

Planning Committee 7th May 2024
Report of Head of Planning

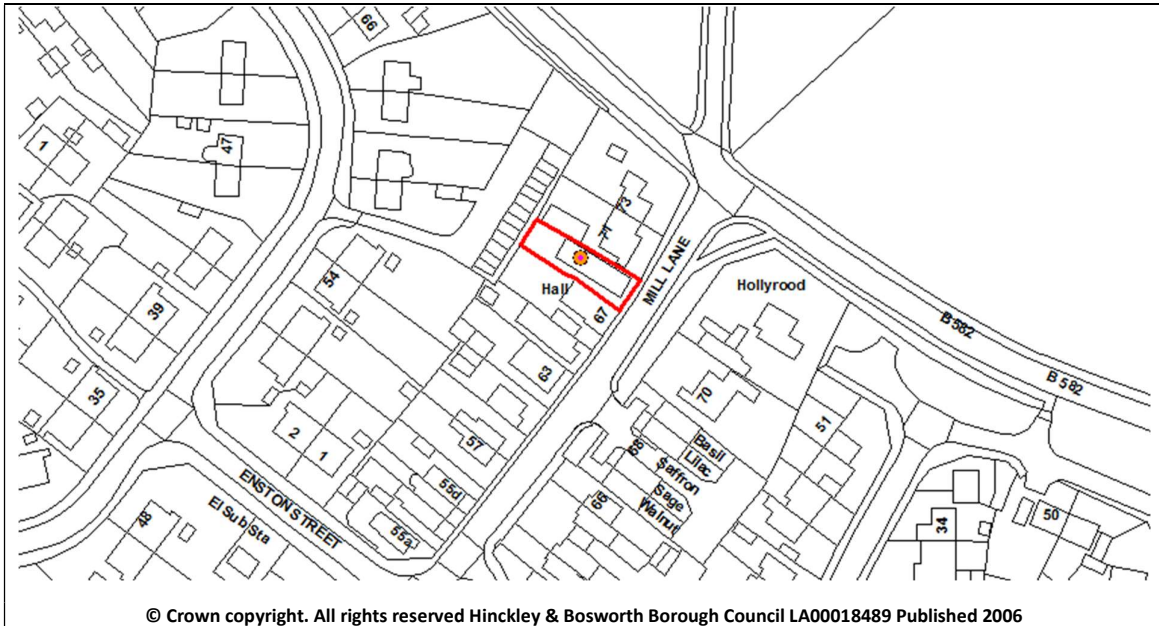
Planning Ref: 23/01112/FUL
Applicant: Mr Anthony Deakin
Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 69 Mill Lane, Newbold Verdon, Leicester

Proposal: Change of use from a place of worship (Class F1) to a private medical (physiotherapy) practice (Class E)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- That the Head of Planning be given powers to determine the final detail of the conditions.

2. Update following deferral of the application by planning committee

2.1 Planning committee resolved to defer the application on 12th March 2024 to allow for discussion with the applicant and the highways authority in relation to mitigating parking problems.

2.2 Planning committee's concerns were raised with the applicant and LCC highways.

2.3 LCC highways have advised:

"As you rightly point out within your email, the onus is on the Applicant to provide/mitigate the off-street car parking situation for the proposals.

From the Local Highway Authority (LHA) perspective, our observations still apply. The Applicant indicated within their submitted documentation that there are no off-street car parking spaces associated with the extant use of the site, nor the proposals. The LHA stated within their observations that they would normally seek to resist proposals which would not provide sufficient off street parking in-line with 'Highway Requirements for Design Part 4 (HRfD4) design guidance. However, given the extant use of the site which could attract a large number of trips over a seven day period which is also not afforded off-street car parking, the LHA still do not consider they could defend a refusal at an appeal.

The LPA and Applicant will be aware that the extant use of the site comes under F1 of the 'Use Class Order 1987 (as Amended)' which can be found at <https://www.planningportal.co.uk/permission/common-projects/change-of-use/use-classes> This incorporates the following:

- F1(a) - Provision of education*
- F1(b) - Display of works of art (otherwise than for sale or hire)*
- F1(c) – Museums*
- F1(d) - Public libraries or public reading rooms*
- F1(e) - Public halls or exhibition halls*
- F1(f) - Public worship or religious instruction (or in connection with such use)*
- F1(g) - Law courts*

It should be noted that permission is not required to change between uses within Class F1. This demonstrates the building could change to any of the above listed categories without the requirement for a formal application and not be subject to any parking restrictions given the extant use.

