



# Planning

**To: All Members of the Planning Committee on Monday, 16 May 2022**  
**Date of meeting: Tuesday, 24 May 2022**  
**Time: 18:30**  
**Venue: The Council Chamber**  
**The Symington Building, Adam and Eve Street, LE16 7AG**

The meeting will also be open to the public.

## **Agenda**

- 1 Election of the Chairman for the Year 2022/23**
- 2 Appointment of the Vice Chairman for the Year 2022/23**
- 3 Apologies for Absence and Notification of Substitutes**
- 4 Declarations of Members' Interests**
- 5 Minutes**  
To approve as a true record the Minutes of the previous Meeting.  
**Draft Minutes of the Planning Committee Meeting - 5th April 2022 3 - 9**
- 6 Referral up to Council by the Planning Committee.**  
To consider any referrals under Part 3 Section B1.4 of the Council's Constitution
- 7 To answer Written Questions or Receive Petitions Submitted by the Public**
- 8 Review into the Council's Development Management Service handling into the implementation of the approved landscape plan, at Hursley Park, Great Bowden**

	<b>Hursley Park Review Report May 2022</b>	<b>10 - 40</b>
<b>9</b>	<b>To Consider Applications for Development Permission</b>	
	<b>Index of applications for determination</b>	<b>41 - 42</b>
	<b>Application reports 24th May 2022</b>	<b>43 - 140</b>
<b>10</b>	<b>Any Urgent Business</b>	
	To be decided by the Chairman.	

LIZ ELLIOTT  
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**HARBOROUGH DISTRICT COUNCIL**  
**MINUTES OF THE MEETING OF THE PLANNING COMMITTEE**

Held at The Council Chamber,  
The Symington Building, Adam & Eve Street,  
Market Harborough, LE16 7AG  
On Tuesday 5<sup>th</sup> April 2022  
commencing at 6.30pm

**Present:**

Councillors: Mrs Ackerley, Burrell, Champion (Chairman), Frenchman, Galton, James, Liquorish, Modha and Nunn.

Officers present: D. Atkinson, E. Baumber, A. Eastwood, J. Felton, S. Green, N. Kwasa, M. Patterson, and C. Zacharia (remote).

Also present: J. Walker (Assistant Director, Development & Growth, Highways & Transport, Leicestershire County Council).

**1. INTRODUCTIONS.**

The Chairman welcome everyone to the meeting and highlighted the procedures for the smooth running of the meeting.

**2. APOLOGIES FOR ABSENCE AND NOTIFICATIONS OF SUBSTITUTIONS**

There were none.

**3. DECLARATIONS OF MEMBERS' INTERESTS.**

Councillor Liquorish declared an interest in application 21/01320/OUT - 33 Dunton Road, Broughton Astley, in that in his role as County Councillor he has been involved in several issues along that stretch of road. He noted that he would withdraw from the meeting at the appropriate time and would not take part in the discussion or vote.

Councillor Mrs Ackerley declared an interest in application 21/02020/VAC - Allotments, De Verdon Road, Lutterworth in that she is a Member of Lutterworth Town Council,

which had provided comments on the application. She noted that as she does not take part in any planning related matters as part of the Town Council, this would not affect her ability to determine the application with an open mind. She also declared an interest in the officer report on the Revocation of Hazardous Substance Consent Unit 3320 Magna Park Lutterworth, in that she is Chairman of the Lutterworth Area Community Fund who receive funding from GLP, the developers of Magna Park. She noted she would not take part in the discussion or vote.

#### 4. MINUTES

**RESOLVED that the minutes of the Planning Committee meeting held on 15<sup>th</sup> February 2022 be approved and signed by the Chairman as a true record.**

#### 5. REFERRALS UP TO COUNCIL BY THE PLANNING COMMITTEE

There were none.

#### 6. QUESTIONS AND PETITIONS SUBMITTED BY THE PUBLIC

There were none.

#### 7. HURSLEY PARK TERMS OF REFERENCE REPORT

The report was presented by the Director, Planning and Regeneration who directed the Committee to the revised Terms of Reference in the Supplementary Information. The purpose of the report was to request the Committee adopt the revised Terms of Reference for the review of the implementation of the Local Planning Authority (LPA) approved landscape plan, and any approved associated Landscape Management Plan (LMP) relating to the Mulberry Homes development at Hursley Park, Great Bowden: planning reference 15/01801/OUT & 16/02083/REM. The Chairman noted that residents have had the opportunity to provide input and Ward Members were happy with the revised Terms of Reference. A representation was heard from Councillor Knowles, as Ward Councillor, who supported the extended terms of reference and the agreement to bring a report on the review back to the Planning Committee. Members had the opportunity to question the officer following the discussion it was,

**RESOLVED;**

**1) That Planning Committee adopt the revised Terms of Reference set out at paragraph 4.1 in the Supplementary Information to the report to establish the**

**extent to which the approved detailed landscape plans for Hursley Park have been implemented.**

**2) That a report arising from the review of the implementation of the approved landscape plans at Hursley Park, Great Bowden be brought to Planning Committee for consideration as soon as possible.**

#### **8. TO CONSIDER APPLICATIONS FOR DEVELOPMENT PERMISSION**

i. The Strategic Growth (Development Management) Team Leader introduced the report in respect of application 21/01600/OUT, Land Adj HM Prison, Welland Avenue, Gartree, Lubenham - *Outline Planning Application with all matters reserved except for means of access and scale for the construction of a new Category B prison of up to 82,555sqm within a secure perimeter fence together with access, parking, landscaping and associated engineering works*. He directed Members to the Supplementary Information. Representations were heard in objection to the application from John Martin, Francesca Broadfoot (Gartree Action Group) and Adrian Carr and in support of the application from the Applicant's Agent, Katherine Morgan, Tim Coles of Atkins in relation to Highways matters and Robin Seaton representing the Applicant. Further representations were heard from Alex Munro on behalf of Lubenham, Foxton, East Farndon and Great Bowden Parish Councils, Gumley and Laughton Parish Meetings and Gartree Action Group, Diana Cook (Lubenham Parish Council), and Councillor Phil Knowles (Market Harborough Great Bowden and Arden Ward), Councillor Phil King (Kibworths Ward and Leader of the Council) and Ward Member, Councillor Dr Bremner. The Committee then had the opportunity to question the speakers and Officers. Following the discussion, Councillor Frenchman MOVED to REFUSE the application, contrary to Officer Recommendations, for the following reason;

1.The proposed development is unsustainable by virtue of its location and by virtue of its size, scale and design would have a harmful impact on the character and appearance of the countryside and Area of Separation. The benefits associated with the proposed development would not outweigh this harm and the proposal is therefore contrary to Harborough Local Plan policies GD1 & GD3 and Lubenham Neighbourhood Plan policies LNP01, LNP16 and LNP19.

This was seconded by Councillor Modha and following the vote it was;

**RESOLVED that the application be REFUSED for the reason noted above.**

The Chairman then ADJOURNED the meeting for a short comfort break. The meeting restarted at 8.44pm.

ii. The Development Planning Manager introduced the report in respect of application 21/02032/FUL, 1 - 3 Oswin Cottages, Town Street, Burton Overy - *Subdivision of dwelling to recreate 3 dwellings*. Representations were heard in support of the

application from Grant Cotton and objection to the application from Parish Council representative Robert Warwick. The Committee then had the opportunity to question the speakers and Officers. Following consideration of the report it was;

**RESOLVED that Planning Permission is APPROVED, for the reasons set out in the report and subject to the Conditions and Informative Notes proposed in Appendix A.**

Councillor Liquorish then left the meeting room.

iii. The Development Planning Manager introduced the report in respect of application 21/01320/OUT, 33 Dunton Road, Broughton Astley - *Outline application for the demolition of existing dwelling and commercial buildings and for the erection of seven dwellings (access to be considered)*. Representations were heard in objection to the application from Malcolm Humphrey and Carl Dryden, and in support of the application from the Applicant's Agent, Nick Cox. The Committee then had the opportunity to question the Speakers and Officers. The Committee requested that the Applicant's attention is drawn to the need to consider no bigger than 2 storey houses adjacent to Thorneycroft Close to protect residential amenity of those neighbouring properties.

Following consideration of the report it was;

**RESOLVED that Planning Permission is APPROVED subject to the conditions set out in Appendix A.**

Councillor Liquorish re-entered the meeting room. Councillor Champion then noted that as it was nearing three hours since the commencement of the meeting, under Procedure Rule 5.2 in the Council's Procedure Rules, Part 4 of the Council's Constitution, the Committee were required to vote for the meeting to continue. He therefore MOVED that the meeting be continued to finish the business as noted on the agenda. This was seconded by Councillor Burrell and following the vote it was;

**RESOLVED that the meeting be extended.**

iv. The Development Planning Manager introduced the report in respect of application 21/02155/REM, Land to The West Of Leicester Road, Market Harborough - *Erection of 315 dwellings and associated garage and parking (Reserved matters of 13/01483/OUT) (revised scheme of 17/01966/REM, including details of appearance, landscaping and layout for substitution of plot numbers 201-221, 223, 225-233, 235-249 in relation to Phase 2 only)*. The Committee had the opportunity to question the Officers and following consideration of the report it was;

**RESOLVED that Planning Permission is APPROVED for the reasons set out in this report and subject to:**

- **The Planning Conditions and Informative Note detailed in Appendix A.**

v. The Senior Planning Officer introduced the report in respect of application 21/02020/VAC, Allotments, De Verdon Road, Lutterworth - *Erection of 72 dwellings to include means of access from Coventry Road, public open space and all other ancillary works (variation of Conditions 2 (approved plans) and 21 (FRA compliance) of 19/00853/FUL to facilitate the delivery of the scheme as 100% affordable homes)*. Representations were heard in support of the application from the Applicant's Agent, Jake Stontiford. The Committee then had the opportunity to question the speaker and Officers. Following consideration of the report it was;

**RESOLVED that Planning Permission is APPROVED, for the reasons set out in the report.**

vi. The Strategic Growth (Development Management) Team Leader introduced the report in respect of application 21/02182/REM, Land South Of, Kettering Road, Market Harborough - *Erection of 123 dwellings and associated highways, landscaping, public open space, and pedestrian links (Phase 2 of the development, as shown on the phasing plan approved under 21/02259/PCD) (Reserved Matters of 19/01989/VAC including details of access, appearance, landscaping, layout and scale)*. Representations were heard in support of the application from the Applicant's Agent, Carl Stott. The Committee then had the opportunity to question the speaker and Officers. Following consideration of the report it was;

**RESOLVED that Planning Permission is APPROVED, for the reasons set out in the report, subject to conditions.**

vii. Prior to the meeting, application 22/00566/VAC, 1 Angel Court, High Street, Market Harborough had been WITHDRAWN at the request of the Applicant.

viii. The Development Planning Manager introduced the report in respect of application 21/01831/FUL, Land Opposite Wild Meadow, Bowden Lane, Welham, Leicestershire - *Change of use of land for siting of 1 mobile home to provide 1 no. Gypsy and Traveller pitch*. He directed Members to the Supplementary Information. Representations were heard in support of the application from the Applicant, Reuben Arrowsmith. The Committee then had the opportunity to question the speaker and Officers. Following consideration of the report it was;

**RESOLVED that Planning permission is REFUSED for the following reasons.**

**1. The development falls within a flood risk vulnerability category (highly vulnerable) that is inappropriate to the Flood Zone in which the application site is located. Furthermore, the proposed flood risk mitigation measures are inadequate because they will not make the development resilient to the flood**

levels for the 1% plus 35% climate change level. The application is therefore contrary to Harborough Local Plan Policy CC3, the National Planning Policy Framework (2021) and National Planning Practice Guidance.

2. The site due to its remote location from services and facilities and walking distance in excess of 1km along an unlit, unclassified single-track road, would result in a high likelihood in reliance on the private motor vehicle. The proposed development would not therefore constitute sustainable development, contrary to the Development Plan policies GD1 and H6, Planning Policy for Traveller Sites (PPTS) (2015) read in conjunction with the National Planning Policy Framework (2021) and National Planning Practice Guidance.

viii. The Strategic Growth (Development Management) Team Leader introduced the report in respect of application 21/01832/FUL, Land Opposite Wild Meadow, Bowden Lane, Welham, Leicestershire - *Change of use of land for siting of 1 mobile home to provide 1 no. Gypsy and Traveller pitch*. He directed Members to the Supplementary Information. The Committee had the opportunity to question the Officers and following consideration of the report it was;

**RESOLVED that Planning permission is REFUSED for the following reasons.**

1 The development falls within a flood risk vulnerability category (highly vulnerable) that is inappropriate to the Flood Zone in which the application site is located. Furthermore, the proposed flood risk mitigation measures are inadequate because they will not make the development resilient to the flood levels for the 1% plus 35% climate change level. The application is therefore contrary to Harborough Local Plan Policy CC3, the National Planning Policy Framework (2021) and National Planning Practice Guidance.

2 The site due to its remote location from services and facilities and walking distance in excess of 1km along an unlit, unclassified single-track road, would result in a high likelihood in reliance on the private motor vehicle. The proposed development would not therefore constitute sustainable development, contrary to the Development Plan policies GD1 and H6, Planning Policy for Traveller Sites (PPTS) (2015) read in conjunction with the National Planning Policy Framework (2021) and National Planning Practice Guidance.

#### 9. REVOCATION OF HAZARDOUS SUBSTANCE CONSENT UNIT 3320 MAGNA PARK LUTTERWORTH

The Development Planning Manager introduced the report which asked the Committee to consider a request from VWR International Limited (VWR) to revoke the Hazardous Substances Consent the Council issued in August 2001 at Unit 3320, Hunter boulevard, Magna Park. The report outlined the reasons for revoking this consent and the procedures involved in doing this. He noted that under the revised procedure, as the company had not stored these substances for five years under there was no scope

for compensation, and therefore there was low risk to the Council. Members had the opportunity to question the officer and it was;

**RESOLVED that the Committee make a revocation order under s14(2) of the Planning (Hazardous Substances) Act 1990, i.e. revoking the Hazardous Substances Consent ref 01/00459/HAZ for at Unit 3320, Hunter Boulevard, Magna Park, subject to its confirmation by the Secretary of State under Section 15 of the Act.**

#### 10. ANY URGENT BUSINESS

There was none.

The Meeting closed at 10.03pm.

**REPORT TO THE PLANNING COMMITTEE  
MEETING OF 24th May 2022**

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**Status:** Public

**Title:** Review into the Council's Development Management Service handling into the implementation of the approved landscape plan, at Hursley Park, Great Bowden, with the specific reference to the adopted 'Terms of Reference'

**Report of:** David Atkinson – Director of Planning and Regeneration;  
Adrian Eastwood – Development Manager; and  
Christine Zacharia – Planning Enforcement Team Leader.

**Portfolio Holder:** Cllr J Bateman, Planning and Regulatory Cabinet Member

**1. Purpose of Report**

- 1.1 The purpose of this report is to deliver the findings of the review of the Development Management service's handling into the implementation of the approved landscape plan (and any approved associated Landscape Management Plan (LMP)) relating to the Mulberry Homes development at Hursley Park, Great Bowden: planning reference 15/01801/OUT & 16/02083/REM, with specific reference to the agreed Terms of Reference as agreed in the Committee Report presented to the Planning Committee on the 5 April 2022
- 1.2 A copy of the full report is included in Appendix 1.

**2 Recommendations**

- 2.1 It is recommended that the Planning Committee considers the report and the specific recommendations 2.2 – 2.4 below.
- 2.2 That each planning application case officer report concerning major development proposals includes a section in the report with the heading; '*Equality Implications (Equality Act 2010)*' (or similar), in order to demonstrate that the process of considering the Public Sector Equality Duty (PSED) is set out in those reports in a transparent and public manner.
- 2.3 That the Council's website relating to, 'material and non-material amendments' be reviewed and updated as necessary to ensure this reflects the legal position set out in law.
- 2.4 That all procedures and training be put in place, where necessary, to ensure all matters associated with applications for planning permissions and other permissions are fully recorded on the Council's IDOX/Uniform system.

### **3. Background**

- 3.1 The Planning Committee at its meeting on the 5 April 2022, agreed a report to agree the Terms of Reference (ToR) into the review of the implementation of the landscape management plans at Hursley Park. The ToR agreed by the Planning Committee are:
- a. To investigate if the Landscape Plans been implemented effectively with specific regard to the installation of the pathways and other omissions / defects as raised by the residents including but not limited to aspects such as allotment fencing, hedges and hedgerows, areas of planting.
  - b. To determine if the change from tarmac paths (as specified in the Landscape Plans) to the gravel surface, (as constructed at Hursley Park and considering the quality suggested defects raised to the council by residents) was appropriate.
  - c. To review and determine if the process undertaken by which the surfacing of the pathways was changed from tarmac to gravel was compliant with the requirements set out in the Equality Act 2010, including meeting with residents with accessibility considerations, who are most directly impacted by the omission of tarmac.
  - d. To review and determine what planning amendment process, if any, was followed when the paths were constructed from gravel rather than from tarmac, and whether that process was consistent and appropriate given usual planning procedures (considering the conditions of the planning application). Considerations should be given to the specific context of Hursley Park, including that the residents are expected to take a maintenance responsibility for the paths and that construction was part of a park, the ownership of which was known to be transferring to residents who were purchasing properties based on published and approved detailed landscape plans.
  - e. To evaluate the approach taken to ensure the delivery of wildflower meadows was appropriate and robust.
  - f. To formally assess if the planning compliance approach been appropriate and proportional.
  - g. To determine whether the council has the ability to carry out enforcement action (subject to other findings) to ensure the original Landscape plans are complied with.
  - h. To accommodate residents' concerns around this matter.
- 3.2 As part of the review, an independent review of the implementation of the approved Landscape Plan at Hursley Park Great Bowden was commissioned. This was completed by Ian Stemp Landscape Associates (ISLA).
- 3.3 The ISLA review involved a full detailed walkover inspection of the Hursley Park site, which took place on the 31 March 2022.
- 3.4 A copy of the ISLA report is attached at Appendix 2.

#### **4. The Planning Conditions - Landscape Management Plan (LMP) and associated documents**

- 4.1 Outline planning permission was granted for residential development with associated access, landscaping, open space, a country park and drainage infrastructure (access not reserved) on 21 July 2016. Condition 1 of this consent required that the landscaping of the site was carried out in accordance with the (subsequently) approved details. Also worth noting are conditions 6 and 7:

“6. The landscaping details to be submitted in accordance with Condition 1 shall include details of the position and design (dimensions and materials) of all boundary and surface treatments (including details of paths, driveways and all public areas). The boundary and surface treatments shall be provided to each dwelling before that dwelling is first occupied, or in accordance with an approved phasing plan.

REASON: To enhance the appearance of the development, in the interest of visual amenities and to accord with Policies CS1, CS8, CS11 and CS17 of the Harborough District Core Strategy.

7. The landscaping details to be submitted in accordance with Condition 1 shall include a Landscape Management Plan which shall include the specification, the timing of the completion of and the arrangements for the management and maintenance of:

- I. All areas of informal and formal open space to be included within the development
- II. Playing fields / sports pitches
- III. Other outdoor sports facilities
- IV. Children's play areas including all LEAP's and NEAP's
- V. Allotment areas
- VI. Sustainable Urban Drainage Systems, watercourses and other water bodies
- VII. Green Infrastructure linkages including pedestrian and cycle links, public rights of way and bridleways.

The Landscape Management Plan shall thereafter be implemented in accordance with those details.

REASON:

To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area and to accord with Policy CS8 and CS11 of the Harborough District Core Strategy.”

4.2 Landscaping details pursuant to condition 1 of the outline consent were approved as part of the reserved matters consent granted on 4 May 2017. The approved plans were (so far as relevant): Boundary and Material Treatment Plan P16-0864\_09 Rev C, Detailed Landscape Proposals P16-0864\_05C, 06C, 04B, and 07B. Condition 1 of the reserved matters consent, as with Condition 1 of the outline consent, required that the development was carried out in accordance with the approved plans. For the avoidance of any doubt, Condition 2 also stated “the development hereby permitted shall be constructed entirely of the materials as detailed in the approved plans”.

4.3 Condition 4 of the reserved matters consent stated that:

“... no horse chestnut (*Aesculus hippocastanum*) trees shall be planted on site, and English oak (*Quercus robur*) shall be planted in their place.

REASON: In the interests of wildlife and nature conservation to secure an appropriate native species for the site and to accord with Harborough District Core Strategy Policy CS11.”

4.4 Condition 5 then provided for any trees or plants which, within a period of five years from the date of first occupation of the development, die, are removed, or become seriously damaged or diseased are to be replaced in the next planting season with others of a similar size and species. All hard landscaping was to be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Council. The reason for imposing condition 5 was specified as Harborough District Core Strategy policy CS11 (“promoting design and built heritage”). This policy requires (so far as relevant) the highest standards of design in new development will be sought to create attractive places for people to live, work and visit, development should respect the context in which it is taking place and respond to the unique characteristics of the individual site and the wider local environment beyond the site’s boundaries to ensure that it is integrated as far as possible and reflect the landscape or streetscape in which it is situated and include an appropriate landscaping scheme where needed.

4.5 Condition 6 also cited policy CS11, as well as CS8 (“protecting and enhancing green infrastructure”) when it required that the development was implemented in accordance with the Landscape Management Plan P16-0864 LMP 01 (Dec 16) and is retained as such in perpetuity.

4.6 Condition 12 requires:

“Prior to commencement of development, details of the position and design (dimensions and materials) of all boundary and surface treatments (including details of paths, driveways and all public areas), shall be submitted to and approved in writing by the Local Planning Authority. The details shall clearly show the delineation between public and private space. The boundary and surface treatments shall be provided to each dwelling before that dwelling is first occupied.

REASON: To enhance the appearance of the development, in the interests of visual amenity and the character and appearance of the area and to accord with the Harborough District Council Core Strategy Policies CS1, CS8, CS11 and CS17.”

- 4.7 The development was then completed. The Council did not adopt the public open space (“POS”)/country park. The developers (Mulberry Homes) elected a management company (Ground Solutions) to maintain these areas going forward. The maintenance charges are covered by a service charge paid by the residents of the Hursley Park estate.
- 4.8 In May 2021, the Council’s open spaces officer inspected the site. He completed a report into the POS, noting some minor issues but concluded that most of these could be dealt with through good management practice. Part of this inspection report noted the construction of gravel paths even though the specification was that they were to be tarmac. Whilst this change was not noted in the report, the need for some repair was noted. No issues were noted with the wildflower meadow.
- 4.9 In or around June 2021, the residents of the Hursley Park estate formed a management company called the Great Bowden Residents Management Company (“RMC”), terminating the services of Ground Solutions. RMC are now responsible for the management and upkeep of the POS / country park.

## **5. Ian Stemp Landscape Associates (ISLA) Review**

- 5.1 As part of the Council’s review into the handling of its implementation of the approved landscape plan (and any approved associated Landscape Management Plan (LMP)), the Council duly commissioned the services of an independent consultant to review the implementation of the approved landscape plans. ISLA, completed this review on the 1 April 2022.

In its review ISLA concluded:

“It was apparent in many places that the rolled gravel surface has not been adequately laid, with large stones and sub-grade visible in many places leading to surface degradation and trip hazards that will only worsen over time. The surface had not hardened in many areas as should be expected and there were many areas of loose and large size material instead of a smooth finish of hard stone fines. Some loose chippings are inevitable with this surface type as a natural process of scarification takes place, however the large amount of loose material is not acceptable.

In many areas there appears to be a insignificant or non-existent camber or fall to the footpaths and in wet conditions there are indications that lying water is causing surface damage. In one specific area significant water damage was clear, with large gouges in the footpath surface creating a significant trip hazard.

Additional features such as water bars could have been incorporated to prevent this.

In many areas surface finish was not level with the timber edgings preventing water from flowing off into adjacent areas and causing additional surface damage as well as creating trip hazards.”

- 5.2 ISLA noted sub-surface breakthrough was also visible, suggesting the surface depth was not the standard 100 to 150mm of compacted MOT Type 1 with compacted 50mm depth of stone finish.
- 5.3 With respect to the replacement trees, ISLA noted no bark mulch was evident around each tree as per the specification, and that not all tree avenue planting through the estate had been planted, presuming they were removed from the scheme. Almost all the proposed semi-mature trees within the Central Green had failed. ISLA attributed this to their size at planting and lack of watering. ISLA rightly noted that under the terms of the consent they should be replaced with appropriate native specimens for the open space such as oak or field maple. On this matter the Council did request replacements in early 2021, but the replacements were with smaller species. Ground Solutions advised the Council at the time that they tried to source the largest replacements available, but that the long pandemic caused major issues regarding the importation of trees and there was a severe lack of availability generally at the time. Additionally younger species were, in any event, more likely to survive in the long term.
- 5.4 Native hedges were found by the ISLA review to be generally planted in single lines rather than double staggered row as per the specification. No double line support as per the specification had been provided. However, the ISLA review found the native hedges were in generally good order and forming up well. As above, where hedging had to be replaced it was being replaced with smaller plants than the originals. The key importance was / is aftercare and keeping trimmers away from the base of plants (and trees) through good control of landscape operatives. ISLA noted that some replacement of beech hedges remained outstanding and some planting that had been undertaken was not in accordance with the specifications.
- 5.5 With regard to the wildflower meadow, it was noted that wildflower meadows are notoriously difficult to establish and will require careful management to establish and ensure they are sustainable. The management and cutting regime for wildflower meadows is set out in the approved landscape management plan. It was noted by ISLA that areas within the POS adjacent to Plot 50 and Plots 7, 21 & 22 were laid to amenity grass instead of the approved meadow grass.
- 5.6 Finally in terms of implementation of the approved landscaping details, ISLA noted a small area of native shrub planting is missing adjacent to Plot 40, and the amenity grass areas were generally in good condition with the only matter noted being the need for ongoing maintenance.

## **6. The Terms of Reference (ToR)**

6.1 ***a. To investigate if the landscape plans have been implemented effectively with specific regard to the installation of the pathways and other omissions / defects as raised by the residents including but not limited to aspects such as allotment fencing, hedges and hedgerows, areas of planting.***

6.2 The ISLA independent review is summarised in Section 4 above and relevant to this ToR is the following:

6.3 Pathways

There is no dispute that the approved landscape paths indicate a tarmac surface with pre-cast concrete edging, and that the footpaths have been laid to a crushed stone/gravel finish (Breedon gravel) with timber edgings, resulting in a change to the approved plans. However, Breedon gravel is quite a common and acceptable material used in country park settings. Importantly, the ISLA report findings are that it was apparent in many places that the rolled gravel surface has not been adequately laid, 'with large stones and sub-grade visible in many places leading to surface degradation and trip hazards that will only worsen over time'. This indicates that the key reason for the paths (in the key thoroughfare areas), showing some deterioration is that they have not been laid correctly, and not an indicator that Breedon gravel is not suitable in this location. The laying and maintenance of the pathways is not a material planning consideration but a matter for the RMC and the developers (Mulberry) to resolve. Notwithstanding this, the Council's Development Management Service is working with the RMC and Mulberry, to reach an amicable solution.

