traditional appearance.
- 8.10. Notwithstanding the objection received, by virtue of existing development to the south and west of the site and retention of the mature trees, the layout, two storey scale, and traditional design and appearance of the scheme would complement the character of the surrounding area and would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.11. 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 and that the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.12. Objections have been received on the grounds of overshadowing and loss of privacy from overlooking to neighbouring properties rear aspect and gardens and adverse impacts on existing residents from additional use of the vehicular access.
- 8.13. The amended scheme proposes a single two storey block of four apartments located adjacent to the southern boundary of the site and between 8 – 8.5 metres to the south of the 4 metre high north boundary wall and completely offset to the south and rear of the host building. By virtue of its siting and scale, the block would not result in any significant adverse overbearing or overshadowing impacts on any neighbouring properties. Notwithstanding that there would be windows at first floor in the north elevation facing towards residential gardens, by virtue of the separation distance to the boundary and the height of the existing boundary wall these windows would not result in any significant loss of privacy from overlooking.
- 8.14. In respect of the amenity of the future occupiers of the site, Environmental Health (Pollution) identify that there appear to be items of plant/equipment located on the roof of the adjacent commercial building in close proximity to the proposed apartments. A condition is therefore recommended for a noise impact assessment to be carried out to assess any impact on future occupiers from noise from the plant/equipment and to inform any necessary noise mitigation measures. The

condition would be reasonable and necessary to protect the amenities of any future occupiers of the development.

- 8.15. Notwithstanding the objections received, by virtue of the proposed layout, scale and design, the scheme would not result in any significant adverse impacts on the residential amenities of any neighbouring properties and subject to satisfactory noise assessment/mitigation being undertaken would provide satisfactory amenity for future residents. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.16. 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 Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 8.17. Objections have been received on the grounds of adverse impacts on highway and pedestrian safety from additional use of an access with substandard visibility on a busy road and inadequate parking and turning provision within the site to serve the two existing and proposed additional dwellings. Objections have also been received on the grounds of adverse impacts on existing residents' safety from increased use of the shared access drive which runs adjacent to existing points of access/egress to the host building.
- 8.18. The vehicular access to the site currently serves the two existing apartments in the converted host building and the site provides adequate parking and turning for these dwellings which would be retained within the proposed site layout. Some of the open hard-surfaced areas within the wider site are not within the applicant's ownership and are allocated for exclusive use for existing residents of the apartments within the host dwellings for parking, turning, patios etc. The proposed development does not rely on the use of any of these third party owned areas for access, parking, turning or amenity space. An informative note could be included to define the extent of the development site.
- 8.19. The proposed layout includes two off-street parking spaces with satisfactory turning within the applicant's ownership and these would be allocated one each to the 2 x two bedroom units. No off-street vehicle parking would be provided to either of the 2 x one bedroom units. However, the site is in close proximity (90 metres) to the town centre and its full range of services and facilities by walking, secure cycle storage is to be provided to serve the development, there is a public car park (Oaks Way) adjacent to the south boundary of the site and there are on-street no parking restrictions on both sides of Station Road in the vicinity of the site. Under these circumstances, the proposed level of off-street vehicle parking provision is considered to be acceptable in this case for the scale of development proposed.
- 8.20. Leicestershire County Council (Highways) has assessed the amended scheme and considers that notwithstanding the existing restrictions to visibility, the existing access would be satisfactory to serve the quantum of development proposed without any improvements. This assessment is consistent with responses provided in respect of two previous schemes on the site for four new dwellings (references 15/00181/OUT and 18/00710/FUL). In addition, for the reasons outlined above the parking provision and internal layout is also considered to be acceptable. The local highway authority considers that subject to a condition to ensure the provision and retention of the proposed parking and turning facilities, the scheme would not result in any significant adverse impacts on highway safety or the road network.

- 8.21. For the reasons given above and notwithstanding the objections received, the proposal would not result in any significant or severe adverse impacts on highway or pedestrian safety and would therefore be satisfactory in respect of Policy DM17 of the adopted SADMP and would not be in significant conflict with Policy DM18 of the adopted SADMP in this case.

#### Infrastructure contributions

- 8.22. 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. To support the provision of mixed, sustainable communities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.23. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within 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.
- 8.24. Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant. However, in this case, the proposal is for only four small apartments the occupation of which would not result in any significant impact on existing play and open space facilities or other infrastructure services and facilities within the town. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued.