In relation to proposed off-street car parking situation, the Applicant put forward a number of options, these were:

• The establishment of two marked bays in front of the premises for clients, however, this could not be supported by the LHA within the public highway, even if agreed to by the LHA, these would be public spaces and not reserved for the exclusive use of the business;

• Consideration of the establishment of two further off-street car parking spaces within the highway verge opposite the premises. This also could not be supported by the LHA, even if agreed to by the LHA, these would be public spaces and not reserved for the exclusive use of the business; and

• To investigate the possible use of private, unused daytime private spaces within the vicinity of the site. This however, would be a private arrangement between the Applicant and owners of any such spaces. It should also be noted that these spaces would rely on the goodwill of the land owner and could be revoked at any time.”

- 2.4 Whilst alternative parking provision has not been secured for the reasons outlined above, the applicant has agreed to reduce the customer numbers at Pilates, yoga and exercise rehabilitation classes from 10 to 6 persons and to ensure that classes are not concurrent/consecutive which would reduce the number of customers at the premises. This is proposed to be secured by condition.

- 2.5 Ultimately, given the extant use of the site which could attract a large number of trips over a seven day period which is also not afforded off-street car parking, the advice remains as set out in paragraphs 8.17-24.

3. Planning application description

- 3.1 This application seeks planning permission for the change of use from a place of worship (Class F1) to a private medical (physiotherapy) practice (Class E). No extensions or external changes are proposed.
- 3.2 Maximum staffing for the facility is expected to be 2 whole time therapists, 1 part time exercise professional and 1 part time administration support officer. For context, the applicant mentions his other physiotherapy clinic in Leicester Forest East, which after 10 years of operation with local press, social media, website support and a significantly larger local population, currently operates at 1.5 FTE Physiotherapist, 1 part time Complimentary Therapist, plus 3 hours of exercise professional time for the same requested opening hours as this application.
- 3.3 It is intended that physiotherapy will be offered on the basis of 40 minute appointments, 9am-6pm Monday to Friday, and 9am-1pm on Saturday. On occasion, a physiotherapy morning or afternoon clinic may be supplanted by a Complimentary Therapist session, with appointments of 60 minutes duration. It is also intended that the new business offers 60 minute Pilates/Yoga classes, or specific exercise rehabilitation classes, for example mobility for the elderly or following joint replacement surgery. Such classes could include up to 6 individuals, to a maximum of 4 classes per full working day. In the short term the business is expected to offer either AM or PM clinics on any given day, with an increase in opening hours dependent on the uptake of business. The applicant states that the experience at the other clinic demonstrates that it can take some years before full day clinics are viable on a regular, weekly basis.
- 3.4 Current signage on the front elevation wall will be replaced with a non-illuminated sign of the same dimensions, stating the business title. A smaller sign/notification will be placed on the front door noting business opening hours and contact details.

4. Description of the site and surrounding area

- 4.1 The application site relates to a former place of worship/ church located on the western side of Mill Lane, Newbold Verdon. The site is listed as an asset of community value. The property was sold by the Jehovah Witnesses through a property consolidation process undertaken by the head office of Jehovah Witnesses UK. There is another place of worship in Leicester Forest East at 100 Hinckley Road, approximately 10km away from the site.
- 4.2 Mill Lane is a residential area with open agricultural fields to the north and the built up area of Newbold Verdon to the south, west and east. Mill Lane consists of a mixture of dwellings types but most are 2 storey detached, semi-detached or terraced properties.
- 4.3 The application site is narrow and the existing building/ 'Kingdom Hall of Jehovahs Witnesses' is single storey with a pitched roof that extends deeper into the site than neighbouring dwellings which have larger rear gardens. The JW Hall has relatively high level windows on both side elevations. On the southern side two of these look directly into the rear garden of No. 67 with the boundary between the two consisting of a 1.5m high close boarded wooden fence. The boundary on the northern side

between the application property & No. 71 consists of a mature 3m high hedgerow and the south elevation of an outbuilding associated with No. 71. At the front of this boundary there is also a 1.8m high close boarded wooden fence. There are several trees in the back garden area of the application site and No. 67 but these trees will be unaffected by the proposal.