6.4 Allotments

The allotments (0.3ha) are located to the western side of the estate and accessed via a principal road within the estate. The ISLA report states that in general the allotments are in accordance with approved plans but makes no reference to the absence of the approved boundary treatment as shown on the approved plan P16-0864\_06C. The boundary treatment, as approved is green 1.8m weld mesh fencing to provide 'a secure boundary to the allotment area' (extract allotment key drawing P16-0864\_06C). The access gates are also approved as green weld mesh at a height of 1.8m. It is visible on site that 1.8m weld mesh fencing has been provided to some boundary areas; the remainder boundary areas are formed by dense vegetation. The gates are just over 1m in height and constructed of wood. The Council consider that an adequate boundary exists, if it were to insist on full compliance with the approved plans, the weld mesh fencing would cause an obstruction to the ditches, making it difficult to keep them clear. The wooden gates form a visually acceptable solution, however, should the RMC wish to replace these to the approved green weld mesh in the future they may do so.

6.5 Hedges and hedgerows

In the main, the ISLA report concluded that Beech hedges were generally in good order and establishing well, but that there were some areas where replacement is necessary. This was drawn to Mulberry's attention previously by

the Council and the RMC. The RMC will arrange for replanting to take place in relevant areas. It is understood that Mulberry's will financially support some of this work.

#### 6.6 Tree planting

ISLA conclude that tree planting across the site was generally in accordance with the positions and species shown on the approved plans. Reference is made in the report to missing watering pipes, lack of bark mulch and tree guards. This will be a matter for the RMC to address as the management company now responsible for maintenance of the POS areas.

#### 6.7 Amenity grass areas and meadow grass areas

The ISLA report findings are that all amenity grass areas are in good condition and well established. The meadow grass areas appeared to have been sown with a meadow seed mix and laid out in accordance with the approved plans.

#### 6.8 ***b. To determine if the change from tarmac paths (as specified in the landscape plans) to the gravel surface, (as constructed at Hursley Park and considering the quality suggested defects raised to the Council by residents) was appropriate.***

#### 6.9 Breedon Gravel is a high-quality surface and is used in numerous locations across the County and elsewhere e.g.

- The Park Estate Nottingham
- RHS Garden in Bridgewater
- Housing development, Farndon Road, Market Harborough
- Daventry Country Park
- Housing development, Jackson Road, Bagworth
- Leicester University Arboretum Leicester
- Spinney Hill Park, St Saviours Road Leicester

An extract from the Breedon Group website<sup>1</sup> states:

**"Once installed in accordance with our laying instructions** [emphasis added], Breedon Golden Amber Gravel knits together to form a solid base and a surface which self-scarifies with use leaving a fine dressing of chippings. This is an ideal choice not only for pedestrian and vehicular use, but also for cycleways, bridle paths, golf courses and many other leisure and recreation uses. Due to the strength and durability of Breedon gravel it is also perfect for buggy and wheelchair use – meaning that pathways and driveways are accessible for all".

#### 6.10 Breedon gravel is not an alien material and quite appropriate for a countryside location. Emphasis is however on the laying of the path, which would be the case even if it were a tarmac path. As previously referred to in this report, ISLA's

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<sup>1</sup> <https://www.breedon-special-aggregates.co.uk/breedon-golden-amber-gravel/>

findings is that in many places the paths had not been adequately laid. This does not suggest that the change from tarmac to Breedon gravel was inappropriate but rather a case of poor workmanship.

- 6.11 ***c. To review and determine if the process undertaken by which the surfacing of the pathways was changed from tarmac to gravel was compliant with the requirements set out in the Equality Act 2010, including meeting with residents with accessibility considerations, who are most directly impacted by the omission of tarmac.***
- 6.12 This ToR relates to the Council's responsibilities under s.149 of the Equality Act 2010 (better known as the Public Sector Equality Duty, "the PSED"). There is considerable case law on this subject that sets out and assists in understanding the scope of the Council's public law obligations in relation to private sector property (even where this comprises space open to the public).
- 6.13 Having reviewed the PSED and relevant case law it is clear that there is no duty on the Council to make reasonable adjustments here, nor does the PSED directly apply, because the land in question is privately owned albeit publicly accessible.

Section 149 provides (so far as relevant):

"149 Public sector equality duty

(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;

...

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to –

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

...

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are... age...disability...pregnancy and maternity...sex” [emphasis added]

- 6.14 The PSED would only be engaged in three circumstances: (1) where a provision, criterion or practice puts a person with a protected characteristic at a substantial disadvantage in relation to a relevant matter in comparison with persons who do not share that characteristic, (2) where a physical feature puts such a person at a substantial disadvantage in relation to a relevant matter in comparison with persons who do not; and/or (3) where such a person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who do not share that protected characteristic. The Council is obliged to have due regard to equalities objectives under the PSED when carrying out all of its functions, save for when they would be ultra vires or otherwise prohibited by statute.
- 6.15. It then follows from the above that where questions of equality arise the Council should bear the PSED in mind even when considering whether to enforce against steps taken by private individuals on privately owned land. In this regard, the Council's review has as part of its process, considered the change from tarmac to Breedon gravel paths and how this affects residents and users of the POS with accessibility considerations.
- 6.16 It is however recommended that going forward, officers planning reports on major development proposals include within them a section headed 'Equality Implications (Equality Act 2010)' (or similar), which will demonstrate that the process of considering the PSED is set out in a transparent and public manner.
- 6.17 Notwithstanding the above, and in the light of case law the Council do not have any further case to answer in terms of allowing the change in path surface from tarmac to Breedon gravel, without public consultation, under the PSED. Whilst residents have claimed that the change in surface has an impact on groups with protected characteristics identified under the PSED, that does not remotely suffice to automatically give rise to a breach of the Council's duty. The duty is only to pay due regard; not a mandatory obligation to take positive steps in all cases.

- 6.18 ***d. To review and determine what planning amendment process, if any, was followed when the paths were constructed from gravel rather than from tarmac, and whether that process was consistent and appropriate given usual planning procedures (considering the conditions of the planning application). Considerations should be given to the specific context of Hursley Park, including that the residents are expected to take a maintenance responsibility for the paths and that construction was part of a park, the ownership of which was known to be transferring to residents who were purchasing properties based on published and approved detailed landscape plans.***
- 6.19 There is no definition in the Town and Country Planning Act 1990 (the 1990 Act) of “non-material” for the purposes of an application for a non-material amendment (“NMA”) to a planning consent under s.96A. Whether the Council invites a NMA or s.73 application is wholly dependent on the context of the overall scheme.
- 6.20 The question of whether the change to the path surface in the POS/country park areas was material or not (so, whether it ought to be subject to a NMA (s96A) or s.73 application) is entirely a matter for the Council as the Local Planning Authority (LPA) to decide. Any decision on this basis could only be challenged on the basis of public law error, and subject to the Wednesbury irrationality threshold for the court’s interference with matters of planning judgment.
- 6.21 Either way the Council decided that it was neither a case where a s96A or s73 should be invited.
- 6.22 Furthermore, the Council as the LPA is not legally obliged to invite an application. Whether to submit an application to regularise details is entirely a matter for the developer (or whomever has assumed their relevant responsibilities). There are obvious reasons why a person potentially subject to enforcement action would want to make such an application, not least to ensure there is certainty on whether or not they would be subject to enforcement action. But that is a matter for them.
- 6.23 The Council’s guidance on ‘material and non-material amendments’ can be found on its website.<sup>2</sup> Here the Council sets out a number of examples of material amendments. Most of the examples refer to changes in building design and layout and description of development. The change of materials i.e., from tarmac to Breedon gravel paths does not sit within any of the examples given. However, it is recommended that this section of the Council’s website is reviewed to reflect the legal position set out above. Ultimately, it remains for the Council to exercise their planning judgment on whether to request a s73 or s.96A application.
- 6.24 In this instance, the Council did not invite a s73 or s96A application, the change of path material was agreed verbally on site between the Council’s planning

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<sup>2</sup> [https://www.harborough.gov.uk/info/20001/planning\\_applications/215/material\\_and\\_non-material\\_amendments](https://www.harborough.gov.uk/info/20001/planning_applications/215/material_and_non-material_amendments)

case officer and the developer. There is no written record of this agreement, but those concerned remember the conversation. Whilst it is entirely the Council's planning judgement as to whether to invite an application for this change, there should have been at the very least some written record, whether it be by email or letter. Here the planning officer dealing with the planning application on behalf of the Local Planning Authority and Council has failed.

- 6.25 A further recommendation of this review will be that procedures are in place to ensure all matters of this nature are recorded. It should be noted however, this lapse of record keeping in the Development Management service is rare, and in the main all records are kept in the Council's IDOX/Uniform system.

- 6.26 ***e. To evaluate the approach taken to ensure the delivery of wildflower meadows was appropriate and robust.***

- 6.27 The ISLA report advises that all meadow areas appeared to have been sown with a meadow seed mix and have been laid out in accordance with the approved plans. The report further confirms that wildflower meadows are notoriously difficult to establish and will require careful management to establish and ensure they are sustainable. The management and cutting regime for wildflower meadows is set out in the approved landscape management plan (LMP) and is for the RMC to manage as the body responsible for ensuring compliance with the approved LMP.

- 6.28 ***f. To formally assess if the planning compliance approach has been appropriate and proportional.***

and

***g. To determine whether the Council has the ability to carry out enforcement action (subject to other findings) to ensure the original landscape plans are complied with.***

- 6.29 ToR f and g, above, are in essence linked as they both relate to the Council's planning enforcement service. The main concern expressed by residents being the change in path material and that the approved landscape management plans showed a tarmac surface.

- 6.30 Whether the change in path material from tarmac to gravel warrants enforcement action is a classic question of planning judgment for the Council. This is, as is known, entirely discretionary. There are sound reasons to conclude that such action would not be expedient, noting that the Council's officers have informally agreed to the change, and in the Council's view Breeden gravel is a better surface material in its setting.

- 6.31 Whether the 'informal agreement' means the Council is precluded from taking enforcement action on the basis that a legitimate expectation that the matter would not be enforced against arises. Two legal principles are in play here: legitimate expectation, and the rule against fettering the discretion of a public decision maker. Having regard to the case law on legitimate expectation, in order for such to be generated, their needs, in summary, to be a promise and

that promise needs to be unambiguous. An officer's opinion, given informally, conceding that gravel was a suitable alternative to tarmac and not touching on the question of enforcement at all does not, suffice to generate any legitimate expectation that the Council would never enforce against the use of gravel. Moreover, a very strong case for a legitimate expectation would have to exist in order to displace the rule that a public decision maker (here the officer) cannot fetter their discretion for the future (here the determination whether to take enforcement action), such a case does not exist here.

- 6.32 Whilst on the question of planning compliance, the cost of maintaining the paths (be they Breedon gravel or tarmac) is not, prima facie, a planning consideration. There is no policy or law which makes such a consideration mandatory.
- 6.33 With regard to who is responsible now for adhering to the approved LMP: RMC and not Mulberry, would be responsible for issues relating to the maintenance and management of the landscaping on the site.
- 6.34 Notwithstanding the above, RMC did not carry out the initial works and so they themselves may well have a legal cause of action against the contractors who carried out the initial landscaping works, i.e., the construction of the Breedon gravel paths. In terms of ensuring ongoing replacement planting for the remainder of the five-year period, mulching, watering replacement trees, and maintaining the paths, these matters are RMC's responsibility under the terms of any agreement. This means if they are not carried out it is RMC, not Mulberry or Ground Solutions, who would be subject to enforcement action.
- 6.35 ***h. To accommodate residents' concerns around this matter.***
- 6.36 The Council has provided this review due to the concerns raised by residents. It has and will continue to provide support to residents and Mulberry in achieving acceptable solutions to all matters with regard to the implementation of the LMP and approved landscape scheme. The Director of Planning and Regeneration, the Development Manager and the Planning Enforcement Team Leader have been working with ward members, the developer of the site, Mulberry Homes, and the RMC to achieve the best possible outcome for all concerned regarding the county park.

## **7. Next Steps**

- 7.1 The recommendations and findings of this report are being incorporated within officers regular working practices and procedures and the website is also being updated.

## **8. Resource Issues**

- 8.1 To be met from within existing resources.

**9. Financial Implications**

- 9.1 There are no financial implications arising from the contents of this report: giving effect to all recommendations can be managed from within existing budgets.

**10. Legal Implications**

- 10.1 None are identified

Background papers:

Appendices:

Appendix 1 - Planning Committee report: 5 April 2022 and associated addendum

Appendix 2 - Ian Stemp Landscape Associates (ISLA) report: April 2022.

## REPORT TO THE PLANNING COMMITTEE MEETING OF 5<sup>th</sup> April 2022

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**Status:** For comment

**Title:** To adopt the Terms of Reference for the review of the implementation of the Local Planning Authority (LPA) approved landscape plan, at Hursley Park, Great Bowden

**Report of:** David Atkinson – Director of Planning and Regeneration

**Portfolio Holder:** Cllr J Bateman, Planning and Regulatory Cabinet Member

**Where from:** Harborough District Development Management Team

**Where to next:** Planning Committee

### 1. Outcome sought from Committee

- 1.1 The purpose of this report is to request the Committee adopt the Terms of Reference for the review of the implementation of the Local Planning Authority (LPA) approved landscape plan, and any approved associated Landscape Management Plan (LMP) relating to the Mulberry Homes development at Hursley Park, Great Bowden: planning reference 15/01801/OUT & 16/02083/REM and for the Planning Committee to note them.

### 2 **Recommendations**

- 2.1 That Planning Committee adopt the Terms of Reference set out at paragraph 4.1 in the report to establish the extent to which the approved detailed landscape plans for Hursley Park have been implemented.**
- 2.2 That a report arising from the review of the implementation of the approved landscape plans at Hursley Park, Great Bowden be brought to Planning Committee for consideration as soon as possible.**

### 3. Summary

- 3.1 At its meeting on the 15 February 2022, the Planning Committee Chair presented the following statement:

*'Due to deep seated and long-standing concerns from residents regarding the Hursley Park site in Great Bowden, relating particularly to the Landscape Management Plan, it's state of completion and levels of enforcement. I would ask that this committee agree to commission a root and branch report from the planning department relating to the Landscape Management Plan.'*

*Terms of reference for this report are to be decided but will encompass compliance, enforcement, processes, procedures, conclusions, and any actions required.*

*The report will then come back to this committee at a later date for consideration’.*

- 3.2 The following evening on the 16 February 2022, a public meeting was held between residents of Hursley Park, Ward Members, the local MP and officers of the Council. The major concern expressed by residents was the paths on the park itself, in that they should tarmac with concrete edges as approved on planning landscape plans but have instead been installed with limestone gravel with wooded edges. The residents advise that the change in path material will require considerable maintenance and cost to the residents who now are responsible for the management of Hursley Park. Further concerns also expressed was the lack of the approved wildflower meadow.

#### **4. The Terms of Reference**

- 4.1 The purpose of the review is to establish the extent to which the approved detailed landscape plans (Detailed Landscape Proposals P16-0864\_05C, 06C, 04B, 07B of 16/02083/REM), specifically approved Landscape Plan Ref P16-0864-05C and 06C (The Landscape Plans), have been implemented. The Planning Committee is asked to adopt the following Terms of Reference for this review:
- a. To investigate if the Landscape Plans been implemented effectively with specific regard to the installation of the pathways.
  - b. To determine if the change from tarmac paths (as specified in the Landscape Plans) to a gravel surface was appropriate.
  - c. To review and determine if the process undertaken by which the surfacing of the pathways was changed from tarmac to gravel was compliant with the requirements set out in the Equality Act 2010.
  - d. To evaluate the approach taken to ensure the delivery of wildflower meadows was appropriate and robust.
  - e. To formally assess if the planning compliance approach been appropriate and proportional.

#### **5. Financial Implications**

- 5.1 There are costs involved in the appointment of consultants to complete the independent review of The Landscape Plans, these will be met from within the currently approved budget. There are also potential legal costs should the Council seek a legal opinion on the outcome of the review, these would be within budget in 2022/23 when this legal opinion would be sought.

**6. Legal Implications**

- 6.1 By conducting a thorough review of this matter it is intended that the ability of the Council to examine its decision-making process and transparency will be demonstrated thereby enabling this long-standing matter to be concluded.



## PLANNING

**To: All Members of the Planning Committee on Monday, 4 April 2022**

**Date of meeting: Tuesday, 05 April 2022**

**Time: 18:30**

**Venue: The Council Chamber**

**The Symington Building, Adam and Eve Street, LE16 7AG**

**RE: Item 7. Hursley Park Terms of Reference Report**

Dear Councillor,

At the request of the Chairman of the Planning Committee, the Terms of Reference in relation to section 4 of the Hursley Park Report have been updated. The amended Terms of Reference are found below.

LIZ ELLIOTT  
INTERIM CHIEF EXECUTIVE AND HEAD OF PAID SERVICE  
HARBOROUGH DISTRICT COUNCIL

Contact:

[democratic.services@harborough.gov.uk](mailto:democratic.services@harborough.gov.uk)

Telephone: 01858 828282

#### **4. Revised Terms of Reference**

4.1 The purpose of the review is to establish the extent to which the approved detailed landscape plans (Detailed Landscape Proposals P16-0864\_05C, 06C, 04B, 07B of 16/02083/REM), specifically approved Landscape Plan Ref P16- 0864-05C and 06C (The Landscape Plans), have been implemented. The Planning Committee is asked to adopt the following Terms of Reference for this review:

- a. To investigate if the Landscape Plans been implemented effectively with specific regard to the installation of the pathways and other omissions / defects as raised by the residents including but not limited to aspects such as allotment fencing, hedges and hedgerows, areas of planting.
- b. To determine if the change from tarmac paths (as specified in the Landscape Plans) to the gravel surface, (as constructed at Hursley Park and considering the quality suggested defects raised to the council by residents) was appropriate.
- c. To review and determine if the process undertaken by which the surfacing of the pathways was changed from tarmac to gravel was compliant with the requirements set out in the Equality Act 2010, including meeting with residents with accessibility considerations, who are most directly impacted by the omission of tarmac.
- d. To review and determine what planning amendment process, if any, was followed when the paths were constructed from gravel rather than from tarmac, and whether that process was consistent and appropriate given usual planning procedures (considering the conditions of the planning application). Considerations should be given to the specific context of Hursley Park, including that the residents are expected to take a maintenance responsibility for the paths and that construction was part of a park, the ownership of which was known to be transferring to residents who were purchasing properties based on published and approved detailed landscape plans.
- e. To evaluate the approach taken to ensure the delivery of wildflower meadows was appropriate and robust.
- f. To formally assess if the planning compliance approach been appropriate and proportional.
- g. To determine whether the council has the ability to carry out enforcement action (subject to other findings) to ensure the original Landscape plans are complied with.
- h. To accommodate residents' concerns around this matter.

# **Hursley Park, Welham Road, Great Bowden, Leicestershire**

## Site Inspection and Report



**Project:**

Hursley Park, Welham Road, Great Bowden, Leicestershire

**Client:**

Harborough District Council

**Job No:**

22.1652

**Report No:**

22.1652.R1

**DOCUMENT CHECKING****Author:**

Christopher Nichols CML I

Issue	Date	Status	Revision
1	01.04.22	Final	
2			
3			
4			
5			

## Introduction

The following report has been undertaken by Chris Nichols CMLI, BA (Hons), BLA (Manchester Metropolitan University, Principal Landscape Architect of ISL Associates Ltd (Ian Stemp Landscape Associates) on behalf of Harborough District Council. Chris has been a Chartered Member of the Landscape Institute since 1998.

The purpose of the report is to ascertain the condition of site works associated with a large residential development not within private ownership and their compliance with site drawings and specifications prepared by Pegasus Design. It is not to comment on the current management regime undertaken by the management company.

It would be normal practice for the site works to be handed over to the management company to have achieved a presentable standard and all construction defects to have been rectified rather than to be a management issue.

## Methodology

A site visit was carried out on the 31<sup>st</sup> March 2022 and a comprehensive survey of the site works was carried out.

The weather was for the most part dry with occasional snow showers. Ground conditions were firm and dry.

The following drawings and specifications were provided by the client;

P16-0864_04B	Detailed Landscape Proposals Sheet 1 of 4
P16-0864_05C	Detailed Landscape Proposals Sheey 2 of 4
P16-0864_06C	Detailed Landscape Proposals Sheet 3 of 4
P16-0864_07B	Detailed Landscape Proposals Sheet 4 of 4
P16-0864 LMP011	Landscape Management Plan

## Footpaths

Footpaths on the approved drawings are detailed as tarmacadam surface with pre-cast concrete edging. In almost all circumstances the footpaths across the site have been laid to a crushed stone/gravel finish and with timber edgings. No specifications or construction details were provided.

A general specification for footpaths of this material would be for 100 to 150mm of compacted MOT Type 1 with compacted 50mm depth of stone finish. Edgings should be softwood boards pressure impregnated and fixed to softwood pegs. A camber of about 1 in 55 should be provided to shed surface water and the surface should be flush with edgings to allow water to flow to adjacent grass areas.

It was apparent in many places that the rolled gravel surface has not been adequately laid, with large stones and sub-grade visible in many places leading to surface degradation and trip hazards that will only worsen over time. The surface had not hardened in many areas as should be expected and there were many areas of loose and large size material instead of a smooth finish of hard stone fines. Some loose chippings are inevitable with this surface type as a natural process of scarification takes place, however the large amount of loose material is not acceptable.

In many areas there appears to be an insignificant or non-existent camber or fall to the footpaths and in wet conditions there are indications that lying water is causing surface damage. In one specific area significant water damage was clear, with large gouges in the footpath surface creating a significant trip hazard. Additional features such as water bars could have been incorporated to prevent this.

In many areas surface finish was not level with the timber edgings preventing water from flowing off into adjacent areas and causing additional surface damage as well as creating trip hazards.

Ingress of grass growth into the footpaths from adjacent areas was evident in many areas, however this is a problem often associated with this surface material and must be managed by weed control measures. Failure to do so will result in additional breakup of the surface.

A visual inspection of the footpaths was carried out only, without physical excavation into the subsurface, although in some areas surface erosion

allowed some observation of surface depths which did appear to be less than a 50mm depth, although this was only a localised observation.



*Loose surface material is common with subsurface breaking through creating trip hazards*



*Sub surface breakthrough is common in many areas*



*Water damage*



*Water damage*

### Tree Planting

Tree planting across site was generally in accordance with the positions and species shown on the approved plans. All trees were double staked and secured with rubber ties as per the specification. Some watering pipes were evident on some trees but not on all, although this does not appear in the specification. No bark mulch was evident around each tree as per the specification. I would also liked to have seen tree guards to each tree within grass areas to prevent strimmer damage.

No excavation was carried out to determine soil quality, however there is clear evidence that back fill contained heavy clay soils and large stones.



*Dried out ground would indicate heavy clay content, large stones also visible.*

Some slight position changes are apparent, and some species changes have occurred such as *Aesculus hippocastanum* which can no longer be planted due to disease control restrictions. Some tree replacement has been undertaken by residents; however it should be noted that any plant that fails within a 5-year period is normally replaced by the contractor under the planning approval. Tree failures, which are to be replaced, are at an acceptable percentage and are shown on the provided drawings to the rear of this report. All tree avenue planting through the estate has not been planted and presumed removed from the scheme. Almost all the proposed semi-mature trees within the Central Green have failed, most likely due to their size at planting and lack of watering, they should be replaced with appropriate native specimens for the open space such as Oak or Field Maple.

### **Native Hedgerow Planting**

Native hedges were generally planted in single lines rather than double staggered row as per the specification. No double line support as per the specification was provided. However, the native hedges were in generally good order and forming up well. Ongoing maintenance will require the removal of weeds, topping up of bark mulch and filling of any gaps. Plant failures were approximately 5% to 10%, which I do not consider excessive.



*Native hedge to north side of Plot 6*

### Beech Hedge Planting

Beech hedges were in generally good order and establishing well. However there were some areas still requiring replacement which are shown on the attached plans. Replacement planting of some failed beech plants had taken place, but plants were not in accordance with specification of 150/175cm height at 300 centres. Replaced plants were generally 600mm high whips. In many places there was no bark much evident and excessive weed growth, an 80cm wide bed of much is to be provided according to the specifications. No soil excavation or samples were taken, however as in many places, cracked and dried ground would indicate heavy clay soils present. The hedge to Plot 7 is missing completely.



*Beech hedge adjacent Plot 12 and running along western edge of POS. Hedge plants undersize and insufficient numbers as opposed to specification. No bark mulch present and heavy clay soil evident. However, with appropriate after care, hedge should thrive in time.*

### Swales

All swale areas appeared to have been sown with a wetland meadow seed mix, however the early season site inspection meant it is difficult to ascertain how successful this has been. Successful establishment will be difficult due to

existing seed bank in soil. Steepness of swale sides in some places should have a required a post and rail fence to prevent access.



### **Native Shrub Planting**

All native shrub areas were present, and an acceptable level of establishment had taken place with approximate 5-10% failure rate, these will need replacing as part of annual management. Management should also be aware to remove and excessive weed growth until the canopy can establish and suppress weeds below. A small area of native planting is missing adjacent Plot 40.

### **Amenity Grass Areas**

All amenity grass areas look in good condition and well established. There are some areas of disturbed grass verge along the main access road which is an ongoing management issue rather than failure of establishment. Some areas next to footpaths need to be regraded and seeded where settlement has taken place.

### **Meadow Grass Areas**

All meadow areas appeared to have been sown with a meadow seed mix and were laid out in accordance with the approved plans, however some areas within the POS adjacent to Plot 50 and Plots 7, 21 & 22 were laid to amenity grass. The early season site inspection meant it is difficult to ascertain how successful this has been; however it is understood a technical report has been prepared to inspect this separately. Successful establishment will be difficult due to existing seed bank in the soil and the management should look to create as diverse a sward as possible to create bio-diversity benefits without being overly concerned with the approved meadow species mix.

### **Allotment**

In general the allotment is laid out in accordance with the plans with all facilities provided. One raised planter is damaged and needs repairing. Soils appear poor with significant amounts of heavy clay soils present, with ground rock hard and large cracks appearing. The specification is not clear on quality of topsoil to be provided, only refers to additional topsoil being in accordance with BS3882:2015 where 'additional' topsoil is required. The allotments should be provided with large amounts of organic material soil conditioner to alleviate this situation.



*Poor quality heavy clay soils to allotments.*

**Extras**

All benches and seating were present with one additional seat within the Central Green.

There were no spotlights to the large existing trees within the Central Green.

The ornamental planting set around the play area is in poor condition and should be replaced.

This report does not intend to provide an inspection of the play equipment and this should be covered by a qualified inspector, however the grass areas around the play area were well established and maintained.

Area to rear of Plots 46 to 50 could not be accessed, however visual inspection over adjacent fence would indicate correct number of trees and establishment.

## PLANNING COMMITTEE

24<sup>th</sup> May 2022

## APPLICATIONS FOR DETERMINATION

## **Index of Applications for Determination**

### **Meeting of the Planning Committee, 24<sup>th</sup> May 2022**

<b>Application Ref</b>	<b>Parish / Ward</b>	<b>Applicant</b>	<b>Page Number</b>
21/02148/FUL	Smeeton Westerby / Kibworths	Mr Arnold	43
22/00236/FUL	Market Harborough / Market Harborough Logan	Mr Nick and Janelle Chapman	72
22/00679/VAC	Great Bowden / Market Harborough Great Bowden and Arden	Mr Richard King	93
22/00802/FUL	Market Harborough / Market Harborough Welland	Harborough Town Football Club	104
22/00833/CLU	Broughton Astley / Broughton Astley South and Leire	Mr and Mrs Haines	116
22/00795/FUL	Illston on the Hill / Glen	Mrs S Modha	124

## Planning Committee Report

### Planning Committee Report

**Applicant:** Mr Arnold

**Application Ref:** 21/02148/FUL

**Location:** 2 Debdale Lane, Smeeton Westerby, Leicestershire, LE8 0QD

**Proposal:** Conversion of an agricultural building into one residential dwelling

**Application Validated:** 10.12.2021

**Target Date:** 04.02.2022 – Extension of Time Agreed to 27.05.22

**Consultation Expiry Date:** 17.03.2022

**Site Visit Date:** 24.02.2022

**Reason for Committee Decision:** Recommended decision departs from Development Plan + Ward Member call-in

### Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report and subject to the Planning Conditions set out in Appendix A of this report.