#### Other issues

- 8.25. Objections have been received on the grounds that there is insufficient space available at the highway boundary adjacent to the access for the siting of refuse/recycling bins on collection days to serve the existing and proposed dwellings and that the use of the narrow pedestrian highway footway would therefore be compromised.
- 8.26. Street Scene Services (Waste) recommends a condition in respect of storage and collection of waste and recycling. There is adequate space provided within the bin store within the site for storage and for collection at the highway boundary therefore the recommended condition is not considered to be necessary in this case. The agent also points to existing dwellings to the north of the site presenting bins for collection at the back edge of the highway footpath.
- 8.27. Amended plans have been submitted to address the issue of encroachment on third party owned land. Land ownership is a civil matter.
- 8.28. The issue of potential damage to existing dwellings, driveway and boundary walls during construction phase is a civil matter and not a material planning consideration.

### **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. The site is within the settlement boundary of Earl Shilton in a sustainable urban location within close proximity to a full range of services and facilities where new residential development is generally acceptable in principle. By virtue of the siting, layout, scale, design and, subject to the use of satisfactory external materials to ensure a sympathetic appearance, the proposal would complement the mixed character and appearance of the surrounding area. Subject to conditions, the proposal would not result in any significant adverse impacts on the privacy or amenity of any neighbouring properties, the amenity of future occupiers of the development or highway or pedestrian safety. The scheme would be in accordance with Policy 2 of the adopted Core Strategy and Policies DM1, DM10 and DM17 and DM18 of the adopted SADMP. The proposal 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 Planning Manager 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 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: Site Location Plan - drg. no. 31306(08)001C and Topographic Survey drg No. 18202 received by the local planning authority on 5 July 2019 and Proposed



Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L, Proposed Second Floor Plan drg.no. 31306(PD-01)002K, Proposed Roof Plan drg.no. 31306(PD-01)004K, Proposed Elevations drg.no. 31306(04)001K and Proposed Section drg.no. 31306(05)001K received by the local planning authority on 4 December 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. Development shall not begin until surface water drainage details and calculations, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the full details prior to the completion of development.

**Reason:** To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area with ground protection where necessary in accordance with British Standard 5837:2012 Trees in relation to design. If any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan and maintained for the duration of the construction phase.

**Reason:** To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policies DM6 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019).

5. No development above foundation level shall commence on site until a scheme for protecting the proposed dwellings from noise from the adjacent commercial premises has been submitted to and approved in writing by the Local Planning Authority and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

**Reason:** To ensure that noise from the adjacent commercial premises does not become a source of annoyance to the future occupiers of the site in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

7. The development hereby permitted shall be implemented in accordance with the existing and proposed ground levels of the site, and proposed finished floor levels detailed on the approved Topographic Survey drg No. 18202 received by the local planning authority on 5 July 2019 and Proposed Section drg.no. 31306(05)001K received by the local planning authority on 4 December 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).

8. The development hereby permitted shall not be occupied until such time as off street car parking and turning provision has been provided, hard surfaced and demarcated in accordance with Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L received by the local planning authority on 4 December 2019. The onsite parking and turning provision shall thereafter be permanently maintained.

**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 Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

9. The development hereby permitted shall not be occupied until such time as covered secure cycle parking has been provided in accordance with Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L received by the local planning authority on 4 December 2019. The cycle parking shall be permanently maintained and kept available for such use at all times thereafter.

**Reason:** To promote travel by sustainable modes in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

10. The development hereby permitted shall not be occupied until such time as the private and communal amenity areas and bin store have been provided in accordance with Proposed Ground Floor Plan and Site Layout drg.no. 31306(PD-01)001L received by the local planning authority on 4 December 2019. The amenity areas and bin store shall be permanently maintained and kept available for such use at all times thereafter.

**Reason:** To ensure satisfactory amenity space and bin storage to serve the development hereby permitted in the interests of residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

#### 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. Application forms to discharge conditions and further information can be found on the planning portal website [www.planningportal.gov.uk](http://www.planningportal.gov.uk)
3. In relation to Condition 5, the scheme should include assessment of the potential impacts of noise from the operation of the existing plant/equipment located on the roof of the adjacent commercial building on future occupiers of the site.
4. 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.
5. The applicant/developer is advised that, the open areas of the site outside the land ownership boundaries shown in red on the approved Ground Floor Plan Drawing No. 31306(PD-01)001L are for the exclusive use of the residents of the existing apartments and cannot be utilised by the future occupiers of the dwellings hereby permitted for any purpose whatsoever (including parking and turning) other than any legal right over the shared access drive.