5. Relevant planning history

91/00871/4

- Extensions & Alterations to Kingdom Hall
- Permission
- 19.11.1991

6. Publicity

6.1 The application has been publicised by sending out letters to local residents.

6.2 8 letters of representation have been received with 7 of these objecting to the proposal & 1 letter in support. The main summarised points of objection are:

- Reference is made to the applicants 'comparable' Physiotherapy clinic in Kirby Muxloe but this is an entirely different establishment with different parking availability
- Kirby Muxloe is a row of shops with flats above. Mill Lane is all residential apart from 1 accountancy office that blends in well.
- No parking has been provided and there is very little on street parking available on Mill Lane.
- The application does not offer any credible solution to this issue but would advocate increasing the traffic presence and thus exacerbating the parking issue.
- The applicant has stated that staff will park elsewhere away from Mill Lane & clients will be discouraged from parking on Mill Lane but this is totally unenforceable.
- With 4 classes per day each having potentially 10 participants this could mean 13 vehicles arrive for each session. There is nowhere for them to park.
- Classes will overlap and this worsens the situation even more in terms of parking
- A change of use to Class E opens up commercial possibilities for the site such as a tattoo parlour which wouldn't align with Mill Lanes residential status.
- The proposed will change the character of the street and result in urbanisation of the Countryside.
- Amenity will be significantly affected by the constant arrival and departure of cars. Car doors closing. Bright lights shining from the windows. Music from exercise classes. Overlooking from the 5 windows down each side of the premises.
- Traffic wanting to turn into Mill Lane from the B582 is regularly prevented from entering, due to traffic passing parked cars near the location of the building in question, leaving no room for cars to exit the busy B582. The building in question is also situated too close to the junction with the B 582 for it to be safe for people using these facilities to cross the road.
- The increase of vehicle movement and congestion would not be dissimilar to that outside of schools when pupils are dropped off or picked up; the difference

is that this, potentially, could be all day and not as was previously experienced during the time of the former occupants

- Use of pavements will be difficult and dangerous with the inevitable parking on pavements.

The main reasons for supporting the proposal are:

- The place of Worship never caused parking issues on Mill Lane & I doubt there will be as many users of the building at any one time for a physiotherapy clinic where it will be mostly individual or small groups of clients at a time.
- There is a strong sporting community in Newbold and the Physio clinic is welcome
- The proposed would bring good use to a lovely building which has been derelict for a number of years with its current use permission.

7. Consultation

- 7.1. Newbold Verdon Parish Council were consulted but no comments were received.
- 7.2. LCC Highways were consulted and have no objections to the proposal.
- 7.3. HBBC Pollution Officer raises no objections.
- 7.4. HBBC Waste - No objections but 1 condition recommended

8. Policy

8.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand-alone

8.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM25: Community Facilities

8.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

8.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

9. Appraisal

9.1. 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
- Other issues

Assessment against strategic planning policies

9.2. The application site is located within the settlement boundary of Newbold Verdon. Policy 7 of the Core Strategy supports the key rural centre of Newbold Verdon to ensure that they can provide key services, a range of employment opportunities to their rural hinterland. Policy 11 of the Core Strategy sets out more specific policy requirements for Newbold Verdon including supporting additional employment provision.

9.3. The building, through its previous use as a Church, is listed as a Community Facility. In terms of the retention of this community facility Policy DM25 - Community Facilities states:

Retention of Existing Provision

The Borough Council will resist the loss of community facilities including ancillary areas. The redevelopment or loss of community facilities will only be appropriate where it can be demonstrated that

- a) An equivalent range of replacement facilities will be provided in an appropriate location within a reasonable distance of the locality*
- b) There is a surplus of the facility type within the immediate locality*
- c) The loss of a small portion of the site would result in wider community benefits on the remainder of the site.*

Loss of Existing Facilities

Where replacement facilities will not be provided or a surplus cannot be demonstrated and the scheme would not result in wider community benefits on the remainder of the site, the loss of a community facility would only be considered acceptable where it can be demonstrated that:

- d) The facility has been proactively marketed for a community use for a reasonable period of time at a reasonable marketed rate as supported and demonstrated through a documented formal marketing strategy.*
- e) It has been offered to the local community for them to take ownership of the facility*

9.4. The retention and development of accessible local services and community facilities in rural areas is supported in paragraph 88 of the NPPF. Paragraph 97 of the NPPF states that planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

9.5. As the development would strictly take the building outside of its community use, criterion d) and e) of policy DM25 of the SADMP is relevant. No evidence has been submitted demonstrating that the site has been offered to the local community and the level of information regarding a proactive marketing campaign for a community use is limited. The development would not therefore strictly accord with the marketing strategies required under Policy DM25.