#### Recommended justification statement

While the proposal does not comply with Policies SS1 and GD4 with regards to residential development in the countryside, the proposal has a realistic fall-back position due to extant consent for the conversion of the building to a dwellinghouse under Permitted Development. The proposal is identical to the fall-back position and, therefore, would not create additional harm. By virtue of the design, size and positioning of the dwelling, the development would not adversely affect the amenity of local residents, including users of the public right of way. The development would not lead to an unsafe highway situation, would not cause contamination risks, would not adversely impact on ecological interests, is not at risk from flooding and would not exacerbate flooding. The proposal accords with Policies GD5, GD8, GI1, GI5, CC3, CC4 and IN2 of the Harborough Local Plan.

### 1. Site & Surroundings

- 1.1 The application site relates to an agricultural building & curtilage located in open countryside approximately 200m to the east of the built form of the sub-SRV of Smeeton Westerby. The site is accessed along Debdale Lane, which is an unclassified single track highway.
- 1.2 The application building is a pole barn, possessing a concrete floor slab with a metal clad roof and elevations. There is a small area of hardstanding immediately to the east of the building.

- 1.3 A public right of way (footpath) runs from in front of the site on Debdale Lane, north/south alongside the site, crossing the private vehicular track to the building.



(Source: Uniform Maps ~2018)

- 1.4 The site does not lie within the village's Conservation Area or have a significant role in its setting.
- 1.5 There are no Listed buildings/assets in the immediate vicinity.
- 1.6 The site is not subject to any specific planning designations in terms of ecological, archaeological, flood risk (fluvial and surface water), arboricultural or other interests.

- 1.7 The site benefits from extant consent for the conversion of the agricultural building and its curtilage to a dwellinghouse use (planning Use Class C3). See 20/01899/PDN in the following Section 2.

**Planning Officer Site Visit Photographs (taken 24.02.2022)**







## 2. Site History

2.1 The site has the following relevant planning history:

- 20/01889/PDN – Application to determine if Prior Approval is required for the proposed change of use of an agricultural building to a dwellinghouse (Class C3) (1 larger dwellinghouse) and for building operations reasonably necessary for the conversion (Class Qa and b)

REFUSED 14.01.2021

ALLOWED AT APPEAL 10.09.2021 (see Appendix B for Appeal Decision APP/F2415/W/21/3270900)

- 92/00990/3P – Agricultural barn for feed storage & equipment, bad weather shelter for bullocks & shire horse P.T. OS. 4261 Debdale Lane Smeeton Westerby  
APPROVED 24.07.1992

## 3. The Application Submission

### a) Summary of Proposals

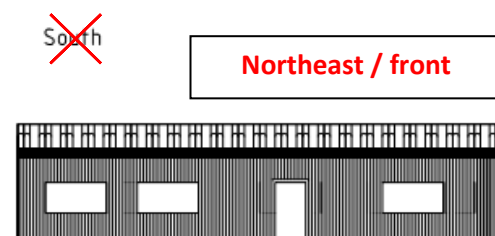
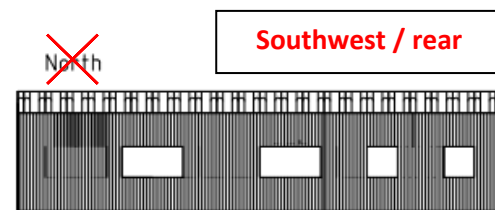
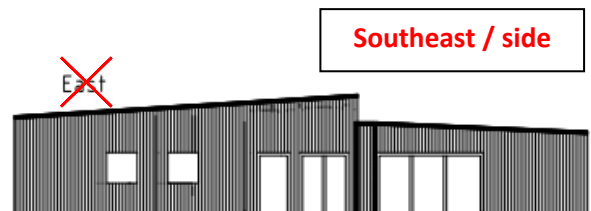
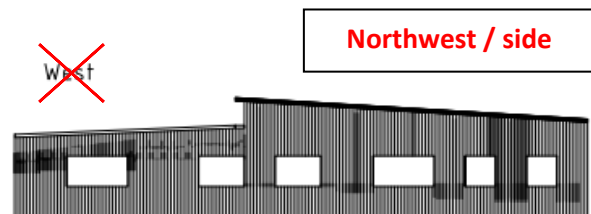
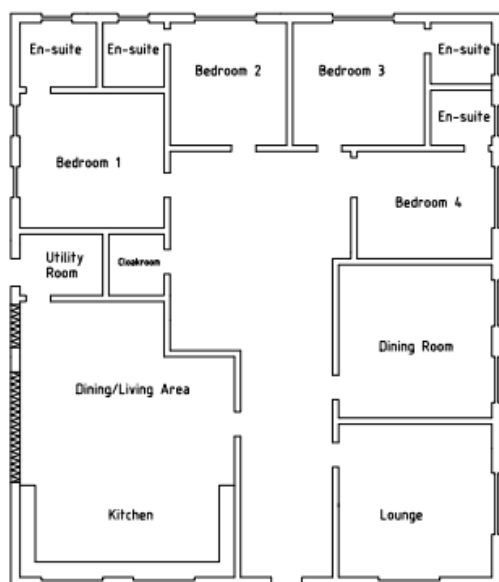
- 3.1 The proposal seeks to convert the existing agricultural building & curtilage into a single dwellinghouse.
- 3.2 The development is identical to that approved by application 20/01889/PDN. The same plans have been submitted.
- 3.3 Given that the work is identical to 20/01889/PDN, the applicant was asked to explain why a planning application has now been submitted. The applicant's agent updated their "Planning Application Supporting Statement" to explain:

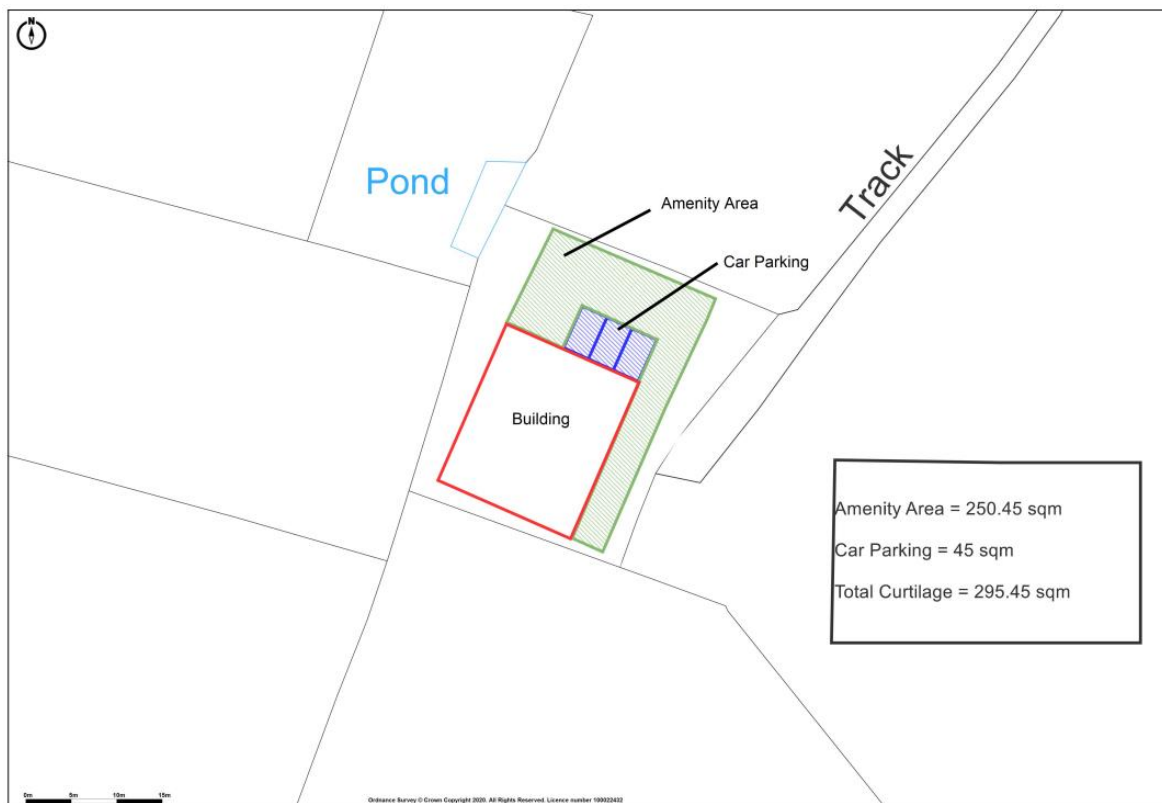
*“The proposal is to convert an agricultural building into one residential dwelling. The conversion and associated building works have already been consented in appeal APP/F2415/W/21/3270900. Being a prior approval application, the number of commercial lenders willing to provide a self-build mortgage is extremely limited. By changing the consent to full planning, the cost of finance is significantly reduced.”*  
(page 4)

- 3.4 Three parking spaces are proposed to the north of the building, with an “amenity area” wrapping around the north and east sides of the proposed dwelling. No landscaping details have been provided.
- 3.5 The elevation plans have been corrected with regard to compass orientations. The original plans are annotated below, with the applicant’s labels crossed out and clearer text boxes added by the Planning Officer. An amended plan to reflect this has been received from the applicant on 04.05.22.

## Proposed Elevations and Floor Plans

1:100 scale @ A2





#### b) Plans / Documents Submitted

3.6 The application is accompanied by the following plans and documents:

- Site Location Plan (1:1250 scale @A4)
- Existing Block Plan (1:500 scale @A4)
- Existing Elevations and Floor Plans (1:100 scale @A2)
- Proposed Block Plan (1:500 scale @A4)
- Proposed Elevations and Floor Plans (1:100 scale @A2) (Amended Plan; received 04.05.2022)
- Site Inspection Report (Nigel Grace Limited; Date of Visit 25 September 2020)
- Planning Application Supporting Statement (Amended v2; received 06.01.2021)

#### c) Pre-application Engagement

3.7 The applicant has not sought pre-application advice.

### 4. Consultations and Representations

- 4.1 Consultations with technical consultees and the local community were carried out on the application.
- 4.2 A summary of technical consultee responses is set out below. To view the comments in full please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

## **a) Statutory & Non-Statutory Consultees**

### **4.3 Smeeton Westerby Parish Council (Object)**

*"The above SWPC unanimously objects to this application. Many conversations, both formal & informal, have been held in this regard.*

#### **REASONING.**

- 1. The intention behind Class Q conversions in 2014 was to allow for the easing of pressure on required housing in rural areas. This application sits inside this intention, however there is a 'loophole' in this planning legislation – namely that once granted (FUL) a further application can be made allowing numerous changes outside of this intention.*
- 2. Is this the intention in this case? If so, there will be a future application for a much larger dwelling or multiple dwellings. All of this will be outside the village boundaries.*
- 3. This site should stay as Class Q so it is protected by & has to comply with the strict requirements as intended.*
- 4. A question:- Who would want to live in what will be a corrugated steel clad dwelling?*
- 5. The external appearance of that nature is unmatched by any existing village dwelling & even though outside the boundaries, it is directly adjacent to village housing.*
- 6. We notice that in the application there is no arrangement for the disposal of foul sewage.*
- 7. Regarding vehicular access:- Debdale Lane is an unmade road (unadopted?), it is single in width with grass verges at most points along its length. It is in constant daily use by tens of dozens of walkers, by horse riders, by cyclists & so on, ie. it is a very well used & necessary amenity. There is no park or green space available for these purposes within Smeeton Westerby, indeed there is no infrastructure of this nature.*
- 8. Non-vehicular users, as above must make way for vehicles by using these verges, this is impractical for those who are disabled (re: their walking) or with pushchairs or in wheelchairs. Therefore further development along the lane further exacerbates this problem. The long – term future of this resource is yet another question!*
- 9. Access onto/off the lane at its junction with Main Street in Smeeton Westerby, is ALWAYS a risk for both the above & for vehicles. It is 'blind' when turning either left or right onto Main Street. Therefore, any increase in the number of vehicles may well change the statistics from the current 'no significant accidents'.*
- 10. In the application there is also a Public Right of Way across the proposed 'to be refreshed' driveway.*

*We believe that the planning officer(s) will consider this application very carefully, they should reject it on the basis of this letter & the many others sent forward by individuals."*

### **4.4 HDC Environment Team (Contaminated Land & Air Quality Officer)**

Consulted. No comments received.

#### Planning Officer Comment:

The 2x Contaminated Land Conditions added to 20/01889/PDN by the Appeal Inspector are noted:

1. Risk Based Land Contamination Assessment (prior to development)
2. Remediation Statement or Verification Investigation (prior to occupation)

To ensure that the land is fit for residential use and to accord with Harborough Local Plan Policy GD8 and the National Planning Policy Framework, the same Conditions are proposed in Appendix A.

#### 4.5 **LCC Highways**

*"The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011. Consideration should be given to width, surfacing, visibility splays, parking and turning provision.*

*Public Footpath A96 runs across the access road to the proposed development. Therefore the following notes should be drawn to the applicant's attention:*

##### *Informative*

*Prior to construction, measures should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works.*

*The Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.*

*The Public Right of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.*

*If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.*

*Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.*

*No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal."*

#### 4.6 **LCC Ecology**

*"The building is unlikely to support roost roosting bats due to its structure and a corrugated metal roof, therefore on this occasion a bat survey is not required. However, the development site is adjacent to open countryside which is suitable habitat for foraging bats. I recommend the applicant reviews the information provided in the Bat Protocol which can be found via this link <https://www.leicestershire.gov.uk/sites/default/files/field/pdf/2021/2/3/LRERC-Bat-Protocol.pdf>, and the following note to applicant is added to any planning permission granted:*

*'The property may be suitable for roosting bats, which are protected by law from harm. The applicant should ensure that all contractors and individuals working on the property are aware of this possibility, as works must cease if bats are found during the course of the works whilst expert advice from a bat ecologist is obtained. Bats are particularly associated with the roof structure of buildings, including lofts, rafters, beams, gables, eaves, soffits, flashing, ridge-tile, chimneys, the under-tile area, etc. but may also be present in crevices in stone or brickwork and in cavity walls'.*

*The site is in a 'Swift Alert Area' where swift have been recorded in the recent past; as a planning condition I recommend installation of 1 group of 3 boxes/bricks in a suitable position. Further guidance on this can be found here*

*[https://www.swift-conservation.org/Leaflet 1 Swifts Nest-boxes at Your Home-small.pdf](https://www.swift-conservation.org/Leaflet%201%20Swifts%20Nest-boxes%20at%20Your%20Home-small.pdf)*

*The locations of these should be marked on the plans, details of box specification provided, and photographs submitted after they have been installed to enable the condition to be discharged."*

## **b) Local Community**

4.7 Multiple objections have been received from the local community.

Full comments can be reviewed on the HDC website. [Simple Search \(harborough.gov.uk\)](https://www.harborough.gov.uk/simple-search)  
Concerns are summarised below:

- *"The drawings and location of the site are exactly the same as the original planning application, which begs the question why this application has been made as is it is not making the site any better for the community."*
- *"The site is outside the village boundary so should be kept as a smaller agricultural style dwelling, as there is also a public footpath. This would threaten the local wildlife, countryside aesthetics and not meet the original intention of Class Q planning permission."*
- *"If a FUL application is passed on this site it will remove these restrictions and leave the opportunity for a larger property to be developed on this sensitive site which has a public rights of ways close by and is outside the village boundaries."*
- *"The development freedom afforded by FUL permission would allow too much freedom and very likely detract from the local environment and the enjoyment of people using the these rights of way Risk to public highway safety, including Debdale Lane, the public right of way and Main Street junction."*
- The development will exacerbate not alleviate flooding.
- The development will negatively affect the character of Debdale Lane, a heavily used walking/recreation route by villagers.
- Impacts on wildlife.
- Landscape impacts / would detract from enjoyment of public right of way.
- Will increase the rate of deterioration of Debdale Lane.

Multiple concerns about the future intentions of the applicant / hidden agendas have been raised. These are not material planning considerations.

## **5. Planning Policy/Guidance Considerations**

5.1 Please see above for planning policy considerations that apply to all agenda items.

### **a) Development Plan**

5.2 *Harborough Local Plan (HLP) 2011-2031*

The below policies are considered to be most relevant to this application:

- SS1 – The spatial strategy
- GD1 – Achieving sustainable development
- GD3 – Development in the countryside

- GD4 – New housing in the countryside
- GD5 – Landscape character
- GD8 – Good design in development
- GI1 – Green infrastructure networks
- GI5 – Biodiversity and geodiversity
- CC3 – Managing flood risk
- CC4 – Sustainable drainage
- IN2 – Sustainable transport

[No Neighbourhood Plan]

## **b) Material Planning Considerations**

### **5.3 National Planning Policy Framework**

Whilst the NPPF must be read as a whole, the following Chapters are of particular relevance:

- Chapter 2 – Achieving sustainable development
- Chapter 4 – Decision making
- Chapter 8 – Promoting healthy and safe communities
- Chapter 9 – Promoting sustainable transport
- Chapter 12 – Achieving well-designed places
- Chapter 14 – Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 – Conserving and enhancing the natural environment

### **5.4 National Planning Practice Guidance**

### **5.5 Development Management Supplementary Planning Document (December 2021)**

## **6. Assessment**

### **a) Principle of Development**

- 6.1 Policy SS1 of the Harborough Local Plan (HLP) explains the Spatial Strategy for the Harborough District. Housing growth is directed to appropriate locations in accordance with the District's settlement hierarchy. The settlement hierarchy identifies the settlements which are most suitable in sustainability terms (this is set out in detail in Appendix F of the HLP). Settlements at the top of the hierarchy are considered to be the most sustainable in terms of accessibility to services, facilities, shops, employment and public transport provisions. Notwithstanding that the site lies in the open countryside outside Smeeton Westerby, the village is categorised as an 'Other village or rural settlement' (below the lowest tier of the hierarchy which is Selected Rural Villages). Smeeton Westerby is considered to be unsustainable for new build housing growth in principle.
- 6.2 Housing proposals in the village and its countryside surroundings are covered by HLP Policy GD4 'New housing in the countryside'. This policy only allows for additional housing in special circumstances. The only part of GD4 which is relevant to this proposal is criterion c., where development relates to "*the re-use of redundant or disused buildings that results in enhancement to their immediate setting*".

- 6.3 At previous planning officer site visits (most recently 24.02.22) the building has been observed to be in active use for agriculture. The applicant, in their Planning Statement, only argues that the proposal is for “*the re-use of an agricultural building by converting it into one residential dwelling*” (para.6.2, page 6). The applicant does not state that the building is “redundant or disused”, nor provide any justification to explain why an agricultural building is no longer required on the site, nor explain how the proposal would enhance its immediate setting.

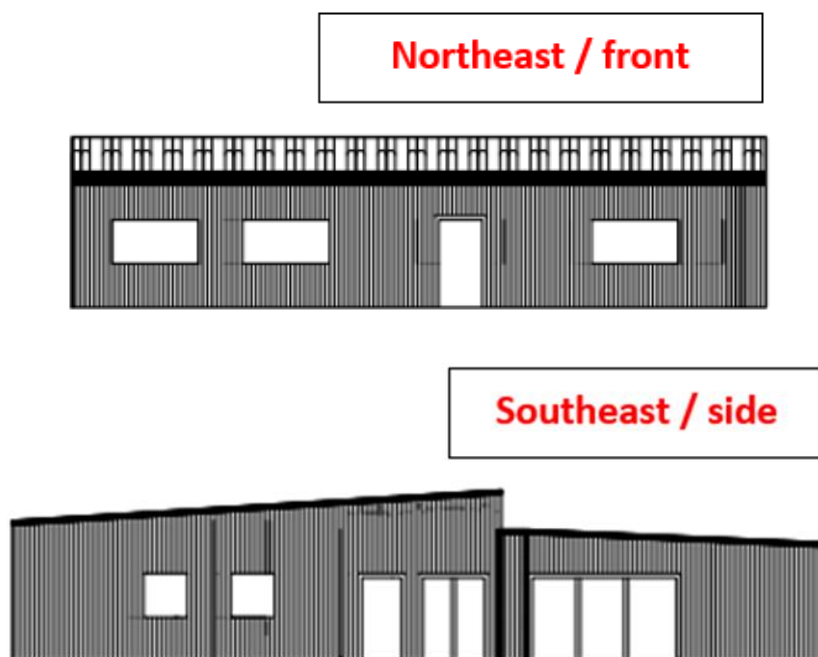
[It is noted that the GPDO Class Q process does not require an agricultural building to be redundant or disused in order to qualify for Permitted Development.]

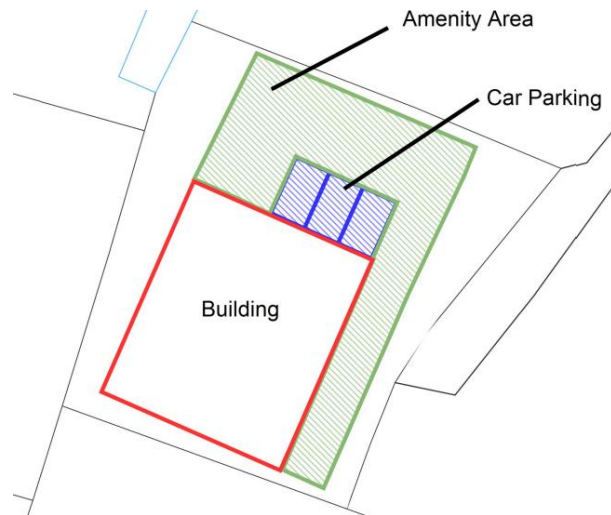
- 6.4 While the building could be perceived to be somewhat untidy, physically ‘weathered’ and less-than-attractive, it is a utilitarian agricultural building/yard read within an agricultural landscape – it is orthodox in its use to its surroundings and ordinary in its context. In the countryside, one expects to encounter agricultural buildings and infrastructure serving the needs of agricultural land. For these reasons, the building and its curtilage do not necessarily jar with one’s experience of the countryside. However, a building and/or use which is out of context can be abrasive to one’s understanding and sensibilities about a rural environment and thus affect one’s enjoyment of that environment. The proximity of the public right of way brings people into close contact with the site.
- 6.5 The applicant’s ‘Site Inspection Report’ briefly outlines how the building would be converted. It explains, inter alia:

*“The external face of the cladding would need cleaning and then sealing with a suitable material. In my opinion it does not need replacing.”* (page 3)

*“The roof does not need replacing. It will need small areas of repair, cleaning and then sealing with a suitable material.”* (page 5)

- 6.6 The northeast/front and southeast/side elevations of the building are the publicly conspicuous elevations, which contain the following proposed fenestration.





- 6.7 The building would retain its current weathered appearance, but with domestic fenestration insertions and the creation of domestic parking and garden areas on the public northeast and southeast sides of the building (given boundary space constraints).
- 6.8 The proposed domestication (and inherent gentrification) of the building and site through conversion to a dwellinghouse use, with accordant residential parking and garden areas, could be perceived to be detrimental to the character and appearance of the countryside through degrading the rurality of the site in use and appearance. It is not considered that the proposal would result in an enhancement to immediate setting as required by HLP Policy GD4 – a setting which is intrinsically experienced by users of the PRoW.
- 6.9 HLP Policy GD5 ‘Landscape character’ requires development to ‘respect and, where possible, enhance local landscape’. It is not clear that the proposal would achieve this.
- 6.10 HLP Policy GI1 ‘Green infrastructure networks’ (which includes recreational paths and public rights of way) states:
- “2. The green infrastructure assets listed above will be safeguarded and, where possible, enhanced by ensuring that:*
- a. development does not compromise their integrity or value”*
- It is not clear that the proposal would safeguard or enhance the integrity and value of the adjacent PRoW. Local public opinion on this matter is noted as being of credible perspective.
- 6.11 Based on the evidence of the current submission, it is not possible to determine that the proposal would comply with the HLP Policies GD4, GD5 and GI1.
- 6.12 The locational sustainability principle of a dwellinghouse on this site does not accord with the spatial strategy outlined in the HLP Policies SS1 and GD4.

Other material considerations:-

- 6.13 Notwithstanding the above, the applicant has a “fall-back position” for residential development of the site under the General Permitted Development Order, Schedule 2,

Part 3. This relates to the previous Class Q grant of prior approval at Appeal (reference 20/01899/PDN) for the conversion of the building to a dwelling.

- 6.14 It has been established in law that a fall-back position is an important material consideration in the decision-making process. The fall-back position refers to what development could take place if planning permission is not granted through a planning application. Of particular note is the Court of Appeal decision in *Mansell vs Tonbridge & Malling Borough Council* [2017] EWCA Civ 1314. The judgement recognised that Permitted Development rights under Class Q (whether prior notification has been sought or not) may represent a realistic fall-back position when it comes to developing the site with an alternative form of development. Where a fall-back development is possible, decision-makers must be satisfied this is a “real prospect” in order for it to be a material consideration. There is extensive case law regarding “real prospect/s”; whether a fall-back is realistic is based on the individual merits of the site/development.
- 6.15 In this case, there is an extant grant of prior approval under 20/01899/PDN. The Supporting Statement explains:
- “In this instance it is clearly in the interests of the applicant to convert the building as per the appeal decision on application 20/01899/PDN. The permitted scheme is a realistic and viable alternative to this proposal.”* (page 8)
- 6.16 The applicant has explained that the current planning application has been submitted to boost lending options for the development. This is likely to make it of broader attraction to developers/purchasers. Greater demand is likely to lead to greater commerciality / saleability – a quicker sale and/or higher financial returns. However, should the planning application be refused there is no evidence to indicate that the same proposal on the site would not take place under 20/01899/PDN. Therefore, the fall-back position is considered to be a realistic, feasible option.
- 6.17 To conclude, the principle of additional dwellings in this location is contrary to the aims of the HLP and its spatial strategy, which seeks to direct development towards the most appropriate and sustainable locations where there are a range of shops, services, greater employment opportunity and good public transport links. The development is contrary to HLP Policy GD4 as the proposed dwelling does not meet the criteria for dwellings in the countryside, nor has the proposal been shown to represent the “*re-use of redundant or disused buildings that results in enhancement to their immediate setting*”. Furthermore, the proposal has not been shown to comply with HLP Policies GD5 and GI1. The District, at its most recent September 2021 position, has a 7.49year supply of housing – in excess of a minimum 5 year target. Therefore, there is no additional positive (“tilted”) weight in favour of the proposal on the basis of an under-delivery of housing in the District. However, ultimately the fall-back position is considered to be a material consideration which, on balance, outweighs the policies of the Development Plan and justifies approval of the application.

## **b) Design and Visual Amenity**

- 6.18 Section 12 of the NPPF refers to achieving well designed places. Specifically, paragraph 124 states that good design is a key aspect of sustainable development. Developments should be sympathetic to local character and history, including the surrounding built environment.