- 9.6. Notwithstanding that, the site has not been in use as a place of worship since May 31 2019 after which worshippers moved into the Leicester, West Congregation. There is also another worship hall in Leicester Forest East approx. 10km away. Therefore, the needs of former worshippers have been met by other provisions in the area. Following closure as a place of worship the building appears to have been unused for approximately two years before being listed for sale in September 2022 through a property consolidation process undertaken by the head office of Jehovah Witnesses UK. Whilst limited information has been submitted in this regard, this does suggest the application site is surplus to the needs of the Jehovah Witness Church.
- 9.7. Supporting information submitted by the applicants confirms that whilst interest received was from developers looking to convert to a dwelling there was no interest from local community groups. The sale of the site was completed by the applicants in May 2023.
- 9.8. Whilst the proposed use would not strictly be classed as a community facility by virtue of it being a private physiotherapist practice, this use would still benefit the health and wellbeing of its clients. The development would therefore have some continued community benefit, albeit to a more limited degree. The applicants do also intend on hosting free to the community events such as annual CPR training (as they have done at their other practice, with a defibrillator permanently positioned on the external wall of the practice), as well as to liaise with HBBC regarding using the venue for a Steady Steps exercise programme, as offered by Blaby DC. Whilst these additional uses cannot be guaranteed as part of this planning application, they are encouraged and would bring additional benefits to the wider community beyond the use of the site as a private physiotherapist practice.
- 9.9. Overall, the sites use as a place of worship ceased almost five years ago, it was vacant for approximately 2 years and was then sold by the Jehovah Witness Church with the needs of former worshippers being met elsewhere. Therefore whilst the proposal would lead to the loss of a community facility, the proposal would not hinder the community's ability to meet its day-to-day needs and the proposed use would have some limited benefits for the community. In its totality the proposed development would therefore satisfy the aims of Policy DM25 of the SADMP.

Design and impact upon the character of the area

- 9.10. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 9.11. As the change of use would not result in any physical alterations to the external fabric of the existing building or wider site, its appearance would be retained. As such it is not considered that the proposal would have adverse impact upon the character of the area in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 9.12. Policy DM10 of the SADMP requires that the amenities of the occupiers of proposed developments would not be adversely affected by activities within the vicinity of the site
- 9.13. The application site directly borders No. 67 to the south (a two storey detached dwelling) & No. 71 to the north, which is a two storey semi- detached property. As the application property is raised and accessed from steps leading up from the pavement,

the ridge height of No. 67 and the application property aren't too dissimilar. Comments were received raising some concern for privacy in regard to the side facing windows. This is an existing situation and it is unlikely that the proposed development would lead to additional adverse loss of privacy beyond the previous and consented use as a place of worship. Nonetheless, the windows on the southern elevation will be obscure glazed by condition and a suitable boundary condition will also be added to improve the relationship between these 2 properties and prevent overlooking or any lack of privacy. On the northern side of the application site there is a 1.8m high close boarded wooden fence, a 3 or 4 metre high hedgerow and an outbuilding associated with No. 71 which provides adequate screening between these properties.

- 9.14. It is considered the previous and consented use of the site as a Church would be as or more intense than the proposed use as a physiotherapist practice but that instead of arriving all at once clients of the physio clinic would be spread out throughout the day. In terms of impacts on the general activities of the area the proposed use would on the whole have a similar impact and in fact potentially a lesser impact than the consented and previous use as a religious hall. The Pollution Officer was consulted with the proposal and had no objections.
- 9.15. Notwithstanding this, a condition us recommended will be added to any permission restricting the use of amplified music unless details of this and any noise mitigation measures have been submitted to and approved in writing. Proposed classes are pilates/yoga classes, or specific exercise rehabilitation classes rather than high tempo HIIT Classes limiting the requirement for loud music.
- 9.16. Subject to the aforementioned conditions, the proposal would not have a significant impact on residential amenity, with regard to both existing neighbouring dwellings and any potential future occupiers, in accordance with Policy DM10 of the SADMP in terms of residential amenity.