- 6.19 Policy GD4 of the HLP states that new housing in the countryside may be permitted where it involves “the re-use of redundant or disused buildings *that results in enhancement to their immediate setting*” (emphasis added).
- 6.20 Policy GD5 of the HLP states that development should be located in such a way that it is sensitive to its landscape setting and landscape character and will be permitted where it respects, and where possible, enhances local landscape, the landscape setting of settlements and settlement distinctiveness.
- 6.21 Policy GD8 of the HLP outlines that development should achieve a high standard of design, be inspired by, respect and enhance local character and the context of the site, street scene and local environment. Where appropriate development can be individual and innovative, yet sympathetic to local vernacular.
- 6.22 The proposal does not demonstrate that it would enhance its immediate setting or local landscape character. The proposal would lead to a change in the character and appearance of the building & site from its relatively innocuous agricultural character/appearance to one of domestic character/appearance. This is not considered to be an enhancement. Certain aspects of the development, such as the 3x broad windows proposed in the conspicuous northeast elevation, are not judged to represent good design – they neither complement nor enhance.
- 6.23 However, the proposal is identical to that approved under Appeal APP/F2415/W/21/3270900 for application 20/01899/PDN.

Matters of design and the external appearance of the building were deemed to be acceptable by the Appeal Inspector under application 20/01899/PDN.

Planning Conditions, including matters relating to design & visual amenity:-

- 6.24 All 4 Conditions taken from Appeal APP/F2415/W/21/3270900 are recommended, in identical wording to the Appeal Decision:
- Condition 1 (external materials samples)
  - Condition 2 (highway gates set back a minimum of 5 metres)
  - Condition 3 (Risk Based Land Contamination Assessment)
  - Condition 4 (Land Contamination Developer Statement or Verification Investigation)
- 6.25 Given that the proposal is now a planning application and, if approved, would no longer be automatically covered by the legislative stipulations contained in the GPDO, Schedule 2, Parts 1 and 3, it is necessary to add Planning Conditions to a Decision Notice which have the same effect.

These Conditions are:

- Development to Commence within 3 Years [similar, but more flexible, effect to Class Q, Condition Q.2(3)]
- GPDO Permitted Development Restrictions, removing Part 1 rights for:
  - Class A “*enlargement, improvement or other alteration of a dwellinghouse*”
  - Class AA “*enlargement of a dwellinghouse by construction of additional storeys*”
  - Class B “*additions etc to the roof of a dwellinghouse*”
  - Class C “*other alterations to the roof of a dwellinghouse*”
  - Class D “*porches*”
  - Class E “*buildings etc incidental to the enjoyment of a dwellinghouse*”

Class F “*hard surfaces incidental to the enjoyment of a dwellinghouse*”

Class G “*chimneys, flues etc on a dwellinghouse*”

Class H “*microwave antenna on a dwellinghouse*”

These GPDO restrictions are to protect the character and appearance of the development and its surroundings.

- 6.26 It is also considered to be necessary & reasonable (6 tests compliant) to impose extra Conditions to those which feature in the Appeal Decision Notice and those which are incumbent on Class Q development.

These extra Conditions are:

- Landscaping Scheme (to cover all matters of proposed Landscaping, Surfacing Materials and Boundary Treatments).
- GPDO Permitted Development Restriction, removing Part 2 rights for:  
Class A “*gates, fences, walls etc*”

Given that the only amenity spaces for the dwelling are on the publicly-open sides of the dwelling and readily visible from the public right of way, there may be pressure for an occupier to, for example, erect close boarded fencing for immediate privacy and place outbuildings in these areas. Close boarded fencing is likely to cause significant harm and outbuildings may be harmful depending on design and position. Other boundary treatment types may be unacceptable and urbanise the site. Therefore, control over any new/future boundary treatments (beyond those approved by a Landscaping Scheme Condition) is judged to be essential.

- Swift Alert Area Measures

To protect ecology interests: this is not related to the subject matter of the Class Q prior approval – i.e., Conditions Q.2(1) (a) to (g) – but is a Development Plan consideration.

- Approved Plans Condition

This would automatically show and limit the approved residential curtilage area to that shown on the proposed layout plan as green shaded “Amenity Area” and blue shaded “Car Parking” (“Total Curtilage = 295.45sq.m”)

- 6.27 Conflict with the HLP has been identified. However, the fall-back position is considered to be a material consideration which, on balance, outweighs the policies of the Development Plan and justifies approval of the application. Should the current application be refused there is a realistic prospect that the conversion of the building would occur under 20/01899/PDN, indeed with fewer conditional controls. Given the identical nature of the scheme to that approved under Appeal 20/01899/PDN, the impacts on the character and appearance of the site and local area / landscape (which includes the visual amenities of the PRoW) would not be any greater.

## c) Highways

- 6.28 Paragraph GD8 of the HLP states that developments should ensure safe access, adequate parking and servicing areas including the safe, efficient, and convenient movement for all highway users. Policy IN2 of the HLP states that residential development proposals will be permitted subject to the provision of safe access, servicing and parking arrangements, having regard to LCC Highways Authority guidance and standards.
- 6.29 No significant highway safety issues were identified as part of the permitted Appeal 20/01899/PDN. A Condition on gates being set back by at least 5m from Debdale Lane was added by the Planning Inspector. It is recommended that this is repeated on a FUL planning permission. An additional Informative Note regarding public right of way interests is also recommended. This does not feature on the Appeal Decision, but is advised in LCC HA consultee comments to make the developer aware of their obligations to protect the PRoW.
- 6.30 The current planning application is judged to maintain the status quo in terms of its highway impacts and comply with HLP Policies GD8 and IN2.

#### **d) Residential Amenity**

- 6.31 Policy GD8 requires developments to be designed to minimise the impact on the amenity of existing and future residents by not having a significant adverse effect on the living conditions of existing and new residents through loss of privacy, overshadowing and overbearing impacts. Levels of activity, noise, vibration etc, must, if relevant, be mitigated to an appropriate standard.
- 6.32 Owing to the high separation distances between the proposed dwelling and others in the area, the proposal would not result in adverse residential amenity impacts to existing properties.
- 6.33 The internal site layout is also judged to be satisfactory for future occupants.
- 6.34 The residential amenity impacts would be identical to the realistic fall-back position of the previously approved 20/01899/PDN scheme.

#### **e) Flooding Risks and Drainage**

- 6.35 The site is within lowest risk Flood Zone 1, with low probability of flooding and as such accords with Policy CC3 of the HLP. Records of Surface Water flooding on Debdale Lane beyond the site and Main Street are noted.
- 6.36 The drainage impacts of the development & flooding risks on the site would be identical to the realistic fall-back position of the previously approved 20/01899/PDN scheme.
- 6.37 Considering the scale of the development, the fall-back position and other legislation covering drainage, a condition requiring details of drainage is not judged to be necessary or reasonable in this case.

#### **f) Ecology**

- 6.38 HLP Policy GD8 requires that development achieves a high standard of design, inter alia, in:
- i. protecting and enhancing existing landscape features, wildlife habitats and natural assets (including trees, hedges and watercourses) as an integral part of the development*
- 6.39 HLP Policy GI5 states that development will be permitted where there is no adverse impact on the conservation of priority species, irreplaceable habitats, nationally or local designated sites amongst other factors. Developments should contribute towards protecting and improving biodiversity and geodiversity.
- 6.40 LCC's Ecology team has reviewed the application and they raise no concerns. They recommend an Informative Note bringing the applicant's attention to their requirement in law to protect bats. They also identify that the site is within a "Swift Alert Area"; where Swift have been recorded in the recent past. Given an elevated need to protect Swift numbers/interests, LCC Ecology recommend a Planning Condition that the development includes "1 group of 3 boxes/bricks in a suitable position". This ecological protection Condition does not feature on the 20/01899/PDN Appeal Decision, but is a Development Plan requirement. The FUL application process, therefore, offers additional benefits over the 20/01899/PDN process in terms of ecological interests.
- 6.41 No hedgerows or trees are proposed to be removed as part of the submitted plans/information, although it is noted that the close proximity of windows to hedgerows along the southwest and northwest elevations increases pressure to remove these established hedgerows (for light and/or private views). The Appeal Inspector, in assessing GPDO Class Q Prior Approval matter g. (*"the provision of adequate natural light in all habitable rooms of the dwellinghouses"*), found that the levels of light to all rooms was acceptable notwithstanding the proximity of hedgerows; they did not consider that their presence compromised the development. Inherent in this conclusion is that their removal is not justified. The promotion of private views carries limited weight in planning terms. The hedgerows help to screen the development and promote visual amenity, landscape, carbon sequestration, natural drainage & biodiversity interests. Their cohesive retention is judged to be important for a range of material planning reasons. Therefore, a Condition is recommended to ensure their protection and retention in perpetuity. This is a further requisite and justified benefit of a FUL permission compared to the 20/01899/PDN scheme.
- 6.42 Opportunities for sensitive and enhanced planting (and its associated benefits) would be captured through the recommended Landscaping Scheme Condition. For example, it is anticipated that the demarcation of the proposed amenity areas will be by sympathetic timber post and rail fencing aligned with native species hedgerow planting to create privacy and security for the dwelling.
- 6.43 Subject to Conditions, the proposal is judged to accord with HLP Policies GD8 and GI5 in the above respects.

#### **g) Contamination**

- 6.44 HLP Policy GD8(n) states that where a site has been previously developed, a proposal will need to identify the need for any decontamination and implement this to an agreed programme. Furthermore, developments need to ensure that any contamination is not relocated elsewhere to a location where it could adversely affect the water environment or other wildlife habitats.

- 6.45 As with the 20/01899/PDN Appeal Decision, potential contamination risks can be addressed by 2x Planning Conditions. Subject to these Conditions the proposal complies with the HLP.

#### **h) Archaeology**

- 6.46 LCC's Archaeology department has not been consulted on the application because of the scale/nature of the development and, importantly, it does not lie within an archaeological constraint area.
- 6.47 The proposal seeks to convert the building with limited structural works. There would be limited ground works.
- 6.48 Considering the location of the site, the conversion nature of the development, limited excavation/ground works and the 20/01899/PDN fall-back position (which would require no archaeological investigation), it is not judged to be necessary or reasonable to require any archaeological investigations with this application.

#### **7. Conclusion**

- 7.1 The location of the proposal is contrary to the aims of the Local Plan's Spatial Strategy which seeks to direct housing development towards more appropriate and sustainable locations.
- 7.2 The proposal is contrary to HLP Policy GD4 as the proposed dwellinghouse does not meet the criteria for dwellings in the countryside.
- 7.3 The applicant has not demonstrated that the proposal would re-use a "redundant or disused building" (GD4).
- 7.4 The development would not enhance its immediate setting (GD4).
- 7.5 However, the site benefits from extant Class Q Prior Approval 20/01899/PDN by Appeal, which is considered to be a realistic fall-back position. This material consideration is judged to outweigh the policies of the Development Plan.
- 7.6 The development would not lead to an unsafe highways situation, would be protected from potential ground contamination risks, and would preserve biodiversity, arboricultural, carbon-sequestration, drainage and flood risk interests in accordance with HLP Policies GD5, GD8, GI5, CC3, CC4 and IN2 of the HLP.

## APPENDIX A – Planning Conditions and Informative Notes

### Planning Conditions

#### 1. Development to Commence Within 3 Years

The development hereby approved shall begin within 3 years from the date of this decision.

REASON: To meet the requirements of the Town and Country Planning Act 1990 (as amended).

#### 2. Approved Plans and Documents

The development hereby approved shall be carried out in accordance with the following plans & works contained in:

- Site Location Plan (1:1250 scale @A4)
- Existing Block Plan (1:500 scale @A4)
- Existing Elevations and Floor Plans (1:100 scale @A2)
- Proposed Block Plan (1:500 scale @A4)
- Proposed Elevations and Floor Plans (1:100 scale @A2) (Amended Plan; received 04.05.2022)
- Site Inspection Report (Nigel Grace Limited; Date of Visit 25 September 2020)
- Planning Application Supporting Statement (Amended v2; received 06.01.2021)

REASON: For the avoidance of doubt and to ensure a satisfactory form of development.

#### 3. Construction Details of Conversion

The extent of works required to convert the agricultural building into a dwellinghouse shall not exceed that shown on the submitted Existing and Proposed Floor Plans and Elevations and detailed in the Site Inspection Report (Date of Visit 25 September 2020).

REASON: For the avoidance of doubt and to ensure that the development does not go beyond a conversion as approved in application 20/01899/PDN (which is judged to be a realistic fall-back position and a key material planning consideration to this application).

#### 4. External Materials

Prior to their use in the development hereby granted, specifications / samples of the materials to be used in the construction of the external surfaces of development shall be submitted to and approved in writing by the Local Planning Authority.

The development shall, thereafter, be carried out in accordance with the approved specifications / samples.

REASON: In the interest of the character and appearance of the development and its surroundings and to best accord with Harborough Local Plan Policies GD4, GD5, GD8 and GI1.

#### 5. Landscaping Scheme

Prior to first occupation of the dwelling, a Landscaping Scheme shall be submitted to and approved in writing by the Local Planning Authority.

The Landscaping Scheme shall include full details of existing and proposed hard and soft landscape works, including boundary treatments; surfacing materials, retained planting/hedges/trees and new planting/hedges/trees; as well as a timetable of implementation.

Prior to first occupation of the dwelling, the hard and soft landscaping works shall be completed in accordance with the approved Landscaping Scheme.

Any new trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

REASON: To ensure that the development includes landscaping, planting, boundary treatments and surfacing materials which are appropriate to the character and appearance of the development and the surrounding area (which includes Green Infrastructure Assets), to ensure that the work is carried out within a reasonable period and is adequately maintained, to protect biodiversity, carbon-sequestration and drainage interests and to best accord with Harborough Local Plan Policies GD4, GD5, GD8, GI1 and GI5.

#### **6. Hedgerow / Tree Protection**

The hedgerows / trees on the northwest and southwest boundaries of the site shall be protected during the course of the development in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction - Recommendations'.

No felling, removal or other works shall take place to these hedgerows / trees unless approved in writing by the Local Planning Authority by a Planning Condition Discharge application (under the above Landscaping Scheme Condition, or post-development under this Condition).

REASON: To protect visual amenities, landscape interests, arboricultural interests, biodiversity interests, carbon sequestration and drainage interests, and to best accord with Harborough Local Plan Policies GD4, GD5, GD8, GI1 and GI5.

#### **7. Risk Based Land Contamination Assessment**

No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:

--BS10175:2011+A2:2017 Investigation Of Potentially Contaminated Sites Code of Practice;

--BS8576:2013 Guidance on Investigations for Ground Gas - Permanent Gases and Volatile Organic Compounds (VOCs);

--CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;

--Or any documents which supersede these.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

--CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;  
--BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;  
--Or any documents which supersede these.

The Verification Plan shall be prepared in accordance with the requirements of:

--Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;  
--CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;  
--BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings;  
--CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014;  
--Or any documents which supersede these.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the land is fit for purpose and to accord with Harborough Local Plan Policy GD8 and the National Planning Policy Framework.

## **8. Completion / Verification Investigation Report**

Prior to first occupation of the completed development, or part thereof, either:

a) If no remediation was required by the above Risk Based Land Contamination Assessment Condition, a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority; or

b) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority.

The Verification Investigation Report shall:

--Contain a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;  
--Contain results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;  
--Contain Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;

--Contain Test Certificates of imported material to show that it is suitable for its proposed use;  
--Demonstrate the effectiveness of the approved Remedial Scheme; and  
--Include a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

REASON: To ensure that the land is fit for purpose and to accord with Harborough Local Plan Policy GD8 and the National Planning Policy Framework.

**9. Gates Set Back from Debdale Lane**

Prior to first occupation of the development hereby granted, the gates to the vehicular access from Debdale Lane shall be set back a minimum distance of five metres from the edge of the carriageway and, thereafter, retained at that distance.

REASON: In the interest of highway safety, to enable a vehicle to stand clear of the public highway while the gates are opened/closed and thus protect the free and safe passage of traffic, pedestrians etc. in the highway and to accord with Harborough Local Plan Policy GD8.

**10. Permitted Development Rights Removal – Schedule 2, Part 1, Classes A to H**

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or amending that Order, with or without modification), no development within Article 3, Schedule 2, Part 1, Classes A through to H shall take place to the hereby approved dwellinghouse, its curtilage or access track.

REASON: In the interest of the character and appearance of the development and its surroundings and to best accord with Harborough Local Plan Policies GD4, GD5, GD8 and GI1.

**11. Permitted Development Rights Removal – Schedule 2, Part 2, Class A**

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or amending that Order, with or without modification), no development within Article 3, Schedule 2, Part 2, Class A shall take place to the hereby approved development (including its access track).

REASON: In the interest of the character and appearance of the development and its surroundings and to best accord with Harborough Local Plan Policies GD4, GD5, GD8 and GI1.

**12. Swift Alert Area Measures**

The development shall include 1 group of 3 Swift Conservation Nest boxes/bricks in a suitable position.

Prior to installation, the locations of the Swift Conservation Nest boxes/bricks shall be marked on a plan, details of box specification provided, and approved in writing by the Local Planning Authority.

Thereafter, the approved Swift Conservation Nest boxes/bricks shall be installed prior to the first occupation of the dwelling.

REASON: To protect and enhance biodiversity interests and to accord with Harborough Local Plan Policies GD8 and GI5.

## **Informative Notes**

### **1. Building Regulations**

The Applicant is advised that this proposal requires separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. 01858 821090). As such, please be aware that complying with Building Regulations does not mean that the Planning Conditions attached to this Planning Permission have been addressed and vice versa.

### **2. LCC Ecology Advice – Bats**

The property (building & its surroundings) may be suitable for roosting bats, which are protected by law from harm. The applicant should ensure that all contractors and individuals working on the property are aware of this possibility, as works must cease if bats are found during the course of the works whilst expert advice from a bat ecologist is obtained. Bats are particularly associated with the roof structure of buildings, including lofts, rafters, beams, gables, eaves, soffits, flashing, ridge-tile, chimneys, the under-tile area, etc. but may also be present in crevices in stone or brickwork and in cavity walls, as well as ancillary structures and trees/foliage.

### **3. LCC Highway Authority Advice (Public Right of Way)**

Prior to commencement of development, measures should be taken to ensure that users of the Public Right of Way are not exposed to any elements of danger associated with construction works. The Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980. The Public Right of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.

If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.

Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.

No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.

### **4. No Burning of Waste**

It is advised that no burning of waste on site is undertaken unless an exemption is obtained from the Environment Agency. The production of Dark Smoke on site is an offence under the Clean Air Act 1993. Notwithstanding the above, the emission of any smoke from site could constitute a Statutory Nuisance under section 79 of the Environmental Protection Act 1990.



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## Appeal Decision

Site Visit made on 10 August 2021

**by Paul Thompson DipTRP MAUD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> September 2021

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**Appeal Ref: APP/F2415/W/21/3270900**

**Agricultural Building, Debdale Lane, Smeeton Westerby, Market  
Harborough LE8 0QD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Mr William Arnold against the decision of Harborough District Council.
  - The application Ref 20/01899/PDN, dated 24 November 2020, was refused by notice dated 14 January 2021.
  - The development proposed is change of use of an agricultural building to a dwellinghouse (Class C3) (1 larger dwellinghouse) and for building operations reasonably necessary for the conversion.
- 

### Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for change of use of an agricultural building to a dwellinghouse (Class C3) (1 larger dwellinghouse) and for building operations reasonably necessary for the conversion at Agricultural Building, Debdale Lane, Smeeton Westerby, Market Harborough LE8 0QD in accordance with the application 20/01899/PDN made on 24 November 2020, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 paragraphs Q(a) and Q(b) subject to the conditions set out in the Schedule to this decision.

### Applications for costs

2. An application for costs was made by Mr William Arnold against Harborough District Council. This application is the subject of a separate Decision.

### Procedural Matter

3. I have taken the description of development set out in the banner Heading from the Decision Notice, as this better reflects the scheme that is before me and that which the Council considered. However, I have omitted superfluous information that does not form part of the description of development.

### Main Issue

4. The main issue is whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class Q of The

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Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), with particular regard to Paragraph Q(b) building operations reasonably necessary to convert the building.

### **Reasons**

5. The appeal building is a detached structure with a split ridge, incorporating a lower element to its northern side. It is constructed of wooden poles sunken into the ground and encased in concrete. These are arranged at its corners and throughout the building. The external corrugated metal cladding is affixed to horizontal timber rails between the poles, and extends from the eaves to the ground, but is not fixed into the ground. The timber poles also support the timber trusses and purlins for the corrugated metal roof cladding.
6. It is not the intention of Class Q to allow rebuilding work which would go beyond what is reasonably necessary for the conversion of the building to residential use. Therefore, it is only where the existing building is already suitable for conversion to residential use that the building would be considered to have the permitted development right. With this in mind, the rights allow for a scope of building works that has an implicit limitation, including the installation or replacement of windows, doors, roofs, and exterior walls.
7. From a structural perspective, despite concerns outlined by the Council, I have no reason to doubt the findings of the appellant's Site Inspection Report. In particular, that the walls would be suitable for use in the development or that only minimal repairs would be likely to be required to some parts of the wall and roof cladding of the building. In any event, I am mindful that the Planning Practice Guidance (PPG) no longer requires demonstration of the structural strength of the building to accommodate external works to adapt the building for residential use; nor does it prohibit the construction of new structural elements for the building; and it also adds that internal works, including new floors and internal walls, are not prohibited by Class Q.
8. The Council has raised the judgement in *Hibbitt*<sup>1</sup>, which is referred to in the PPG. As I understand it, that case also involved a building with walling that did not appear to be attached to the ground and which would have been replaced in its entirety with structural infill panels. This contrasts with the appeal before me, where all external walling is proposed to be retained, apart from some small areas that require repair. Openings would then be cut into the cladding for windows and doors and internal walling added behind.
9. In light of the above, the Council's assertions that these openings are likely to lead to the removal and replacement of cladding and the internal walling would require structural support from the building are not supported by any substantive evidence. In particular, it is common for internal walling not to be structural to buildings so this could be erected without affecting the external fabric of the building. Likewise, the inclusion of doors and windows within the existing openings to the east side of the building would also not be indicative of rebuilding work.
10. Accordingly, I conclude that the works required as part of the proposed development would not go beyond building operations reasonably necessary to convert the building to enable it to function as a dwellinghouse. The proposal

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<sup>1</sup> *Hibbitt and another v Secretary of State for Communities and Local Government (1) and Rushcliffe Borough Council (2)* [2016] EWHC 2853 (Admin).

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would therefore not exceed the limitations set out in paragraph Q.1(i) of the GPDO.

#### **Other Matters**

11. The Parish Council dispute that the appeal building was occupied for agricultural purposes on 20th March 2013 or is still in use as an agricultural building, as required by Paragraph Q.1(b) of the GPDO. However, the Council was satisfied that this point had been demonstrated by the appellant and there is no substantive evidence before me to lead me to a different conclusion.

#### **Conditions**

12. Paragraph W(13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval.
13. A number of alterations to the external appearance of the building are proposed, as such a condition requiring details of the external materials has been imposed in order to ensure a satisfactory appearance of the building.
14. The Officer Report (OR) indicates that visibility from the proposed access would be acceptable and that the Highway Authority does not have any record of personal injury collisions in the five years preceding October 2020. Nevertheless, given the proximity of the access to Debdale Lane, it would be reasonable and necessary for a planning condition to be used to ensure that the gates to the access are set back five metres from the carriageway. This would enable vehicles to wait clear of the carriageway before entering the gates. However, I observed on my site visit that the access track was already hard surfaced, albeit partially overgrown, so it would not be necessary for a hard surface to be added adjacent to the carriageway.
15. The Council also indicates that there could be potential contamination risks to human health associated with the historic use of the site. I have therefore taken a precautionary approach to these matters and included conditions to provide an assessment of the risks associated with the site and to remediate any contamination identified. I have omitted the tail piece requiring alternatives to be approved by the Council, as this would circumvent the normal route to provide those details.

#### **Conclusion**

16. For the reasons given above, the appeal is allowed and prior approval is granted.

*Paul Thompson*

INSPECTOR

#### **SCHEDULE OF CONDITIONS**

- 1) Prior to their use in the development hereby granted, specifications / samples of the materials to be used in the construction of the external surfaces of development shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved specifications/samples.

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- 2) Prior to the first occupation of the development hereby granted, the gates to the vehicular access from Debdale Lane shall be set back a minimum distance of five metres from the edge of the carriageway and thereafter retained at that distance.
- 3) No development (except any demolition permitted by this permission) shall commence on site until a Risk Based Land Contamination Assessment has been submitted to and approved in writing by the Local Planning Authority, in order to ensure that the land is fit for use as the development proposes. The Risk Based Land Contamination Assessment shall be carried out in accordance with:
- BS10175:2011+A2:2017 Investigation Of Potentially Contaminated Sites Code of Practice;
  - BS8576:2013 Guidance on Investigations for Ground Gas – Permanent Gases and Volatile Organic Compounds (VOCs); and
  - CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; or
  - Any documents which supersede these.

Should any unacceptable risks be identified in the Risk Based Land Contamination Assessment, a Remedial Scheme and a Verification Plan must be prepared and submitted to and agreed in writing by the Local Planning Authority. The Remedial Scheme shall be prepared in accordance with the requirements of:

- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004; and
- BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings; or
- Any documents which supersede these.

The Verification Plan shall be prepared in accordance with the requirements of:

- Evidence Report on the Verification of Remediation of Land Contamination Report: SC030114/R1, published by the Environment Agency 2010;
- CLR 11 Model Procedures for the Management of Land Contamination, published by The Environment Agency 2004;
- BS 8485:2015+A1:2019 Code of practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings; and
- CIRIA C735, "Good practice on the testing and verification of protection systems for buildings against hazardous ground gases" CIRIA, 2014; or
- Any documents which supersede these.

If, during the course of development, previously unidentified contamination is discovered, development must cease on that part of the site and it must be reported in writing to the Local Planning Authority within 10 working days. Prior to the recommencement of development on

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that part of the site, a Risk Based Land Contamination Assessment for the discovered contamination (to include any required amendments to the Remedial Scheme and Verification Plan) must be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in accordance with the approved details and retained as such thereafter.

- 4) Prior to occupation of the completed development, or part thereof, either
- a) If no remediation was required by Condition a statement from the developer or an approved agent confirming that no previously identified contamination was discovered during the course of development, or part thereof, is received and approved in writing by the Planning Authority, or
  - b) A Verification Investigation shall be undertaken in line with the agreed Verification Plan for any works outlined in the Remedial Scheme and a report showing the findings of the Verification Investigation relevant to the whole development, or part thereof, shall be submitted to and approved in writing by the Local Planning Authority. The Verification Investigation Report shall contain:
    - a full description of the works undertaken in accordance with the agreed Remedial Scheme and Verification Plan;
    - results of any additional monitoring or testing carried out between the submission of the Remedial Scheme and the completion of remediation works;
    - Movement Permits for all materials taken to and from the site and/or a copy of the completed site waste management plan if one was required;
    - Test Certificates of imported material to show that it is suitable for its proposed use;
    - demonstration of the effectiveness of the approved Remedial Scheme; and
    - a statement signed by the developer, or the approved agent, confirming that all the works specified in the Remedial Scheme have been completed.

**END OF SCHEDULE**

## Planning Committee Report

**Applicant:** Mr Nick and Janelle Chapman

**Application Ref:** 22/00236/FUL

**Location:** 32A Clarke Street, Market Harborough

**Proposal:** Proposed conversion of existing outbuilding to form a new dwelling

**Application Validated:** 07.02.2022

**Target Date:** 04.04.2022 Extension of Time Agreed

**Consultation Expiry Date:** 31.03.2022

**Site Visit Date:** 01.03.2022 (Previous visits carried out with previous applications)

**Case Officer:** Emma Baumber

**Reason for Committee Decision:** The application was 'called-in' by Cllr Johnson owing to concerns raised by neighbouring properties and highway concerns.

**Parish/Ward:** Market Harborough Logan

## Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report and subject to the Planning Conditions set out in Annexe A of this report.

### Recommended justification statement

The application site is judged to be a sustainable location for housing and complies in principle with the spatial strategy outlined in accordance with policy SS1 and GD2 of the Harborough Local Plan (HLP). As a conversion, with no extensions or additions, the proposals are judged to respect the character of the local area. Furthermore, as a conversion, with no extensions or additions and subject to conditions the development would not significantly adversely affect the amenity of local residents. The development would not lead to an unsafe highways situation, the proposal would not cause contamination risks, has no adverse impact on ecological or archaeological assets and is not at risk from flooding. The proposal is considered in accordance with Policies GD8, GI5, CC3, CC4 and IN2 of the HLP.

## 1. Site & Surroundings

- 1.1 The application site (hereafter referred to as the 'site') is located on the northeast of Clarke Street in Market Harborough. The application site is the rear half of the residential garden serving 65 Logan Street, which is an attractive detached two storey property located to the north east of the site. The site consists of a detached, flat roof outbuilding with parking to the front and garden area to the rear, both the outbuilding and parking spaces are accessed from Clarke Street.



*Figure 1. Aerial view*

- 1.2 There has been extensive planning history in the last 4-5 years in relation to this site. The site previously had a small pitched roof garage and vehicular access for Logan Street (Fig.2). The applicants demolished the existing garage and erected a flat roof outbuilding in ~2020 which is the subject for conversion as part of this application (Fig.3). The outbuilding was erected under Permitted Development Rights (see paragraph 2.1, planning reference 20/00187/CLU and paragraph 7.29). The site is subdivided from the remaining garden for No.65 by a ~2m high close boarded fence.



*Figure 2. Google Streetview image of former garage (now demolished)*



*Figure 3. Photo of current outbuilding*

- 1.3 The site is surrounded by residential properties, with 65 Logan Street to the north-east. No. 32 Clarke Street to the east is a bungalow and 34 Clarke St to the north-west is a two-storey detached dwelling. The street scene is mixed with houses and bungalows of varying age and design.

- 1.4 The site is not within a Conservation Area and there are no Listed assets in the immediate area.

## **2. Site History**

- 2.1 The site has the following relevant planning history:
- 81/01211/3B- Erection of a garage (REFUSED)
  - 81/01506/3B- Erection of a garage (APPROVED)
  - 07/01877/FUL- Demolition of existing garage and erection of two storey detached dwelling (WITHDRAWN)
  - 15/00015/FUL- Erection of a detached two storey dwelling (Application returned (never valid))
  - 19/00823/FUL- Erection of a dwelling (WITHDRAWN)
  - 19/01193/CLU- Certificate of Lawfulness of proposed development for the erection of a replacement garage (WITHDRAWN)
  - 20/00187/CLU- Certificate of Lawfulness of proposed development for the erection of a garage/storage (APPROVED)
  - 20/01741/FUL- Extension, alteration and conversion of garage to form new dwelling (WITHDRAWN)
  - 21/00126/CLU- Certificate of lawfulness of proposed development to extend existing outbuilding to a gym/hot tub room, current outbuilding to home office/playroom and storage and render (REFUSED)
  - 21/01165/FUL- Proposed conversion/extension of existing garage to form dwelling (Revised Scheme of 20/01741/FUL) (REFUSED)

## **3. The Application Submission**

### **a) Summary of Proposals**

- 3.1 The proposal seeks to convert the existing outbuilding to a one bed, bungalow. No extensions are proposed. External alterations include amending and adding new openings to form windows/doors and two roof lanterns. At the last site visit the building had not been completed externally, but is proposed to be rendered (smooth white) with vertical cement fibre boarding. Full details of the boarding and windows/doors have not been submitted.
- 3.2 The dwelling would be accessed from Clarke Street with parking to the front (as existing). No.65 Logan Street would retain the other half of the existing garden and would have no parking provision.

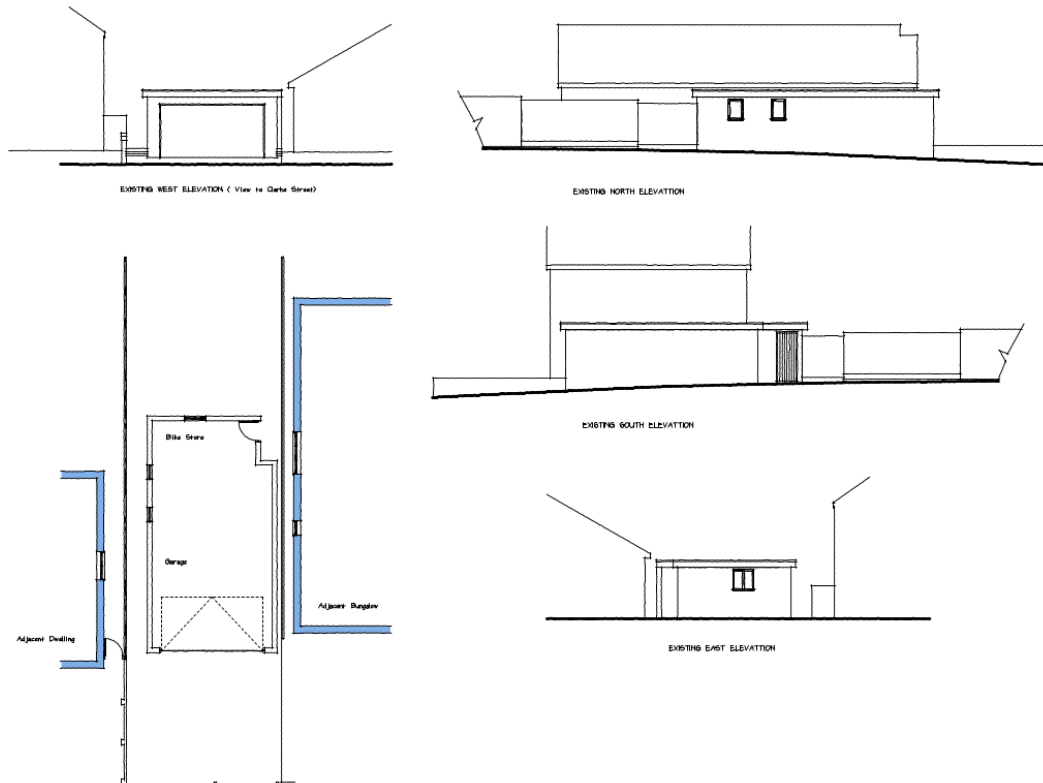


Figure 4. Existing elevation and floor plans

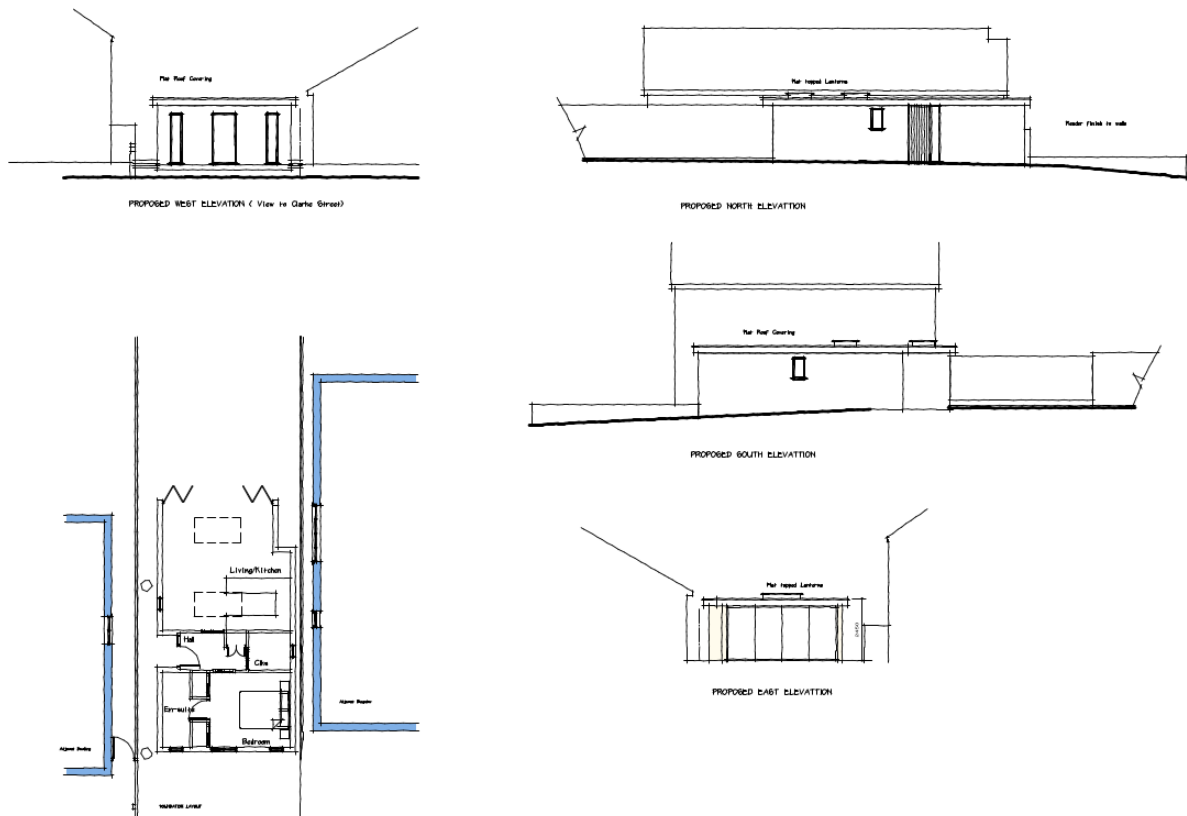
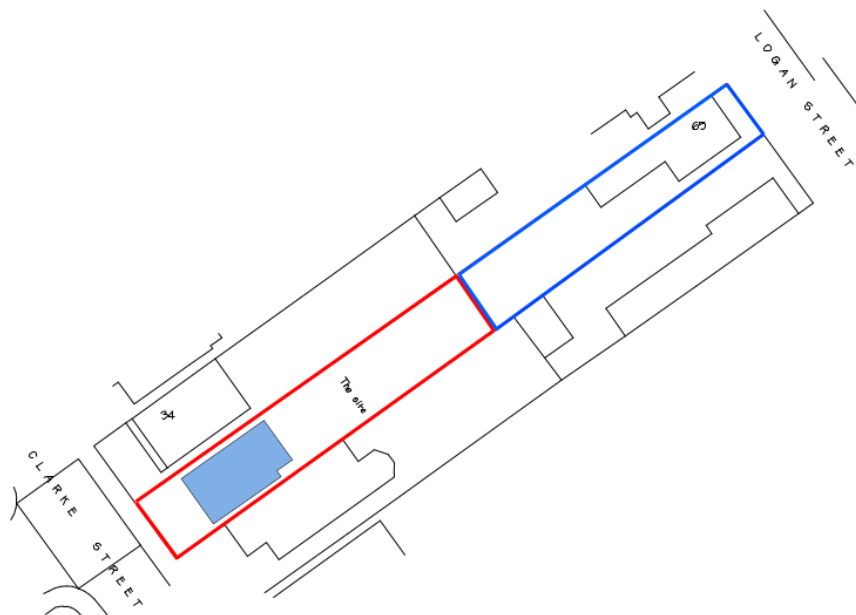


Figure 5. Proposed elevation and floor plans



BLOCK PLAN Scale = 1:500

Figure 6. Existing/Proposed block plan

## b) Documents submitted

### i. Plans/Documents

4.1 The application has been accompanied by the following plans and documents –

Site Location Plan

Block Plan

Existing Elevations and Floor Plans

Proposed Elevations and Floor Plans

Planning Statement

## c) Pre-application Engagement

4.3 The applicants have sought pre-application advice in 2017 and 2018 for the erection of a new dwelling in this location (not a conversion).

4.4 Following refusal of 21/01165/FUL the applicants discussed the reasons for refusal with the case officer, however, this was not formal pre-application advice.

## 5. Consultations and Representations

5.1 Consultations with technical consultees and the local community were carried out on the application. The consultation period expired on 31<sup>st</sup> March 2022.

- 5.2 Firstly, a summary of the technical consultee responses received is set out below. If you wish to view the comments in full, please go to: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

#### **a) Statutory & Non-Statutory Consultees**

##### **HDC Environment Team**

- 5.3 This department has no comment regarding land contamination and the above.

##### **LCC Highways**

- 5.4 Substantive Response provided in accordance with article 22(5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015:

The Local Highway Authority (LHA) refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011. The LHA advise the following points should be considered:

- Parking provision for the new dwelling should be a minimum of 2.4m x 5.5m with an additional 0.5m strip on either side if bounded by a wall/ hedge/ fence etc.
- A minimum of 2 parking spaces should be provided for a dwelling with up to three beds.
- The access drive should be hard bound for a minimum of 5m behind the highway boundary.
- Pedestrian visibility (1m x 1m)
- Vehicular visibility (2.4m x 25m for a 20 mph road)

**Officer Note:** *Owing to known issues with on street parking and access for emergency services, the case officer contact LCC Highways for further advice on the loss of parking for No.65 Logan Street (raising the above issues).*

##### **LCC Highways (additional comments)**

The LHA are aware of the distance between 65 Logan Street and the current parking spaces for the property and understand that the Applicants currently park on Logan Street. After reviewing the site via satellite imagery, the LHA can see that a lot of on street parking already exists on Logan Street.

The LHA would be unable to demonstrate that there would be a severe impact on the highway and therefore the LHA would be unable to sustain a reason for refusal of the planning application.

##### **LCC Ecology**

- 5.5 Thank you for consulting us on this planning application to which I have no comments or recommendations.

##### **LCC Archaeology**

- 5.6 Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or

potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 194-195).

## **b) Local Community**

5.7 Objections have been received from two households. The comments are summarised below, full comments can be review on the website.

- The existing building is unlawful, given that there is robust evidence to suggest that the building was not reasonably required by the property in which it is associated with. This is due to the fact that the outbuilding itself has not yet been completed for its intended purpose and has never been in use as a garage.
- The use of the building as a dwelling will result in an intensification of use of the site that will have a detrimental impact on residential amenity.
- There are habitable windows located in the side elevations (north and south) of the proposed property, these will cause a loss of privacy.
- The living/kitchen window would overlook the living room window of No.32
- Neighbouring properties experience a loss of light and outlook as a result of the development
- The separation distances between the habitable windows and neighbouring properties does not meet the HDC Supplementary Planning Document guidance. (1m as opposed to 14m) which will detrimentally impact the residential amenity experienced by both the existing neighbouring properties as well as any future occupant of the proposed dwelling.
- The main pathway to this new dwelling will be alongside the neighbours kitchen window. The passage way is very narrow and we will lose privacy with people walking alongside our window.
- The development would fail to provide for a good standard of amenity for any future occupant of the proposed dwelling. The existing building is cramped and compact, and offers poor outlook given its close proximity to the adjacent properties. Furthermore, the size of the proposed dwelling is extremely small, and whilst it does meet the national minimum space standards, due to the cramped and compact feeling of the site itself, such arrangements would fail to offer future occupants with a good standard of amenity, thus impacting the standard of living achievable within this proposed one-bedroom dwelling.
- The dwelling would not be in keeping with the character and appearance of the surrounding area. Of significance is Policy GD8 of the local Development Plan, which requires development to achieve a high quality design which is inspired by and respects local character and distinctiveness.
- It is our view that the conversion of the building into a dwelling will exacerbate the current visual impact of the dwelling and appear even more out of character than it does currently.
- Whilst it is accepted that an outbuilding which is incidental to the enjoyment of the dwelling at No.65 Logan Street is acceptable, the addition of a dwelling on this site would intensify the use of the land and amount to a scale of development that is disproportionate to the size of the site itself.
- The proposed development will result in a loss of parking that will increase the on-street parking demand within the area of Logan Street
- Leicestershire Fire and Rescue services have raised direct concerns regarding the parking arrangements along Logan Street in a recent interview with Harborough FM<sup>1</sup>

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<sup>1</sup> <https://harboroughfm.co.uk/poor-parking-on-harborough-streets-blocks-fire-engine/>

- It is questionable whether the development would meet the building regulation standards
- The submitted scheme has also failed to provide details regarding the accessibility of the property for wheelchair users. Given that the proposed dwelling is to be a single-storey bungalow, it is our clients view that details of accessibility should be supplied.
- Given that our client will refuse the applicant access onto their property to facilitate this development, it is the case that even with the LPA's approval, such a development could not be completed due to such matters.
- There have been issues during construction of the development and the applicants did not notify the applicant about the Party Wall Act.

5.8 Support comments have been received from three households. The comments are summarised below, full comments can be reviewed on the website.

- The scale and size of the building would complement the surrounding diverse character of existing dwellings on Clarke Street. It would be beneficial to have a completed dwelling on the plot that would add to the character and appearance of the area.

- It is noted that parking is not used by the applicant, the proposal would bring the site into positive use which would benefit the area and existing street scape.

- The development means utilising the space that already exists, and we already know Harborough is in desperate need of more housing.

- It will be very inoffensive, it being only single story so will not affect the neighbouring houses or overlooking any gardens.

5.9 A general comment was received from one household (this was submitted twice), the comment is summarised below, full comments can be reviewed on the website.

- The proposed 1 bed flat roof dwelling would not be much different as viewed from Clarke St to the previous application.

- I would recommend that conditions be placed on any approval so that facing materials be subsequently approved prior to construction.

- The proposed dwelling is confined to being on roughly the same scale and footprint of the current structure so no longer projects well beyond the rear of 32 and 34 so may be less formidable than the previous proposal which was refused on its relationship with these properties, but I cannot comment further on this.

- In terms of parking provision, certainty since the outbuilding was erected in 2020 , the applicant has not regularly parked any vehicle on the forecourt in front of the outbuilding (and it is certainly not used as a garage) . In times past, the land was used as a garage and hardstanding for 65 Logan St (contrary to what the planning statement says) but not now, the owner parking elsewhere. Therefore with the proposed two spaces for the dwelling, I don't see this proposal now making significant pressure on car parking in the vicinity. I would like any approval to be conditional on two parking spaces being provided in front of the proposed dwelling.

## **6. Planning Policy/Guidance Considerations**

6.1 Please see above for planning policy considerations that apply to all agenda items.

## **a) Development Plan**

- *Harborough Local Plan (HLP) 2011-2031*

6.2 The below policies are considered most relevant to this application:

- SS1- The spatial strategy
- GD1- Achieving sustainable development
- GD2- Settlement development
- GD8 – Good design in development
- H1- Provision of new housing
- H5- Housing density, mix and standards
- GI5- Biodiversity and geodiversity
- CC3- Managing flood risk
- CC4- Sustainable drainage
- IN2- Sustainable Transport

## **b) Material Planning Considerations**

- *National Planning Policy Framework*

6.3 Whilst read as a whole of particular relevance are:

- Chapter 2- Achieving sustainable development
- Chapter 4- Decision making
- Chapter 8- Promoting healthy and safe communities
- Chapter 9- Promoting sustainable transport
- Chapter 12- Achieving well-designed places
- Chapter 14- Meeting the challenge of climate change, flooding and coastal change
- Chapter 15- Conserving and enhancing the natural environment
- *National Planning Practice Guidance*
- *Development Management Supplementary Planning Document (December 2021)*

## **7. Assessment**

### **a) Principle of Development**

7.1 Policy SS1 of the Harborough Local Plan (HLP) identifies the 'Spatial Strategy' for Harborough District. Housing growth is directed to appropriate locations in accordance with the district's settlement hierarchy. The settlement hierarchy identifies the settlements which are most suitable in sustainability terms (this is set out in detail in Appendix F of the HLP). Settlements at the top of the hierarchy are considered to be the most sustainable in terms of accessibility to services, facilities, shops, employment and public transport provisions. Market Harborough is identified as the sub-regional centre, it is relatively self-contained with a range of services. The site is therefore judged to be a sustainable location for housing and complies in principle to the spatial strategy outlined in accordance with policy SS1 and GD2 of the Harborough Local Plan (HLP).

**b) Design and Visual Amenity**

- 7.2 Section 12 of the NPPF refers to achieving well designed places, specifically; paragraph 124 states that good design is a key aspect of sustainable development. Developments should be sympathetic to local character and history, including the surrounding built environment. Policy GD8 of the HLP outlines that development should achieve a high standard of design, be inspired by, respect and enhance local character and the context of the site, street scene and local environment. Where appropriate, development can be individual and innovative, yet sympathetic to local vernacular.
- 7.3 The proposed dwelling would not reflect the characteristics of the surrounding dwellings, which whilst mixed are more traditional in design with a predominance of pitched roofs and red brick. The proposal would jar with this surrounding character. Had the proposal not been a conversion it is unlikely officers would have supported a flat roof new build dwelling in this location for the above reasons. However, the outbuilding is an existing building. The conversion of the outbuilding to a dwelling, will not alter the existing presence of the building in the street scene of Clarke Street. Whilst new windows and doors are proposed to the front, this would not be additionally harmful to the character of the area. White render is prevalent in the immediate area, therefore is judged to be in keeping. As the extent/location of render/cladding is not detailed on the submitted plans a condition is recommended requiring this to be submitted prior to its installation. Officers have recommended that render is used on the front elevation as opposed to cladding.
- 7.4 Objection comments refer to 'garden grabbing' and overdevelopment of the plot. However, as best shown in the below site location plan, the size of the plot is not dissimilar to the surrounding built form and the proposal, by virtue of its single storey nature would not appear unduly large within its setting. Furthermore No.65 Logan Street would still have an adequately sized garden, which is in keeping in scale to the surrounding dwellings.



*Figure 7. Site Location Plan*

- 7.5 To conclude, considering the development is for the conversion of an existing building the resultant dwelling would not adversely harm the character of the area beyond the existing situation. The proposed materials are modern in design, however, the surrounding streetscene is varied, therefore, the development is judged to be acceptable and to comply with policy GD8 of the HLP.

**c) Highways**

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- 7.6 Paragraph GD8 of the HLP states that developments should ensure safe access, adequate parking and servicing areas including the safe, efficient, and convenient movement for all highway users. Policy IN2 of the HLP states that residential development proposals will be permitted subject to the provision of safe access, servicing and parking arrangements having regard to highways authority guidance and standards. Paragraph 11 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.7 The proposed dwelling would be accessed from the existing point of access on Clarke Street and would utilise the existing parking spaces. The proposal seeks to provide parking for the proposed dwelling; however, no additional parking would be created for the existing dwelling (No.65 Logan Street). The objection comments state the loss of parking will increase the on-street parking demand within the area of Logan Street. Logan Street is a typical terraced street, with very few houses having any off-street parking resulting in a high level of on-street parking. There has been at least one reported incident of emergency vehicles not being able to access the road due to poor parking<sup>2</sup>.
- 7.8 Within the Planning Statement submitted with this application, the applicant states 'as the parking to the rear of the property is not practical and never has been used as it is a long distance from the main property.' However, this contradicts previous applications where the applicant's agent stated the applicants did use the parking area. The public representations suggest the parking spaces were used in the past but not in the last ~2 years. In the officer's opinion, it is likely that the spaces are used infrequently due to the impractical distance from No.65 Logan Street, nonetheless, they are still capable of use and the proposal would result in the loss of all off-street parking for the existing dwelling. The Local Highway Authority (LHA), were asked to specifically comment on the acceptability of the loss of parking to No.65 Logan Street. As outlined in their comments, the LHA note the level of on street parking however, their advice is that the LHA would be unable to demonstrate that there would be a severe impact on the highway (as specified in para 11 of the NPPF) and therefore the LHA would be unable to sustain a reason for refusal of the planning application on these grounds. As such the officer does not recommend refusal on these grounds.
- 7.9 With regards to the access/parking provision for the proposed dwelling. The Local Highway Authority (LHA) have referred the Local Planning Authority to current standing advice, giving particular attention to parking provision, surfacing and visibility splays.

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<sup>2</sup> <https://harboroughfm.co.uk/poor-parking-on-harborough-streets-blocks-fire-engine/>

The parking area measures approximately 5.5m in depth and 6.6m in width, this is adequate to accommodate two parking spaces in accordance with LCC Highway Design Guidance and Standing Advice (2.4m x 5.5m per space with an additional 0.5m on either side as the space is bound by a wall/fence). Pedestrian and vehicular visibility splays are achievable. With regards to the parking/access for the proposed dwelling the following conditions are recommended:

- Two parking spaces to be available for parking prior to first occupation of the dwelling and retained for parking in perpetuity
- The access drive should be hard bound for a minimum of 5m behind the highway boundary
- No gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access

- 7.10 To conclude, officers acknowledge the concerns raised with regards to the potential displacement of parking onto Logan Street. However, in this case considering the minor nature of the development, likelihood of some existing parking on Logan Street and advice from the LHA officers do not consider that the loss of parking would lead to severe impact on the highway. As such the proposal is judged to comply with policy GD8 and IN2 of the HLP subject to the aforementioned conditions.

#### **d) Residential Amenity**

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- 7.11 Policy GD8 requires developments to be designed to minimise the impact on the amenity of existing and future residents by not having a significant adverse effect on the living conditions of existing and new residents through loss of privacy, overshadowing and overbearing impacts. Nor by generating levels of activity, noise, vibration etc which cannot be mitigated to an appropriate standard. In order to objectively assess the impact of the proposed development upon existing residential amenity, the Council has adopted the Development Management Supplementary Planning Document (December 2021), Section 2 is of most relevance.
- 7.12 Residential amenity impacts have been raised within the two objection comments received, the concerns relate to No.32 and No.34 Clarke Street and raise potential loss of light, loss of privacy and a sense of overdominance as a result of the conversion.
- No. 32 Clarke Street*
- 7.13 No. 32 Clarke Street is the neighbouring bungalow to the south-east of the application site. As seen in figures 4-6, the existing outbuilding is in close proximity to the side elevation of No.32, this side elevation contains two windows including one secondary window serving a living room and one principal window serving a bedroom. Photos have been submitted by residents at No.32 as part of the current and previous applications some are included below:



*Figure 8. Photo showing the relationship between No.32 (left) and the outbuilding (right)*



*Figure 9. View from No.32s habitable window*



*Figure 10. View from No.32s habitable room window*



*Figure 11. Photo from habitable room window, pre-construction of the outbuilding*

- 7.14 The existing outbuilding extends part of the way across the sole bedroom window at No.32. The existing structure is judged to be overdominant from this outlook and to have caused some loss of light to this room. The impact to the living room is lesser as this room is served by the principal window in the front elevation which is unaffected. The existing development utilising permitted development rights is judged to be harmful in this respect and does not comply with the 14m separation distance outlined in the Supplementary Planning Document (SPD), however, as no additional built form is proposed as part of the development the conversion would not result in additional loss of light or overdominance beyond the existing situation.