Impact upon highway safety

- 9.17. Policy DM17 of the SADMP seeks to ensure that all new development should be in accordance with the most up to date local highway design standards.
- 9.18. Policy DM18 of the SADMP seeks to ensure that development provides appropriate levels of parking provision.
- 9.19. The Local Highway Authority (LHA) have been consulted for the change of use from a place of worship (Class F1) to a private medical (physiotherapy) practice (Class E).
- 9.20. The site is situated on the northwestern side of Mill Lane, approximately 30m to the southwest of the junction of Mill Lane / Barlestone Road (B582). The Applicant is seeking to change the use of the building from a place of worship (Class F1) to a private medical (physiotherapy) practice (Class E). No off-street parking is proposed for the proposed use. However, it is important to consider that there is no off-street car parking associated with either the extant use, nor are there any planning conditions limiting the number of people permitted on site.
- 9.21. The 'Planning Application Statement' indicates there would be a maximum of two full-time physiotherapists on site, with one part-time exercise professional and one part-time administration support officer. The duration of the appointments with the physiotherapists would be approximately 40 minutes in length, and on occasion a duration of one hour with a complimentary therapist session.
- 9.22. The Applicant also seeks to offer pilates / yoga classes, or specific exercise rehabilitation classes to aid recovery from surgery such as joint replacement operations. These would be for up to 6 individuals.

- 9.23. The Applicant has put forward a number of options in relation to car-parking associated with site, this included:
- The establishment of two marked bays in front of the premises for clients, however, this could not be supported by the LHA within the public highway;
 - Consideration of the establishment of two further off-street car parking spaces within the highway verge opposite the premises. This also could not be supported by the LHA, even if agreed to by the LHA, these would be public spaces and not reserved for the exclusive use of the business; and
 - To investigate the possible use of private, unused daytime private spaces within the vicinity of the site. This however, would be a private arrangement between the Applicant and owners of any such spaces.
- 9.24 The LHA would normally seek to resist proposals which would not provide sufficient off street parking in-line with 'Highway Requirements for Design (HRfD) Part 4 design guidance. However, given the extant use of the site which could attract a large number of trips over a seven day period which is also not afforded off-street car parking, the LHA do not consider they could defend a refusal at an appeal. For the reasons above, the LHA would not seek to resist the proposals in these site specific circumstances.
- 9.25 It is therefore considered the proposal would not have an additional significant impact on parking or highway safety beyond the existing situation and is judged to be in compliance with policies DM17 and DM18 of the SADMP.

10 Equality implications

- 10.1 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.
- 10.2 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.
- 10.3 There are no known equality implications arising directly from this development.
- 10.4 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).

11. Conclusion

- 11.1 The application is for the Change of use from a place of worship (Class F1) to a private medical (physiotherapy) practice (Class E). The application site is situated within the settlement boundary and therefore there is a presumption in favour of

sustainable development under policy DM1 of the SADMP as long as the proposal is in accordance with the relevant policies of the SADMP.

- 11.2 By virtue of the sites previous use as a Church/ Religious Hall it is considered that the proposal would not result in any adverse impacts on the residential amenity of surrounding dwellings, either by way of noise and disturbance associated with vehicle movements or use of the site as a Physio Clinic with daily rehabilitation/ yoga classes. The proposal would also not result in any severe harm in terms of highway safety or impact on the character of the surrounding area. Therefore, the application is considered to be in accordance with DM1, DM10, DM17, DM18 & DM25 of the SADMP & is therefore recommended for approval subject to conditions.

12. Recommendation

12.1 Grant planning permission subject to:

The following planning conditions as set out below

12.2 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. Ref No. TQRQM23349001946512 received 15.12.2023
Proposed Floorplans received 15.12.2023
Application Form received 20.11.2023

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. All windows on the southern elevation shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and be non-openable. Once so provided the windows shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Use of the site as a Physiotherapist Clinic shall not begin until a detailed plan (or plans) indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The approved boundary treatment shall be completed in full accordance with the approved details prior to the first use of the development and thereafter shall be retained and maintained in perpetuity.

Reason: To ensure that an adequate boundary treatment is provided to safeguard the amenities of neighbouring residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No amplified music shall be played in the premises unless details of the amplified music and any noise mitigation measures have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall accord with the approved details in perpetuity.

Reason: To ensure that the proposed use does not become a source of annoyance or disturbance to nearby residents in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Pilates, yoga and exercise rehabilitation classes shall not be held concurrently, shall not run consecutively and shall be limited to six people, not including the instructor.

Reason: To ensure that the proposed use does not become a source of annoyance or disturbance to nearby residents and in the interests of parking provision in accordance with Policy DM10 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided to facilitate collection of waste via a registered waste carrier.

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 adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. The premises shall be used for a physiotherapy practice only with ancillary Pilates/yoga or exercise rehabilitation classes; and for no other purpose, including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure the proposed development is compatible with existing development in the locality in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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.