- 7.15 In respect of loss of privacy, one cloakroom window is proposed in the side elevation facing No.32. Loss of privacy would be minimised to some degree by the close boarded fence and the window would face the blank elevation of No.32. However, given the windows proximity to No.32s living room window a condition requiring the window to be obscure glazed is judged to be necessary. This is judged to be acceptable for future occupiers of the new dwelling given the room is a cloak room.

*No.34 Clarke Street*

- 7.16 No.34 is the two-storey neighbouring property to the north west. This property has a kitchen window in the side elevation facing the site as well as patio doors serving a dining area to the rear. Whilst there is an opening between the dining area and kitchen window, both windows are considered principal windows in their own right.
- 7.17 In terms of the kitchen window, as seen in the below photograph, the existing outbuilding extends across the entire width of the window resulting in loss of light and a sense of overdominance to this property. The existing development utilising permitted development rights is judged to be harmful in this respect, however, as no additional built form is proposed as part of the development the conversion would not result in additional loss of light or overdominance beyond the existing situation.



*Figure 12. Photo facing the existing structure from the kitchen window at No. 34*

- 7.18 Concerns have also been raised regarding potential loss of privacy to the kitchen resulting from the main pedestrian access running along the shared boundary and from a living/kitchen window in the side elevation facing No.34. In terms of the pedestrian access, the front door for the dwelling would be almost immediately opposite the kitchen window which would result in some additional loss of privacy to No.34 as a result of comings/goings to the property. However, there is an existing pedestrian route

serving No.65 Logan Street, such that if a resident parked in the existing parking space, they would have to walk past the kitchen window at present. A condition is recommended requiring that any glazing in the hall window and door is obscure glazed. Subject to the condition and considering the existing situation and transient nature of the disturbance, the additional loss of privacy is not judged to be significantly adverse. The living//kitchen window is a secondary window and would be at least 1.2m above the floor level, the high level nature of the window would reduce some overlooking. However, a condition is recommended requiring the window to be obscure glazed given the close proximity to No.34s boundary. Overall, officers consider there would be some loss of privacy to No.34, however, subject to the aforementioned conditions the additional loss of privacy is not judged to be significantly adverse to warrant refusal.

#### *65 Logan Street*

- 7.19 The proposed dwelling would be over 30m from the closest point of 65 Logan Street. This distance is judged to be sufficient to mitigate against harmful loss of light, privacy or a sense of overdominance to the existing dwelling.
- 7.20 No other existing residential properties beyond those assessed above are likely to be adversely impacted by the proposal.
- 7.21 Concerns have been raised regarding the standard of amenity for any future occupant of the proposed dwelling. Specifically with the scale of the dwelling and outlook for future residents. Whilst small, the gross internal floorspace of the proposed dwelling and specific rooms exceed the nationally described space standard for a one bed, single storey dwelling. In terms of outlook, and access to adequate light whilst officers have suggested conditions requiring obscure glazing all habitable rooms windows have adequate outlooks/access to natural light. The living/kitchen area is proposed to have large bifold doors to the rear garden, whilst the bedroom would have two windows on the front elevation facing the parking area. The aforementioned conditions requiring the living room and cloakroom windows to be obscure glazed would sufficiently mitigate a loss of privacy for future residents as well as the existing, neighbouring residents. Therefore, officers are satisfied that the proposed dwelling would provide for adequate standards of amenity for future residents.
- 7.22 In summary, the existing development utilising permitted development rights is judged to be harmful in respect of its impact on neighbouring amenity. However, this is an existing situation and as no additional built form is proposed as part of the development the conversion would not result in additional loss of light or overdominance beyond the existing situation. Some elements of residential amenity harm have been identified, however, as outlined within the report, subject to conditions the proposal would not cause a significantly adverse impact on the amenity of existing or future residents and therefore complies with policy GD8.
- 7.23 Notwithstanding the above, considering the constrained and close relationship between the proposed dwelling and neighbouring properties it is recommended that permitted development rights are removed for any extensions, additions or alterations to the proposed dwelling (including the addition of any new openings/windows).

#### **e) Flooding/Drainage**

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- 7.24 The site is within Flood Zone 1, with low probability of flooding as such accords with Policy CC3 of the HLP. Considering the scale of the development and other legislation covering foul/surface water drainage (including building regulations), a condition requiring details of drainage is not judged to be necessary or reasonable in this case.

#### **f). Ecology**

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- 7.25 Policy GI5 states that development will be permitted where there is no adverse impact on the conservation of priority species, irreplaceable habitats, nationally or local designated sites amongst other factors. Developments should contribute towards protecting and improving biodiversity and geodiversity.
- 7.26 LCC ecology have reviewed the application and have raised no concerns. Given the constrained and previously developed nature of the site there is little opportunity for enhancing biodiversity/geodiversity, which in this case is judged to be acceptable and the proposal therefore accords with policy GI5 of the HLP.

#### **g). Contamination**

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- 7.27 Policy GD8(n) of the HLP states that where a site has been previously developed, a proposal will need to identify the need for any decontamination and implement this to an agreed programme. Furthermore, developments need to ensure that any contamination is not relocated elsewhere to a location where it could adversely affect the water environment or other wildlife habitats. HDCs Environment Team have assessed the proposal and have requested no conditions in this case.

#### **h). Archaeology**

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- 7.28 The proposal seeks to convert the building therefore there would be limited ground works. LCC archaeology have raised no concerns with the proposal.

#### **i). Other matters**

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- 7.29 Other matters raised within the representation comments which have not previously been addressed are outlined below.
- The existing building is unlawful given that the outbuilding itself has not yet been completed for its intended purpose and has never been in use as a garage. The outbuilding was erected under Schedule 2, Part 1, Class E of The Town and County Planning (General Permitted Development) (England) Order 2015. This requires that any buildings are incidental to the enjoyment of a dwellinghouse. Such uses may include a garage, shed, storage area, home office. As shown on the below

photos, the building is currently used for general domestic storage which is considered to be an incidental use.

It is acknowledged that the building is not yet rendered or clad externally, sadly there is no requirement as to the material finish of outbuildings under Class E.

HDCs planning enforcement officers have previously visited the site and found no breach.

- Developments compliance with building regulations:

Compliance with building regulations would be assessed at a later stage and not during the planning application process. An informative reminding the applicants of the Building Regulations process is recommended.

- Accessibility for wheelchair users:

Whilst there are clear opportunities for the dwelling to be occupied by wheelchair users given it is a single storey dwelling, there is no planning policy requiring the applicant to demonstrate accessibility for wheelchair users

- Compliance with the Party Wall Act/Access to neighbouring land to complete the development

The Party Wall Act is separate legislation to the planning application process. An informative note reminding the applicants of their responsibilities under the Party Wall Act is recommended, as is an informative noting that any planning approval does not grant the applicant to work on land outside of their control without consent of the land owner.

Concerns have been raised as to how the external elevations would be rendered/clad, particularly the elevations in close proximity to No.32s fence and side elevation. It is understood that the applicants had discussed removing the fence to complete the side elevation in May 2021. If the applicants were not permitted to take the fence down/access the side elevation from No.32 they have stated they would 'drop the wall in question down internally , cement fibre board clad it and re site the wall with minimal disturbance to the neighbours. The rest of the external walls there would not be any issues with.'

## **8. Conclusion**

- 8.1 The application site is judged to be a sustainable location for housing and complies in principle to the spatial strategy outlined in accordance with policy SS1 and GD2 of the Harborough Local Plan (HLP). As a conversion, with no extensions or additions, the proposals are judged to respect the character of the local area. Furthermore, as a conversion, with no extensions or additions and subject to conditions the development would not significantly adversely affect the amenity of local residents. The development would not lead to an unsafe highways situation, the proposal would not cause contamination risks, has no adverse impact on ecological or archaeological assets and is not at risk from flooding. The proposal is considered in accordance with Policies GD8, GI5, CC3, CC4 and IN2 of the HLP.

## **ANNEXE A- PLANNING CONDITIONS**

**1. Time Limit**

The development hereby permitted shall begin within 3 years from the date of this decision.

REASON: To meet the requirements of the Town and Country Planning Act 1990 (as amended).

**2. Plans**

The development shall be carried out in accordance with the following approved plans:

Location Plan 3067/19

Planning Drawing No 3067/17

REASON: For the avoidance of doubt.

**3. Materials**

Prior to their installation, full details of the render and cladding to be used in the construction of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority, and the development shall only be carried out in accordance with the approved details.

REASON: To safeguard the appearance of the development and the character and appearance of the area, having regard to Harborough Local Plan Policy GD8 and the National Planning Policy Framework.

**4. Obscure Glazing**

Prior to the first occupation of the development hereby permitted the ground floor window serving the cloakroom in the south-east elevation and the ground floor window(s)/doors serving the hall and living room/kitchen in the north-west elevation of the dwelling shall be permanently fixed shut (non-opening) and glazed with obscure glass (at a minimum of Level 3) only and the window(s) shall be permanently maintained as non-opening with obscure glazing at all times thereafter.

REASON: To safeguard the privacy of the occupiers of the adjoining property and future occupants of the dwelling hereby approved having regard to Harborough Local Plan Policy GD8 and the National Planning Policy Framework.

**5. Parking Spaces**

The development hereby permitted shall not be occupied until such time as two parking spaces (2.4m x 5.5m per space with an additional 0.5m on either side if the space is bound by a wall/fence) have been made available for use. Thereafter the onsite parking provision shall be so maintained in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

**6. No gates, barriers, bollards etc to vehicular access**

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

REASON: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway and to accord with Policy GD8 and IN2 of the Harborough Local Plan and the National Planning Policy Framework (2021).

**7. Access/Parking surfacing**

Before first occupation of the dwelling, its access drive and any parking space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and thereafter be permanently so maintained.

REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

**8. Permitted Development Rights Removed**

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), no buildings, structures or works (including any new windows or openings) as defined within Part 1 of Schedule 2, Classes A-E inclusive of that Order, shall be erected or undertaken on the dwelling hereby approved or within its curtilage.

REASON: To safeguard the character and appearance of the area and residential amenity of neighbouring properties, having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework.

**Informative Notes**

5. The Applicant is advised that this proposal requires separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. 01858 821090).
6. Planning Permission does not give you approval to work on land outside of your control, where permission must be obtained from the land/property owner.
7. If the plans deposited involve the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.

## **Committee Report**

**Applicant:** Mr Richard King

**Application Ref:** 22/00679/VAC

**Location:** Land West of Welham Lane, Great Bowden

**Parish/Ward:** Great Bowden/Great Bowden

**Proposal:** Part demolition of an industrial shed and the erection of a light industrial building (Class E(g) (iii)) comprising 7 units with associated parking and landscaping (revised scheme of 20/01497/FUL) (Removal of condition 5 (material and colour of the perimeter wire mesh metal fence) and variation of conditions 2 (approved plans), condition 6 (landscape details plan), condition 14 (parking layout plan) and condition 15 (cycle parking plan) to allow the retention of the existing 2 metre palisade boundary fence to the application site, to ensure that the reference is made to the revised plans, to amend the proposed roof pitch from mono-pitch to a duo-pitch roof, omission of the smoking shelter, correction to plans showing the position of the fire escape doors and retention of the existing concrete yard

**Target Date:** 08.06.2022

**Consultation Expiry Date:** 07.04.2022

**Advertisement Expiry Date:** 14.04.2022

**Site Notice Date:** 28.04.2022

**Weekly List Expiry Date:** 14.04.2022

**Committee Reason:** Call-in Request by Cllr Knowles (17.03.2022). Reason requested by Case Officer. No reason given.

### **1. Site & Surroundings**

- 1.1 The application site (0.5ha) is located to the north of the A6 /Harborough bypass off Welham Lane. It contains approx. half of a vacant former industrial / warehouse building, sited within a small collection of agricultural / commercial buildings, including FCC Environment Waste Management (HDC's refuse and recycling depot).



**Site Location**

- 1.2 The site is outside of the Limits of Development as defined within the Great Bowden Neighbourhood Plan
- 1.3 The nearest public right of way /bridleway is located to the west
- 1.4 The site is not located within or adjacent to a Conservation Area and there are no nearby Listed Buildings.

## **2. Site History**

2.1 The site has the following planning history:

**20/01497/FUL** - Part demolition of an industrial shed and the erection of a light industrial building (Class E(g) (iii)) comprising 7 units with associated parking and landscaping (revised scheme of 19/01611/FUL) (REFUSED. APPEAL ALLOWED)

Planning permission was refused on 10<sup>th</sup> February 2021 for the following reasons:

- 1) *The applicant has failed to demonstrate that the impact of the development on the local highway will be mitigated and if permitted would lead to the intensification of use of Welham Lane, which is unsuitable in its width and design to cater for an increase in traffic, which could result in lengthy reversing manoeuvres not in the interests of highway safety, contrary to paragraphs 108 and 109 of the National Planning Policy Framework and Harborough Local Plan Policy IN2*
- 2) *Insufficient information has been received to demonstrate that the development will a)reduce carbon emissions, b)incorporate SuDs and c) provide adequate broadband infrastructure to users of the development. The development is therefore contrary to Harborough Local Plan CC1, CC4 and IN3.*

An appeal was lodged and subsequently allowed on 16<sup>th</sup> November 2021 (Appeal reference APP/F2415/W/21/3279263).

**19/01611/FUL** - Part demolition of an industrial shed and the erection of a light industrial building (B2) comprising 8 units with associated parking and landscaping (WITHDRAWN)

**18/01159/FUL** - Erection of light industrial units, with associated service yard and parking provision (APPROVED)

### **3. The Application Submission**

#### **a) Summary of Proposals**

3.1 The Appeal referred to above, was allowed subject to 16 conditions. This application seeks to

#### **Removal of Condition 5**

*Notwithstanding the details shown on drawing No. L10, the colour of the perimeter wire mesh metal fence shall be dark green*

It is the Applicant's intention to retain the existing 2m palisade boundary fence to the application site.

#### **Variation of Condition 2**

*The development hereby permitted shall be carried out in accordance with the following approved plans: L.10, L.11 and L.12*

The revised drawings seeks to amend the proposed roof pitch from mono-pitch to a duo-pitch roof. The revised plans also include the fire escape doors on the elevation drawings; omission of the smoking shelter to the north of the site and reference the retention of the existing fencing.

#### **Variation of Condition 6**

*The landscaping works shown on drawing no. L.11 shall be carried out in the first planting and seeding season following the first occupation of any part of the development or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All hard landscaping shown on drawing No. L.11 shall be carried out prior to the occupation of any part of the development*

The revised drawing includes the retention of the existing site boundary fencing (as mentioned above), the omission of the smoking shelter and correctly showing the position of the fire escape doors. It is also proposed to retain the existing concrete yard instead of installing block pavements and tarmac.

#### **Variation of Condition 14**

*The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing number L.11. for the parking and turning of vehicles, and that space shall thereafter be kept available at all times for those purposes*

There are no revisions proposed to the parking area, parking space numbers or turning areas, the revision relates solely to reference the revised plan.

### **Variation of Condition 15**

*The development hereby permitted shall not be occupied until the secure and covered cycle parking has been provided in accordance with drawings L.10 and L.11. The cycle parking shall be maintained and kept available for the parking of cycles thereafter*

There are no revisions proposed to the cycle shelter design, siting or layout and 16 cycle spaces are still proposed. This Section 73 application seeks to vary condition 15 of permission APP/F2415/W/21/3279263 to ensure that the reference is to the revised site plan that addresses the revisions mentioned in the paragraphs above.

### **b) Supporting Documentation**

3.1 The application has been supported by the following documents:

- Site Location Plan
- Proposed Site Plan
- Elevations and Floor Plan
- Covering Letter

## **4. Consultations and Representations**

4.1 The LHA, Ecology, Archaeology, Environmental Health, Anglian Water, GBPC were consulted about the application. The following comments were received:

LHA - Given that the quantum of off street car parking provision and cycle provision remains the same as previously approved under 20/01497/FUL, the LHA have no objection to the variation of condition 2,14 and 15.

Ecology – I have no further comments to make or recommendations in addition to those made previously

Archaeology - Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), we do not believe the proposal will result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 189-190).

Contaminated Land and Air Quality Officer – Requests pre-commencement condition\*

\*Case Officer Note – This was not requested previously and is therefore unreasonable to impose such a condition now.

## **5. Planning Policy Considerations**

5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise.

### **a) Development Plan**

- 5.2 The Development Plan consists of the Harborough District Local Plan (April 2019) and the Great Bowden Neighbourhood Plan (September 2020)
- 5.3 The Great Bowden Neighbourhood Plan (GBNP) has recently been reviewed, the latest version dated 2020 supersedes the earlier 2018 version. The review resulted in a number of non-material amendments so no examination or referendum was required, instead approval was given by HDC Cabinet on 5/10/20. The GBNP 2020 carries full weight as part of the development plan.

## **b) Material Planning Considerations**

- 5.4 Material considerations include The Framework and the NPPG

## **6. Assessment**

- 6.1 As mentioned above, planning permission has been granted on appeal for the the partial demolition of an industrial shed and the erection of a light industrial building (Class E(g) (iii)) comprising 7 units with associated parking and landscaping.
- 6.2 The application seeks to remove condition 5 and vary conditions 2, 6, 14 and 15. Taking each condition in turn, the following assessment is made.

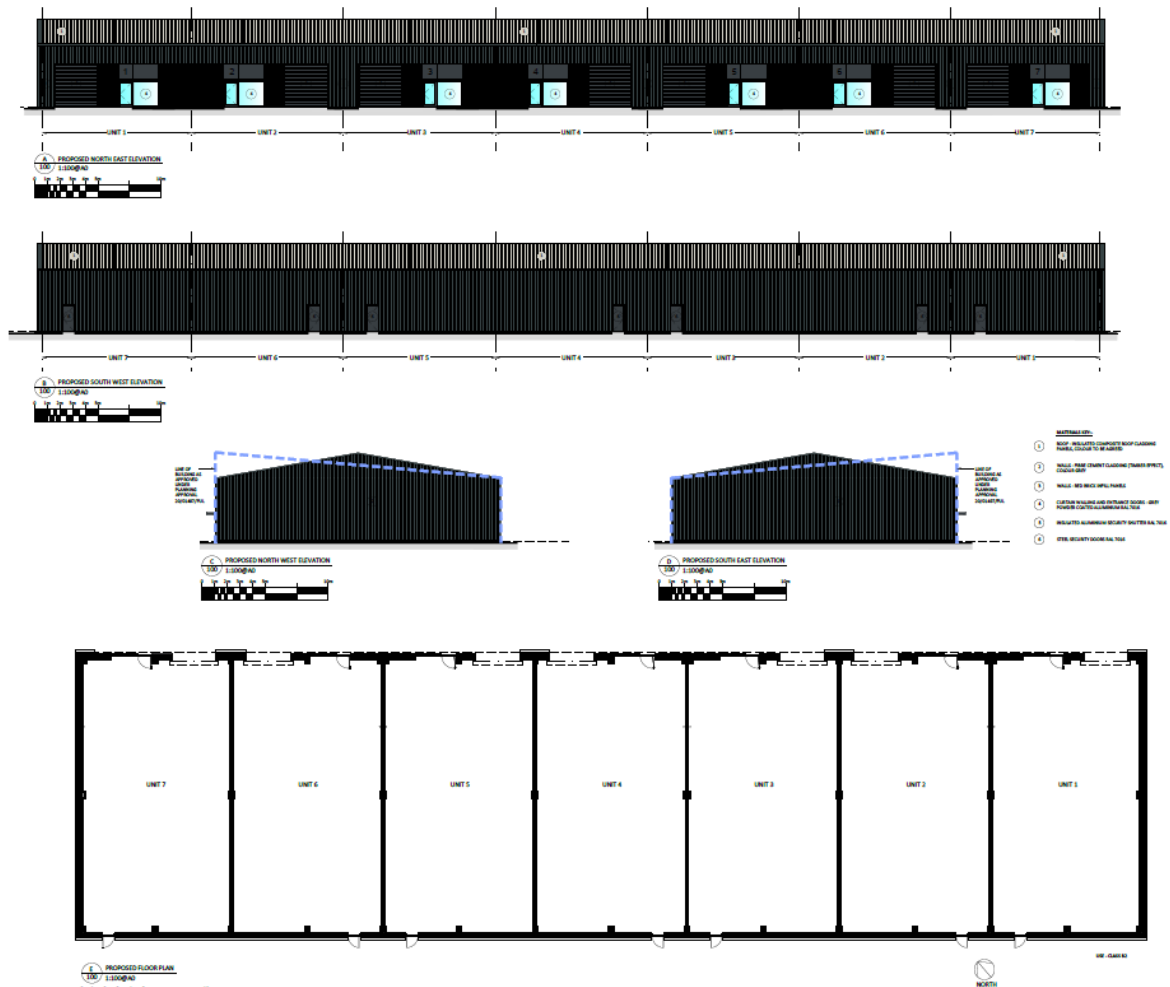
### **Condition 5 (material and colour of the perimeter wire mesh metal fence)**

The approved plan makes reference the to the site perimeter and notes that it will be bound In 2.4 metres high wire mesh metal fencing (black in colour). Given the site's semi- rural location, a dark green colour was considered more appropriate to preserve the character and appearance of the area, hence the recommended condition, with which the Inspector agreed.

It is now proposed to retain the existing 2m palisade boundary fence (which is currently 0.4m lower than the proposed). Condition 5 is therefore not necessary and should be removed.

### **Condition 2 (approved plans)**

The application seeks to amend the proposed roof pitch from mono-pitch to a duo-pitch roof (Blue dash line shows approved roof pitch design). The overall height would remain the same.



### Proposed Floorplans and Elevations (Dwg No.J9402-100)

The revision to the roof design would not have a harmful impact on the overall design of the building or character of the area.

In addition, the revised plans omit the smoking shelter and include the fire escape doors on the elevations (currently only shown on the approved floorplans). The revised plans will also include reference to the retained palisade boundary fence.

The revisions will still safeguard the visual amenities of the area and Condition 2 should be Varied accordingly

### Condition 6 (landscape details plan)

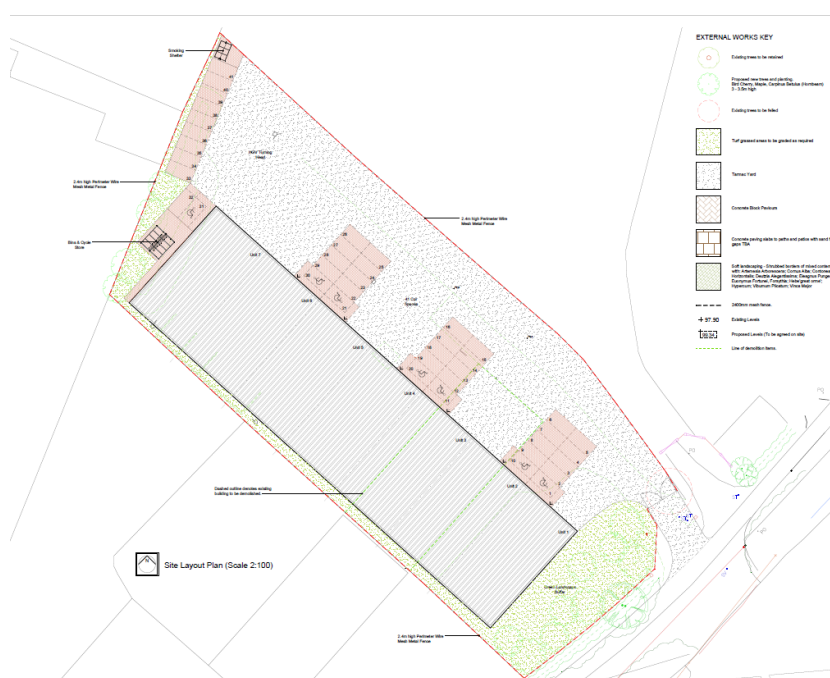
The revised drawing includes the retention of the existing site boundary fencing (as Mentioned above), the omission of the smoking shelter and showing the position of the fire escape doors. It is also proposed to retain the existing concrete yard instead of installing block paviours and tarmac.

The soft landscaping including the green landscape buffer and landscaping to the north eastern boundary will remain as approved.

The revisions will still safeguard the character and appearance of the area and Condition 6 should be varied accordingly.



## Proposed Site Layout Plan (J9402-001)



**Approved Site Plan (Dwg:L.11)**

**Condition 14 (parking layout plan) and 15 (cycle parking plan)**

There are no revisions to the parking area, parking space numbers or turning areas. Furthermore, there are no revisions to the cycle shelter design, siting or layout and 16 cycle spaces are still proposed. It is just proposed to vary the wording of the condition to reflect the revised plans which addresses the revisions mentioned above the reference the revised plan

## **Conclusion**

- 6.3 Overall the proposed removal of condition 5 and variation of conditions 2, 6, 14 and 15 will have no adverse impact on the character and appearance of the development itself or upon the surrounding area. The development will therefore continue to accord with the development plan.

## **7. Suggested Conditions**

- 7.1 If Members are minded to APPROVE the application in line with your Officers recommendation, the following conditions should be imposed on the Decision Notice

### **Commencement of Development**

The development hereby permitted shall begin before 16<sup>th</sup> November 2024.

REASON: To accord with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

### **Permitted Plans**

The development hereby permitted shall be carried out in accordance with the following approved plans L.10, J9402-100 and J9402-001A.':

REASON: For the avoidance of doubt

### **Use Class**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class E(g) (iii) of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose (including any other purpose in Class E of Schedule 2 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: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class, having regard to the circumstances of the case and in the interests of sustainable locational policies and highway safety.

### **Materials**

No development above ground level shall commence until a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved schedule.

REASON: In the interests of visual amenity and the character and appearance of the area and to accord with the Harborough Local Plan Policy GD8

### **Landscaping Implementation**

The landscaping works shown on drawing no. J9402-001A shall be carried out in the first planting and seeding season following the first occupation of any part of the development or the completion of the development, whichever is the sooner; and any trees or plants which

within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All hard landscaping shown on drawing No. J9402-001A shall be carried out prior to the occupation of any part of the development.

REASON: To ensure a satisfactory landscaped setting for the development and to accord with Harborough Local Plan Policy GD8

### **Storage of Refuse/Recycling**

No development above ground level shall commence on site until details of the provision for the storage of refuse and materials for recycling have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and shall be retained as such thereafter.

REASON: To ensure the adequate provision of facilities and in the interests of visual/general amenity and to accord with Harborough District Core Strategy Policy CS11

### **Bat Survey Mitigation**

The development hereby approved shall be implemented in accordance with the approved mitigation measures detailed in the Internal/External Bat Survey report dated September 2020; full details of which are to be submitted to, and approved in writing by, the local planning authority prior to the commencement of development above ground floor level. The approved mitigation measures shall be provided before the development is first occupied and shall be retained as such thereafter.

REASON: In the interests of wildlife and nature conservation and to accord with Harborough District Core Strategy Policy CS11.

### **Climate Change Mitigation**

No development above ground level shall commence until a statement setting out details of how the development will mitigate against climate change has been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.

REASON: To ensure the development will provide suitable climate change mitigation, in accordance with Policy CC1 of the Harborough Local Plan.

### **Foul Water Drainage**

No development above damp proof course level shall commence until a scheme for on-site foul water drainage works, including connection point and discharge rate details, has been submitted to and approved in writing by the local planning authority. Prior to the occupation of any part of the development, the foul water drainage works relating to that part must have been carried out in accordance with the approved scheme.

REASON: To prevent environmental and amenity problems arising from flooding and to accord with Harborough Local Plan Policy IN4 and GD8

### **Surface Water Management Strategy**

No surface water drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the local planning authority. No hard-standing areas shall be constructed until the surface water drainage works have been carried out in accordance with the approved surface water management strategy.

REASON: To prevent environmental and amenity problems arising from flooding and to accord with Harborough Local Plan Policy GD8.

**Broadband**

Prior to the first occupation of the building, a scheme detailing the broadband infrastructure for the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

REASON: To ensure the development will provide suitable broadband infrastructure for future occupiers, in accordance with Harborough Local Plan Policy IN3.

**Site Access Arrangements**

Prior to the first occupation of the building, and notwithstanding the submitted plans, details of the site access arrangements including width, visibility splays, gradient, and surfacing shall be submitted to and approved in writing by the local planning authority. The site access arrangements shall then be implemented as approved prior to first occupation of the building.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Harborough Local Plan Policies GD8 and IN2

**Parking and Turning**

The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing number J9402-001A for the parking and turning of vehicles, and that space shall thereafter be kept available at all times for those purposes.

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 Harborough Local Plan Policies GD8 and IN2

**Cycle Parking**

The development hereby permitted shall not be occupied until the secure and covered cycle parking has been provided in accordance with drawings L.10 and J9402-001A. The cycle parking shall be maintained and kept available for the parking of cycles thereafter.

REASON: To promote travel by sustainable modes in accordance with Harborough Local Plan Policies IN2

**CMS**

No development shall commence on site (including any site clearance, preparation or demolition works), until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. Details shall provide the following: a) the parking of vehicles of site operatives and visitors;

b) loading/unloading and storage of plant and materials;

c) the erection and maintenance of security hoarding;

d) wheel washing facilities and road cleaning arrangements;

e) measures to control the emission of dust during construction;

f) a scheme for recycling/disposing of waste resulting from demolition and construction works;

g) hours of construction work, demolition, deliveries and removal of materials;

h) full details of any piling technique to be employed, if relevant;

i) location of temporary buildings and associated generators, compounds, structures and enclosures.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

REASON:

## Planning Committee Report

**Applicant:** Harborough Town Football Club

**Application Ref:** 22/00802/FUL

**Location:** Harborough Town Football Club, Northampton Road, Market Harborough

**Proposal:** Installation of a 100 seater covered grandstand with 3 accessible wheelchair spaces, relocation of existing grandstand, and siting of a toilet block

**Application Validated:** 30.03.2022

**Consultation Expiry Date:** 27.04.2022

**Target Date:** 25.05.2022

**Site Visit Date/s:** 14.04.2022

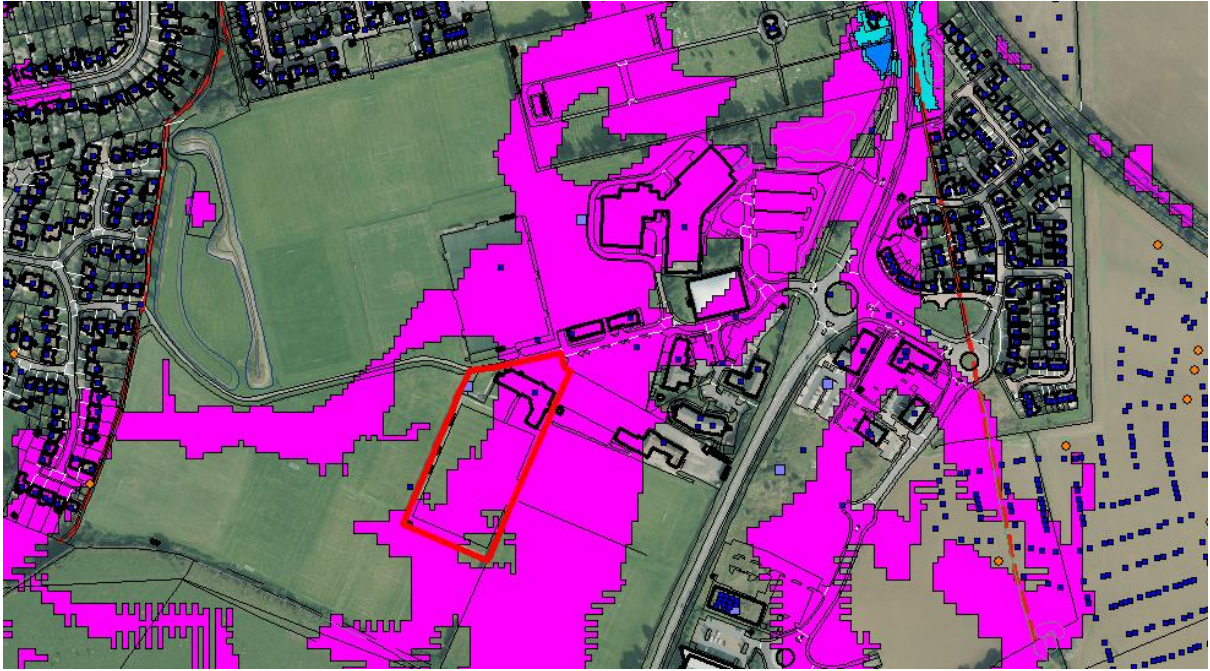
**Reason for Committee Decision:** HDC is landowner.

## Recommendation

Planning Permission is **APPROVED** for the reasons set out in this Committee report and subject to the Planning Conditions recommended in Appendix A.

### 1. Site & Surroundings

- 1.1 The application relates to the established Harborough Town Football Club complex.
- 1.2 The site and wider area is a protected "Open Space, Sport and Recreation Site" in the HDC Local Plan (Policy GI2).
- 1.3 Public footpaths, formal rights of way and recreational areas are noted in the immediate locality. A range of other sport, recreation, community and business uses lie to the east and northeast of the site.
- 1.4 Access, parking and service arrangements are not amended by the proposal.
- 1.5 The land is not subject to fluvial flood risk but is affected by the lowest-risk tier of surface water flooding during times of heavy precipitation, as shown on the below Uniform Map extract.
- 1.6 The closest dwellinghouses are approximately 265m away from the site.
- 1.7 The site does not lie within a Conservation Area or affect the setting of Listed assets.
- 1.8 The proposal is offset from boundary hedgerows and does not affect trees/foliage.
- 1.9 The principal league playing pitch has been upgraded in the past few years to an Artificial Grass Pitch (AGP) via planning permission 17/00782/FUL. This can be seen in Google aerial images.



(Source: HDC Uniform Maps)



(Source: Google Maps)

## 2. Site Planning History

Various. Key history includes:

- 2.1 18/01958/NMA – Inclusion of a 100 person capacity covered standing/seating area (proposed non-material amendment to 17/00782/FUL) – Approved 04.02.2019

17/00782/FUL – Installation of artificial grass football pitch (106m x 70m); erection of ball stop fencing; erection of pitch perimeter barrier; installation of hard standing for pedestrian use; erection of maintenance/sports equipment store; resurfacing of an existing car park; creation of additional car parking area – Approved 20.07.2017 & IMPLEMENTED

## 3. The Application Submission

### a) Summary of Proposal

- 3.1 The application seeks planning permission for the following:

- a. Installation of a 100 seater covered grandstand with 3 accessible wheelchair spaces (to increase disability provision). The stand is 16.7m in length, 3.8m in

depth and 4.44m in maximum height. The external material is metal; “green to outsides (roof, sides and rear) with yellow/black seating”.

- b. Relocation of existing grandstand.
- c. Siting of a ‘Portaloo’ toilet block. The external material is metal in “Goosewing Grey BS10A05” colour.

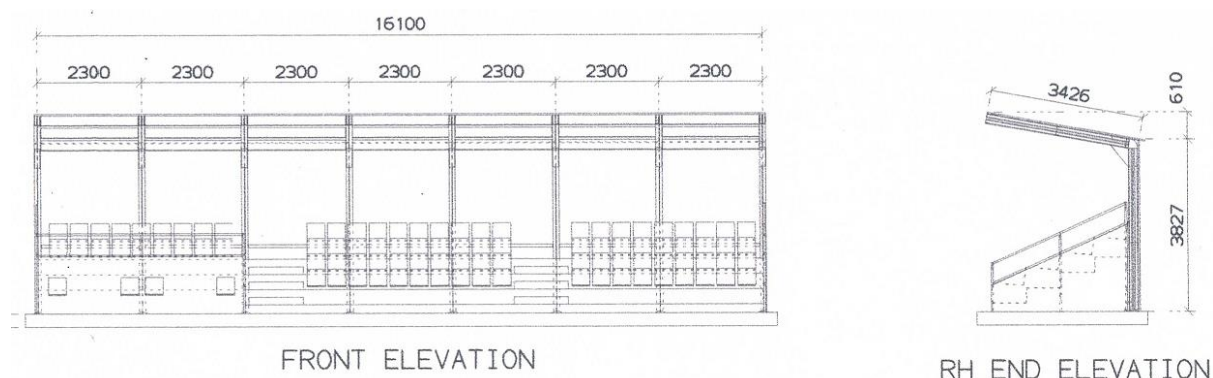
3.2 Due to supply issues with grandstands, the proposal has been amended from its original submission, which was for:

*Installation of a 50 seater covered stand and a 63 person covered stand with 3 accessible wheelchair spaces and portaloo toilet block*

3.3 The proposal is similar in nature and its planning considerations to the 18/01958/NMA proposal. It is, though, not a further Non-Material Amendment to 17/00782/FUL. NMAs are assessed cumulatively. The current proposal is for a materially higher grandstand (the 18/01958/NMA stand was approx. 3.3m high, while the current stand is 4.44m high). The current proposal also includes the additional elements of moving an additional stand and siting a toilet block.

3.4 The Applicant’s Design & Access Statement explains the reason for the proposal:

*“Harborough Town Football Club have recently gained promotion to Step 4 of the National League System football pyramid and require improvements to their ground to meet the criteria of ground grading for the league.”*

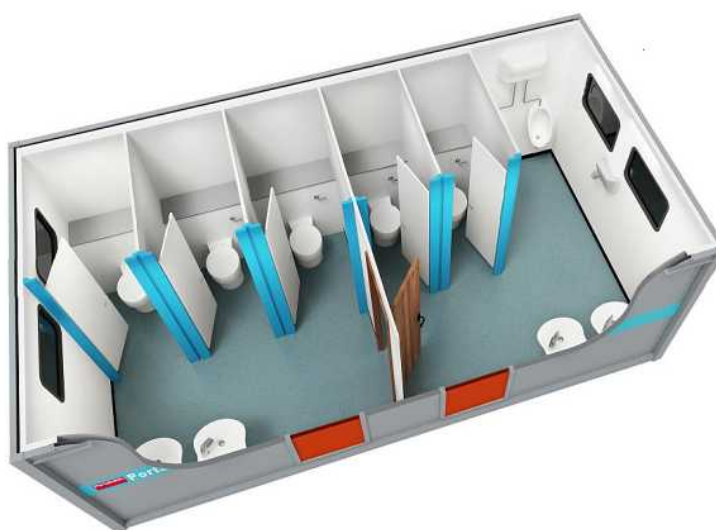


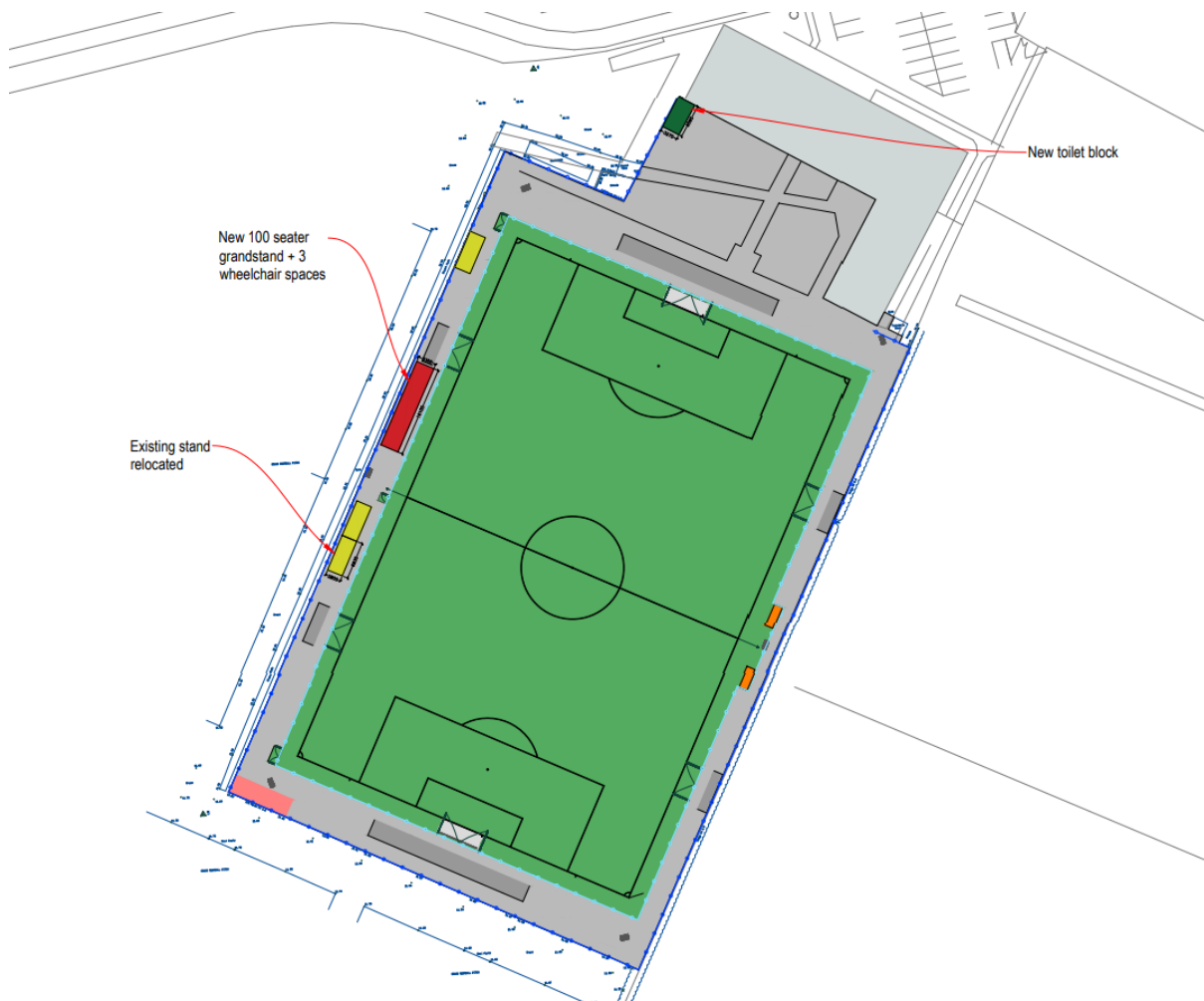
#### Portakabin Portaloo Type I

##### Male and Female Toilet

##### Dimensions

External Length	6.09m
External Width	3.27m
External Height	2.61m
Leg Centres (length)	5.85m
Leg Centres (width)	3.18m
Shell weight	2901kg
Max handling weight	3205kg





## b) Schedule of Plans / Documents

3.5 The application assessment is based on the following plans and documents:

- Drawing Title: Proposed AGP Plan; Drawing No. 01; Revision 03; Dated 13.04.22 (Surfacing Standards Ltd.)
- Drawing Title: Block Plan of Site; Drawing No. 02; Revision 01; Dated 01.05.17 (Surfacing Standards Ltd.)
- Drawing Title: Stand GA; Drawing No. 001; Dated 08/02/16 (P J Steel Construction Ltd.)
- "Portakabin Portaloo Type I" Schedule
- 3D CGI of Portaloo
- Design and Access Statement
- FA Ground Grading Visit (21.01.22) Report
- FA National Ground Grading Category D Criteria

## c) Pre-application Engagement

3.6 Pre-application advice was sought. The applicant was advised that the proposal is supported in principle by the Development Plan.

#### **d) Environmental Impact Assessment Screening**

- 3.7 It is considered that the proposal relates to development falling within the Schedule 2 development table [Regulation 2(1)]: Column 1 “*Description of development*”; Row paragraph 10 “*Infrastructure projects*”; (b) “*Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas*”, noting also Row paragraph 13(b) “*Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed.*”

Row paragraph 10 (b), Column 2 “*Applicable thresholds and criteria*” clarifies that if “(i) *The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellings; or (iii) the overall area of the development exceeds 5 hectares*” the development represents Schedule 2 development.

While the wider HTFC site itself is more than 1 hectare, the development which is now proposed (new and altered by this proposal) does not meet or exceed the applicable thresholds.

The proposal did not need to be evaluated against the Schedule 3 [Regulation 5(4)] “*Selection Criteria for Screening Schedule 2 Development*”.

#### **4. Consultations and Representations**

- 4.1 Consultations with technical consultees and the local community have been carried out on the application.
- 4.2 A summary of the technical consultee and local community responses which have been received is set out below. If you wish to view comments in full, please request sight or search via: [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)
- 4.3 Where relevant, final re-consultation responses only are reported.

#### **a) Statutory & Non-Statutory Consultees**

- 4.4 **Leicestershire County Council Highway Authority**  
Not consulted.
- 4.5 **Leicestershire County Council Ecology**  
Not consulted given the scale and nature of the proposal.
- 4.6 **HDC Environmental Services (Contaminated Land and Air Quality Officer)**  
“*This department has no comment regarding land contamination and the above.*”
- 4.7 **HDC Neighbourhood and Green Spaces Officer**  
Not consulted given the nature and scale of the proposal.
- 4.8 **Market Harborough Civic Society**  
Not consulted. The Civic Society has recently explained that they will review the Weekly List to identify planning applications which they wish to comment on, but will infrequently comment due to reduced resources.

- 4.9 **Ward Councillors**  
No comments received.

**b) Public Representations**

- 4.10 No comments received.

**5. Planning Policy Considerations**

- 5.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 instructs that planning applications must be determined in accordance with the provisions of the Development Plan (DP), unless material considerations indicate otherwise.
- 5.2 The policies relevant to this application are set out below. More detail is provided at the beginning of the Agenda under “All Agenda Items Common Planning Policy”.

**a) Development Plan**

- 5.3 The current Development Plan consists of the Harborough Local Plan, adopted April 2019.

*Key Policies:*

- Policy SS1 The spatial strategy
- Policy GD1 Achieving sustainable development
- Policy GD8 Good design in development
- Policy RT4 Tourism and leisure
- Policy HC2 Community facilities
- Policy GI1 Green infrastructure networks
- Policy GI2 Open Space, Sport and Recreation
- Policy GI5 Biodiversity and geodiversity
- Policy CC1 Mitigating climate change
- Policy CC3 Managing flood risk
- Policy CC4 Sustainable drainage
- Policy IN2 Sustainable transport

- 5.4 Neighbourhood Plan – N/A.

**b) Material Planning Considerations**

- 5.5 Material considerations include any matter relevant to the application which has a bearing on the use or development of land. The material considerations to be taken into account when considering this application include the DP referred to above, the National Planning Policy Framework, the national Planning Policy Guidance, further materially relevant legislation, policies and guidance, appeal decisions, planning case law and High/Appeal court judgements, together with responses from consultees and representations received from all other interested parties in relation to material planning matters. Some key documents follow.
- 5.6 *The National Planning Policy Framework (The Framework / NPPF) (July 2021)*
- 5.7 *National Planning Practice Guidance (PPG)*

- 5.8 *Development Management Supplementary Planning Document (SPD) (December 2021)*
- 5.9 *Institute of Highways and Transport “Guidelines for Providing for Journeys on Foot” (2000)*
- 5.10 *Chartered Institute of Highways and Transport “Planning for Walking” (2015)*
- 5.11 *Leicestershire County Council Local Transport Plan*
- 5.12 *Leicestershire County Council Highway Design Guide*
- 5.13 *ODPM Circular 06/2005 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System)*
- 5.14 *Circular 11/95 Annex A - Use of Conditions in Planning Permission*

#### **c) Reason for Committee Decision**

- 5.15 HDC is the landowner, therefore the application must be determined by Planning Committee.

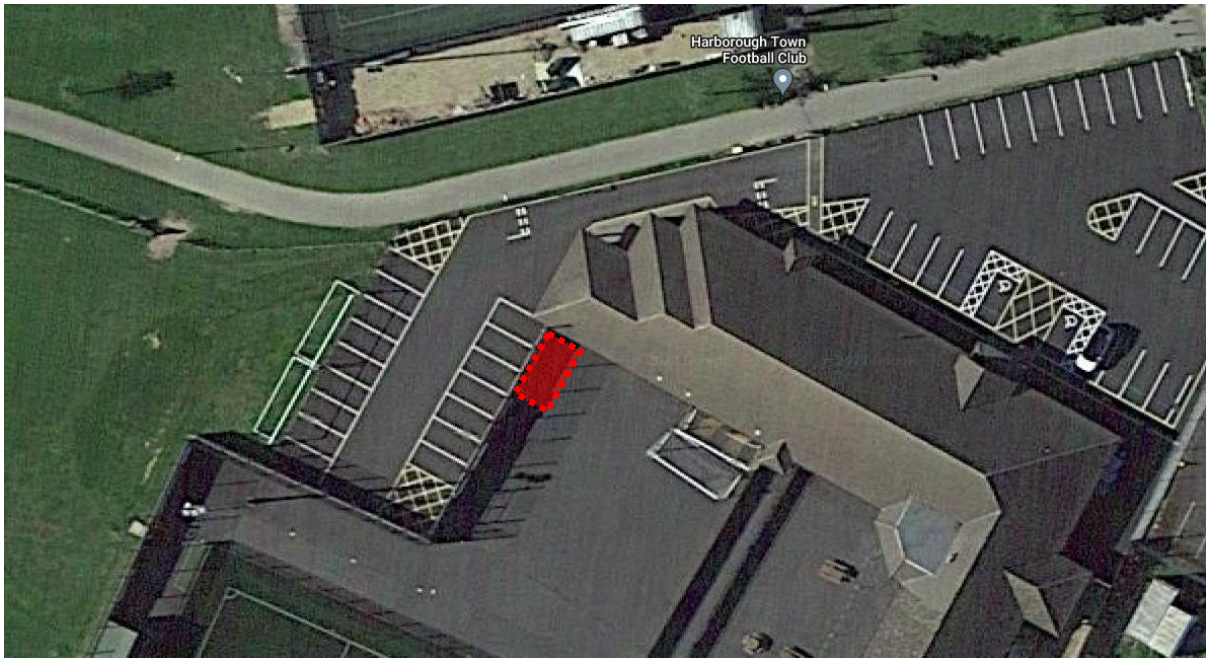
### **6. Assessment**

#### **a) Principle of Development**

- 6.1 The site lies within a designated Policy GI2 “Open space, sport and recreation” area, where facilities are to be “*safeguarded and enhanced through improvements to their quality and use*”. The proposal would achieve this.
- 6.2 The HTFC facilities attract visiting football players & supporters to the area. FA League progression, which is intrinsically linked to the current proposal, is likely to boost both home and away visitor numbers at the site. This can bring linked benefits to the Town & District (e.g., to shops, public houses / restaurants and hotels). The proposal accords with Policy RT4 “Tourism and leisure”.
- 6.3 The proposal is judged to strongly accord with the HDC Local Plan in principle.

#### **b) Design and Visual Amenity**

- 6.4 The ‘Portaloo’ is sited within the fenced/private ground, towards a rear corner of the Clubhouse. Given the structure’s 2.61m “external height”, it would not be greatly prominent above the adjacent ~2m high timber privacy fencing. Its moveable / reversible nature is noted. It is understood that the Club is considering a more permanent solution moving forwards. The design and visual amenity impacts of the ‘Portaloo’ are judged to be acceptable.



(Planning Officer annotation of proposed Portaloo siting)

- 6.5 The proposed 100 seater grandstand would have some additional visual impacts relative to existing grandstands as it is reported to be higher at ~4.44m high. It would rise notably above the ~2m timber privacy fencing that surrounds the site. However, it would be seen in the context of existing 4.5m high ball stop fencing (green metal mesh) that surrounds the Artificial Grass Pitch (AGP). Externally it is also proposed in a green colour, which would blend with the 4.5m fencing and its general surroundings.
- 6.6 The relocation of the existing stand is judged to have negligible visual impacts.
- 6.7 The proposal is judged to accord with the Policies GD8, GI1, GI5 and RT4 of the Local Plan in the above respects.

#### **c) Access and Highway Safety**

- 6.8 The Applicant's D&A Statement explains:

*"The development will not increase the operational hours for the site. It is also unlikely that the club's average attendance (of 250 /300) will increase significantly following the development. However, at all times, the club actively encourage their supporters to walk to the ground using social media channels to promote this.*

*The proposal will not lead to any increase in intensity of use for the site."*

- 6.9 In the Planning Officer Report for 18/01958/NMA ("*Inclusion of a 100 person capacity covered standing/seating area (proposed non material amendment to 17/00782/FUL)*"), it is noted that the Officer observed:

*"Discussed proposal with LCC Officers, confirmed that provision of covered seating in itself would not generate additional vehicular traffic to the site".*

- 6.10 It is noted that attendance is limited by ground capacity liabilities/insurance and the proposal does not concern an increase in total capacity. It is reasonable to expect that

enhanced seating facilities with better weather protection would be more attractive to spectators and likely to boost overall average attendance – the objectives to better the site's sporting facilities and increase visitor numbers are positive aspects of the proposal. However, relative to overall capacity, the increase which could result from this proposal is not considered to have significant potential highway impacts.

6.11 The Club's proactive efforts to encourage non-vehicular modes of travel to games is noted. An Informative Note to the Applicant is recommended to encourage them to invest in secure covered cycle parking facilities as they develop the Club.

6.12 The proposal is not considered to have significant highway safety implications.

#### **d) Residential and General Amenities**

6.13 Noting the scale and nature of the development, the existing established use of the site and the distance separation to neighbouring properties, the proposal is not judged to have negative residential and general amenity impacts.

6.14 The proposal is considered to accord with Development Plan and national policies in this respect.

#### **e) Archaeology**

6.15 N/A.

#### **f) Ecology**

6.16 The proposal is not judged to have ecological/biodiversity impacts.

#### **g) Flooding and Drainage**

6.17 The grandstand and Portaloo are sited outside the low-risk surface water flood zone that covers part of the wider site.

6.18 The proposal is not judged to exacerbate flood risks, nor be subject to unacceptable flood risks itself.

#### **h) Contaminated Land and Air Quality**

6.19 No concerns.

### **7. Conclusion / Planning Balance**

7.1 The NPPF requires LPAs to grant planning permission for sustainable development. Paragraph 8 of the Framework states:

*“Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually*

*supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):*

*a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;*

*b) a social objective – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and*

*c) an environmental objective – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”*

- 7.2 The proposal would, on balance, achieve all 3 objectives in a positive and mutually beneficial way. The proposal carries significant planning benefits in terms promoting local sport and leisure interests.
- 7.3 The proposal is satisfactorily designed and would preserve the character and appearance of the area.
- 7.4 The proposal would not cause significant and demonstrable harm to highway safety interests.
- 7.5 The proposal would not harm neighbouring or general amenities in the area.
- 7.6 The proposal would not be detrimental to ecological, arboricultural, archaeological, drainage and flood risk, or other material interests.
- 7.7 The proposal complies with the policies of the Harborough Local Plan (Development Plan) and the NPPF taken as a whole. No other material considerations indicate that the policies of the Development Plan should not prevail. As the proposal accords with an up-to-date development plan it should be approved without delay.
- 7.8 The application has been assessed in accordance with Paragraph 38 of the NPPF, which requires LPAs to “*approach decisions on proposed development in a positive and creative way*” and “*work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.*”

## **APPENDIX A – Recommended Conditions and Informative Notes**

### **Recommended Conditions:**

**1. Development to Commence Within 3 Years – Prescriptive**

The development hereby approved shall begin within 3 years from the date of this permission.

REASON: To meet the requirements of the Town and Country Planning Act 1990 (as amended).

**2. Approved Plans – Prescriptive**

The development hereby approved shall be carried out in accordance with the following plans:

--Drawing Title: Proposed AGP Plan; Drawing No. 01; Revision 03; Dated 13.04.22 (Surfacing Standards Ltd.)

--Drawing Title: Block Plan of Site; Drawing No. 02; Revision 01; Dated 01.05.17 (Surfacing Standards Ltd.)

--Drawing Title: Stand GA; Drawing No. 001; Dated 08/02/16 (P J Steel Construction Ltd.)

--“Portakabin Portaloo Type I” Schedule

REASON: For the avoidance of doubt and to ensure a satisfactory form of development.

**3. External Materials – Prescriptive**

The materials to be used in the external surfaces of the development hereby approved shall be in accordance with the approved plans and Application Form, including:

--100 Seater Grandstand:- (mid or dark) green external colour (roof, sides and rear).

--‘Portaloo’ toilet block:- “Goosewing Grey BS10A05” external colour.

REASON: In the interest of the character and appearance of the development and its surroundings and to accord with Harborough Local Plan Policies GD8 and GI2.

### **Recommended Informative Notes:**

**1. Secure Covered Cycle Parking Facilities**

The Applicant is encouraged to invest in secure covered cycle parking facilities as part of their measures to promote travel to the site by non-vehicular modes of transport.

**2. Building Regulations**

The Applicant is advised that this proposal may require separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. 01858 821090). As such, please be aware that complying with Building Regulations does not mean that the Planning Conditions attached to this Planning Permission have been addressed and vice versa.

## Committee Report

**Applicant:** Mr and Mrs Haines

**Application Ref:** 22/00833/CLU

**Location:** 4 Trefoil Close, Broughton Astley

**Proposal:** Certificate of Lawfulness of Proposed Development for the erection of a single storey rear extension

**Application Validated:** 05.04.2022

**Application Target date:** 31.05.2022

**Reason for Committee Consideration:** Applicant is employed by HDC

## Recommendation

The operations described in the First Schedule hereto, in respect of the land specified in the Second Schedule hereto and outlined on the Site Location Plan (Dated 05/04/2022), in the application for this Certificate would be lawful if begun at the time of the application within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

The information and plans provided [Existing and Proposed Floor Plans and Elevations (Dated 12/04/2022)] demonstrate that the proposed operations described in the application accord with The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Schedule 2, Part 1, Classes A and C. Therefore, the proposed operations are Permitted Development.

### **First Schedule**

The erection of a single storey rear extension

### **Second Schedule**

4 Trefoil Close  
Broughton Astley  
Leicestershire  
LE9 6YZ

## 1. Introduction (including Site & Surroundings)

- 1.1 The application relates to a two-storey detached dwelling. The property is located on Trefoil Close, a cul-de-sac to the south east of Broughton Astley.
- 1.2 The property is not Listed and does not lie within a Conservation Area [a Conservation Area falls under the definition of "*article 2(3) land*" in Schedule 1, Paragraph 1. of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)].

### 1.3 Uniform map extract:



## 2. Site History & Permitted Development Restrictions

- 04/00514/FUL - Erection of first floor side and single storey rear extensions – Approved 28.05.2004

### Permitted Development Restrictions

- 2.1 The Decision Notice for the above application has been checked to ascertain if there are any Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (abbreviated as GPDO), Schedule 2, Part 1 restrictions which affect the property (buildings or land). There are no GPDO restrictions pertaining to the proposed development.

## 3. The Application Submission

### a) Summary of Proposals

- 3.1 The applicants wish to ascertain from the Local Planning Authority whether the operations proposed benefit from deemed planning permission by virtue of the legislative provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

- 3.2 The GPDO is a Statutory Instrument (a form of legislation), applying in England, that grants planning permission for certain types of use or operational development (such use or operational development can be referred to as Permitted Development).
- 3.3 If the Local Planning Authority is provided with information satisfying them that the use or operations (e.g., building works) described in the application comply with said legalisation and would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect. In terms of the current application, the relevant certificate to be issued is a Certificate of Lawfulness of Proposed Development (CLoPD).
- 3.4 The proposed development is for a single storey rear extension and is assessed against Schedule 2, Part 1 of the GPDO.

#### **b) Documents submitted in support of the application**

##### **i) Plans**

The following plans accompany the application:

#### **c) Amended / Additional Plans / Drawings and Supporting Documents**

None

#### **d) Pre-application discussion**

None

### **4. Consultations and Representations**

- 4.1 As the application is for a Certificate of Lawfulness of Proposed Development, it is not necessary to carry out consultations with neighbouring properties, the parish council, or other parties.

### **5. Planning Policy Considerations**

- 5.1 The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) – Schedule 2, Part 1 *Development within the curtilage of a dwellinghouse*:
- *Class A – enlargement, improvement or other alteration of a dwellinghouse*

### **6. Officer Assessment**

- 6.1 The single storey rear extension with a lean-to roof and rooflights is assessed against Class A – *enlargement, improvement or other alteration of a dwellinghouse*.
- 6.2 GPDO legislation text is quoted in *italics*. Corresponding Officer comments are inserted in **bold** font.
- Permitted Development*
- A. The enlargement, improvement or other alteration of a dwellinghouse.*
- Development not permitted*

*A.1 Development is not permitted by Class A if—*

*(a) permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P, PA or Q of Part 3 of this Schedule (changes of use);*

**N/A.**

*(b) as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);*

**The proposed extension would comply.**

*(c) the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;*

**The proposed extension would comply.**

*(d) the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;*

**The proposed extension would comply.**

*(e) the enlarged part of the dwellinghouse would extend beyond a wall which—*

*(i) forms the principal elevation of the original dwellinghouse; or*

**N/A.**

*(ii) fronts a highway and forms a side elevation of the original dwellinghouse;*

**N/A.**

*(f) subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and—*

*(i) extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or*

**The proposal extends 4m and would comply.**

*(ii) exceed 4 metres in height;*

**The proposed extension is 3.3m in maximum height and would comply.**

*(g) for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and—*

**N/A.**

- (i) *extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or*
  - (ii) *exceed 4 metres in height;*
- (h) *the enlarged part of the dwellinghouse would have more than a single storey and—*  
**N/A.**
- (i) *extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or*
  - (ii) *be within 7 metres of any boundary of the curtilage of the dwellinghouse being enlarged which is opposite the rear wall of that dwellinghouse;*
- (i) *the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;*  
**The proposed extension is within 2 metres of the boundary. The proposed eaves height (flat roof maximum height) is 3m and would comply.**
- (j) *the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—*  
**N/A.**
- (i) *exceed 4 metres in height,*
  - (ii) *have more than a single storey, or*
  - (iii) *have a width greater than half the width of the original dwellinghouse;*
- (ja) *any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (e) to (j);*  
**The original dwellinghouse has been previously enlarged, however the proposed extension replaces this, and the proposed extension would not exceed the limits set out in sub-paragraphs (e) to (i). The proposed extension would therefore comply.**
- (k) *it would consist of or include—*  
**N/A.**
- (i) *the construction or provision of a verandah, balcony or raised platform,*
  - (ii) *the installation, alteration or replacement of a microwave antenna,*

(iii) *the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or*

(iv) *an alteration to any part of the roof of the dwellinghouse; or*

(l) *the dwellinghouse is built under Part 20 of this Schedule (construction of new dwellinghouses).*

**N/A.**

*A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if—*

**N/A.**

(a) *it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;*

(b) *the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or*

(c) *the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.*

(d) *any total enlargement (being the enlarged part together with any existing enlargement of the original dwellinghouse to which it will be joined) exceeds or would exceed the limits set out in sub-paragraphs (b) and (c).*

*Conditions*

*A.3 Development is permitted by Class A subject to the following conditions—*

(a) *the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;*

**The plans indicate that the materials used would match the existing dwelling. It is recommended that a Condition is included on the Decision Letter to advise the applicant of this requirement.**

(b) *any upper-floor window located in a wall or roof slope forming a side elevation of the dwellinghouse must be—*

**N/A.**

- (i) *obscure-glazed, and*
  - (ii) *non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed; and*
  - (c) *where the enlarged part of the dwellinghouse has more than a single storey, or forms an upper storey on an existing enlargement of the original dwellinghouse, the roof pitch of the enlarged part must, so far as practicable, be the same as the roof pitch of the original dwellinghouse.*
- N/A.**

#### *Conditions*

*A.4—(1) The following conditions apply to development permitted by Class A which exceeds the limits in paragraph A.1(f) but is allowed by paragraph A.1(g).*

+ etc. paragraphs

**N/A.**

### **6.3 Summary**

The proposed extension complies with Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

## **7. Conclusion**

- 7.1 The proposed operations comply with the relevant Classes and Conditions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 7.2 The proposed operations thus benefit from deemed Planning Permission; the operations represent Permitted Development and do not require an application for Planning Permission.
- 7.3 A Certificate of Lawfulness of Proposed Development should be issued.

## **Decision Letter Conditions and Notes**

- 8.1 The applicants' attention is drawn to the Condition set out under Schedule 2, Part 1, Class A, A.3 (a) of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), which states that:

*The materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse.*

- 8.2 This Certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).
- 8.3 This Certificate confirms that the operations described in the First Schedule in respect of the land specified in the Second Schedule are lawful if begun at the time of the application within the meaning of Section 192 of the Town and Country Planning Act 1990 (as amended) and, thus, not liable to enforcement action under Part 7 of the 1990 Act on that date.
- 8.4 The lawfulness of the operations for which this Certificate is in force under Section 192 of the Town and Country Planning Act 1990 (as amended) shall be conclusively presumed unless there is a material change, before the operations are begun, in any of the matters relevant to determining such lawfulness.
- 8.5 The applicants are advised that the proposal requires separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Building Control Section, Harborough District Council (Tel. 01858 821 090).
- 8.6 If the plans involve the carrying out of building work along or close to the boundary, the applicants are advised that under the Party Wall etc Act 1996 they have a duty to give notice to the adjoining owner/s of their intentions before commencing work.

## Planning Committee Report

**Applicant:** Mrs S Modha

**Application Ref:** 22/00795/FUL

**Location:** Firs Farm, Main Street, Illston On The Hill

**Proposal:** Demolition of existing outbuildings and erection of a two storey side extension for residential accommodation including an annex and garaging with a single storey link to the main dwelling

**Application Validated:** 30.03.2022

**Target Date:** 25.05.2022

**Consultation Expiry Date:** 28.04.2022

**Site Visit Date:** 12.05.2022

**Reason for Committee decision:** Applicant is a Councillor at Harborough District Council

### **RECOMMENDATION: REFUSE**

By virtue of its siting, scale and design, the proposal fails to respect local character and respect the wider local environment, thus failing to respect and enhance local character, integrate into the existing built form and thus causing harm to the character and appearance of the Conservation Area. There are no public benefits identified which outweigh this harm. The proposal is therefore contrary to policies GD3, GD8 and HC1 of the Harborough District Local Plan.

## 1. Site and Surroundings

- 1.1 The application site is a large detached residential dwelling which has previously been extended, within the village of Illston on the Hill. The site benefits from a large residential curtilage that also includes an area of paddock land to the rear and side of the residential curtilage as well. The village has no defined limits and therefore is classified as being in the open countryside, but within a conservation area. The site backs on to open countryside and there are significant drops in the land level beyond the site boundary. The property itself is set back from Main Street and is flanked by the St Michaels and All Angels church, which is a listed building; the Fox and Goose Pub and the rear residential garden of The Knoll. On the southern side of Main Street are Western House and Church Close Cottage. The front boundary of the site consists of an established 2.5m (approx.) high hedgerow. Public Right of Way C3 is adjacent to the north corner of the site.





Rear elevation of outbuilding



Relationship of outbuilding with host dwelling and the Fox and Goose Pub



View of front elevation of host dwelling



View of host dwelling/outbuilding from rear boundary of the site



Relationship with the Fox and Goose Pub



View towards the site from the front of the Fox and Goose Pub



View from access point 1



View from access point 2



View from St Michael and All Angels Church



View from Public Right of Way



View from New Road

## 2. Site History

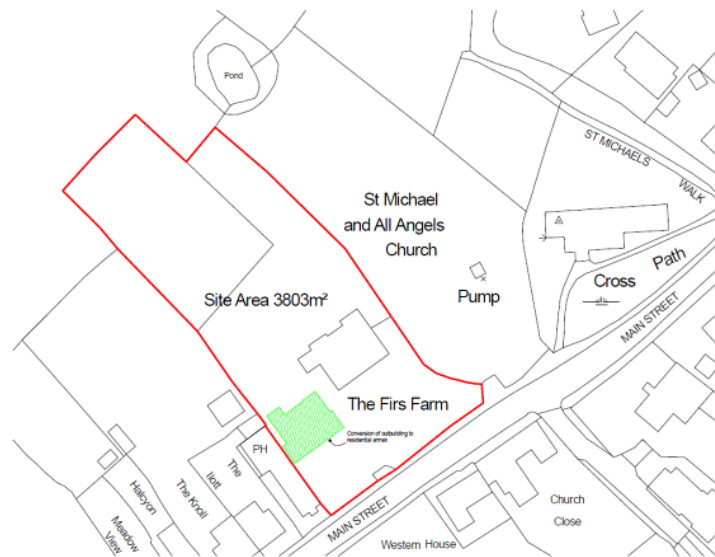
2.1 Firs Farm has the following planning history (all approved):

- 75/00005/3M -Extension to house to form two additional bedrooms and bathroom and bay window in lounge
- 92/02249/3P - Extension to kitchen first floor extension to form new bedroom and erection of garage /store/tack room building
- 97/00192/3P -Erection of two storey extension
- 98/01014/FUL - Change of use of grazing land into residential curtilage to form garden area
- 99/00691/FUL -Erection of single storey extension
- 08/01052/FUL – Creation of a menage
- 09/00846/FUL - Erection of two storey front, rear and side extensions
- 10/00075/PCD - Discharge of conditions 2, 6 and 7 and partial discharge of condition 5 (parts b, c and d only) of 09/00846/FUL)
- 20/01546/FUL - Conversion of outbuilding to residential annex
- 21/01353/FUL - Erection of a detached garage

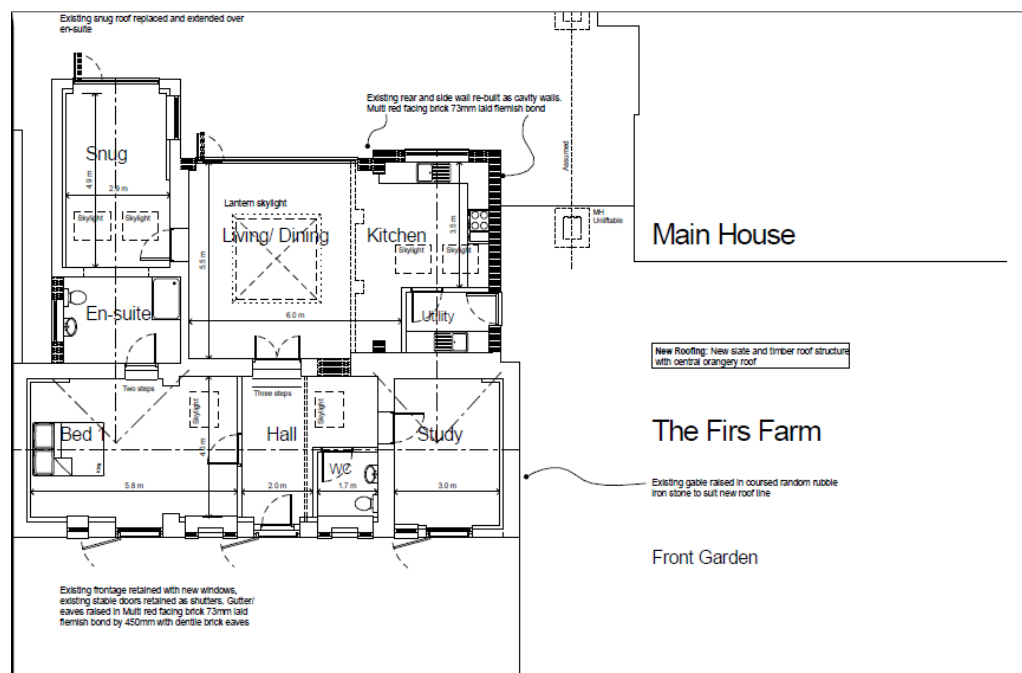
2.2 The site has the benefit of two extant approvals which could be implemented.

- 20/01546/FUL (expires 09.12.2023)

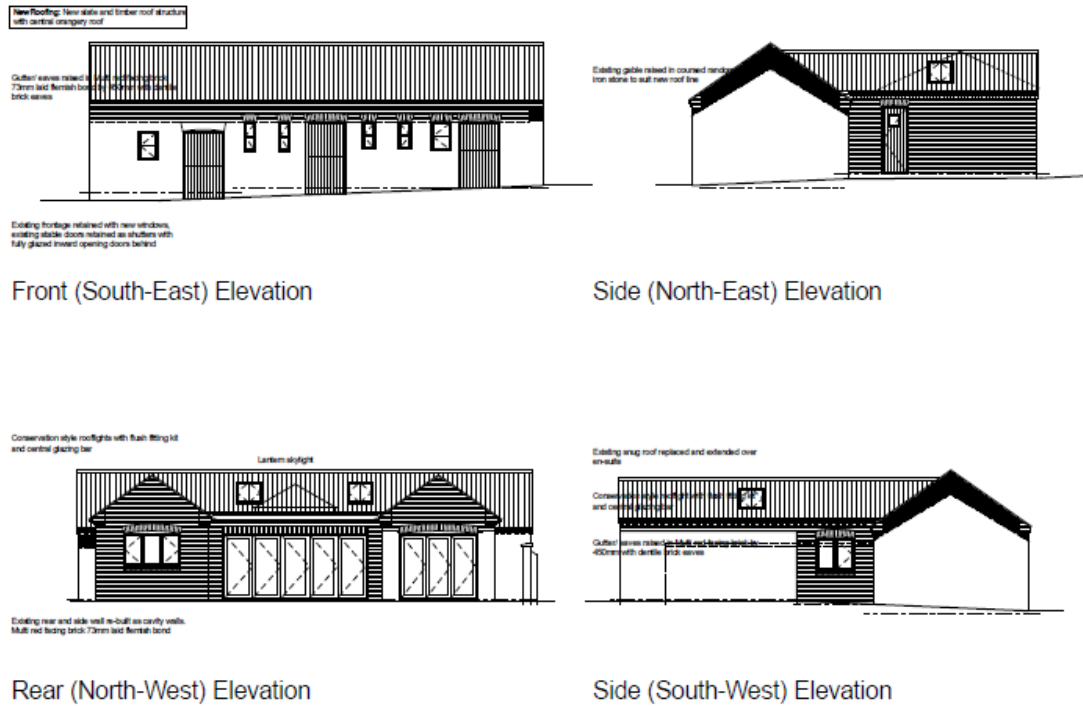
2.3 The first extant approval is to convert and extend the existing outbuilding into a residential annex:



**Block Plan**



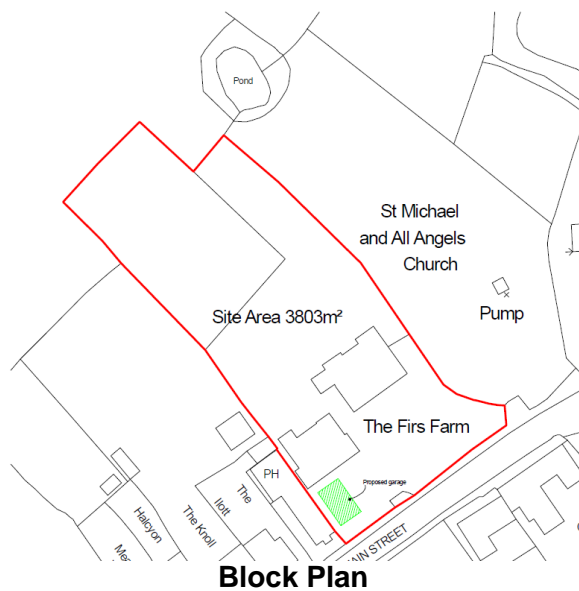
**Approved Floor Plan**

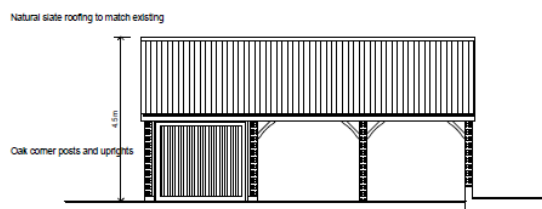


### Approved Elevations

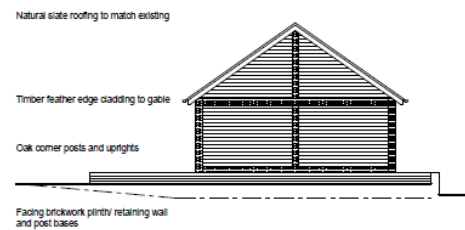
21/01353/FUL (Expires 08.09.2021)

2.4 The second extant consent is for a detached garage:

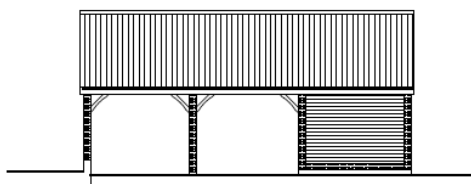




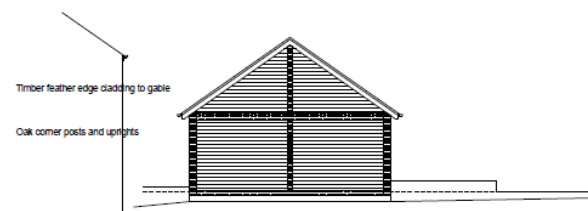
Front (North-East) Elevation



Side (North-West) Elevation



Rear (South-West) Elevation



Side (South-East) Elevation

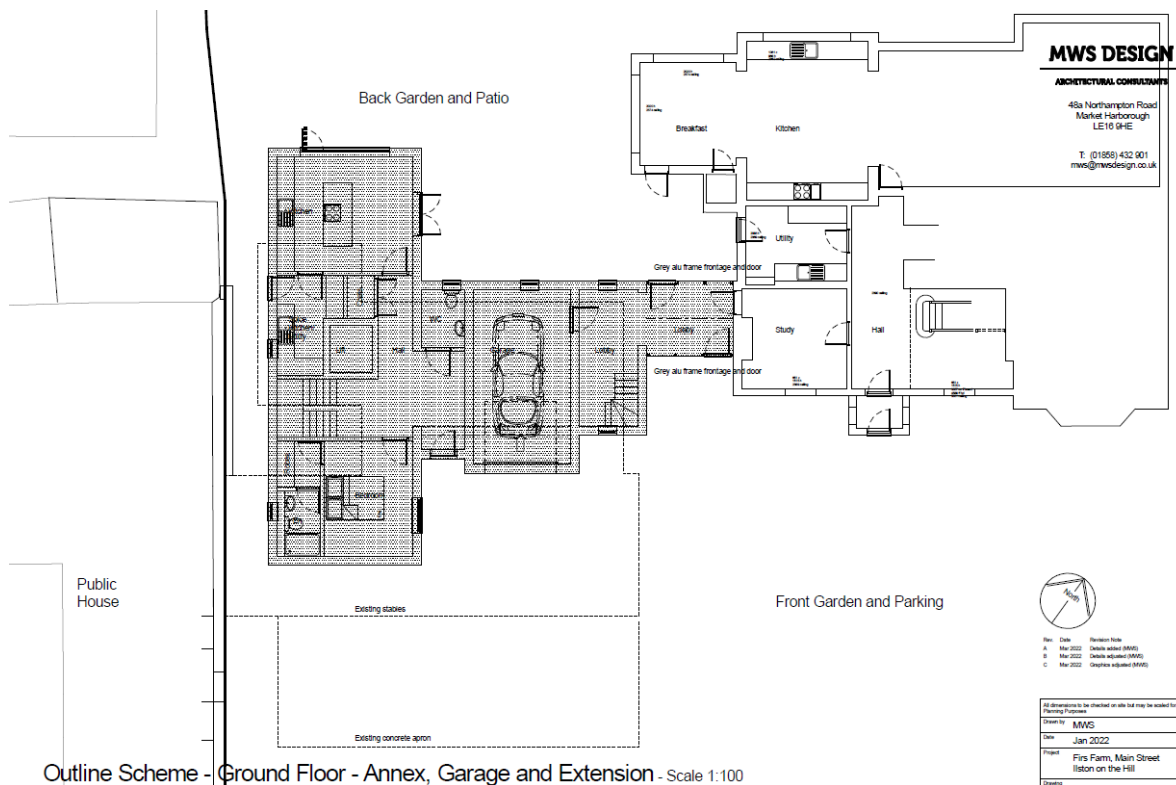
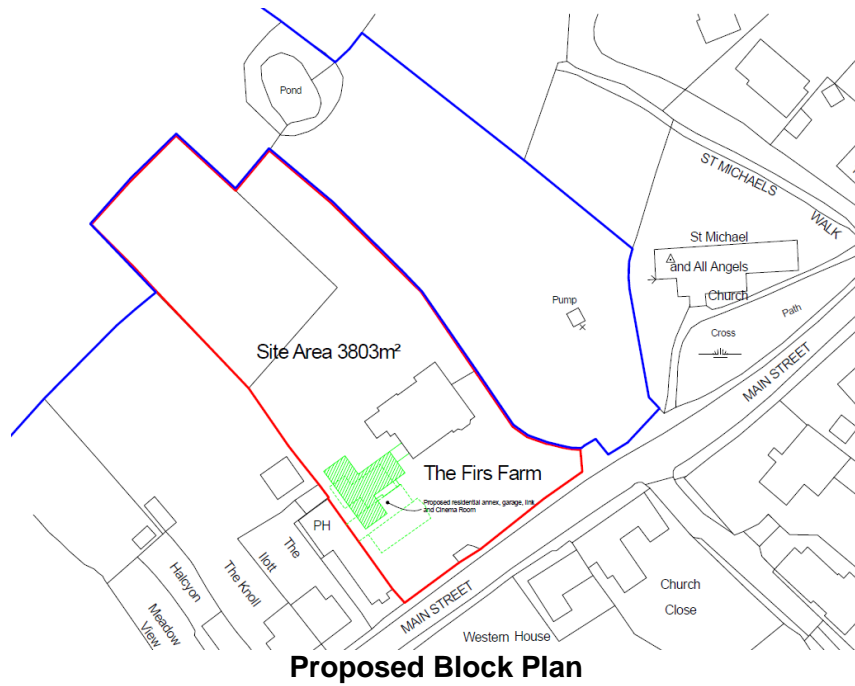
### Approved Elevations

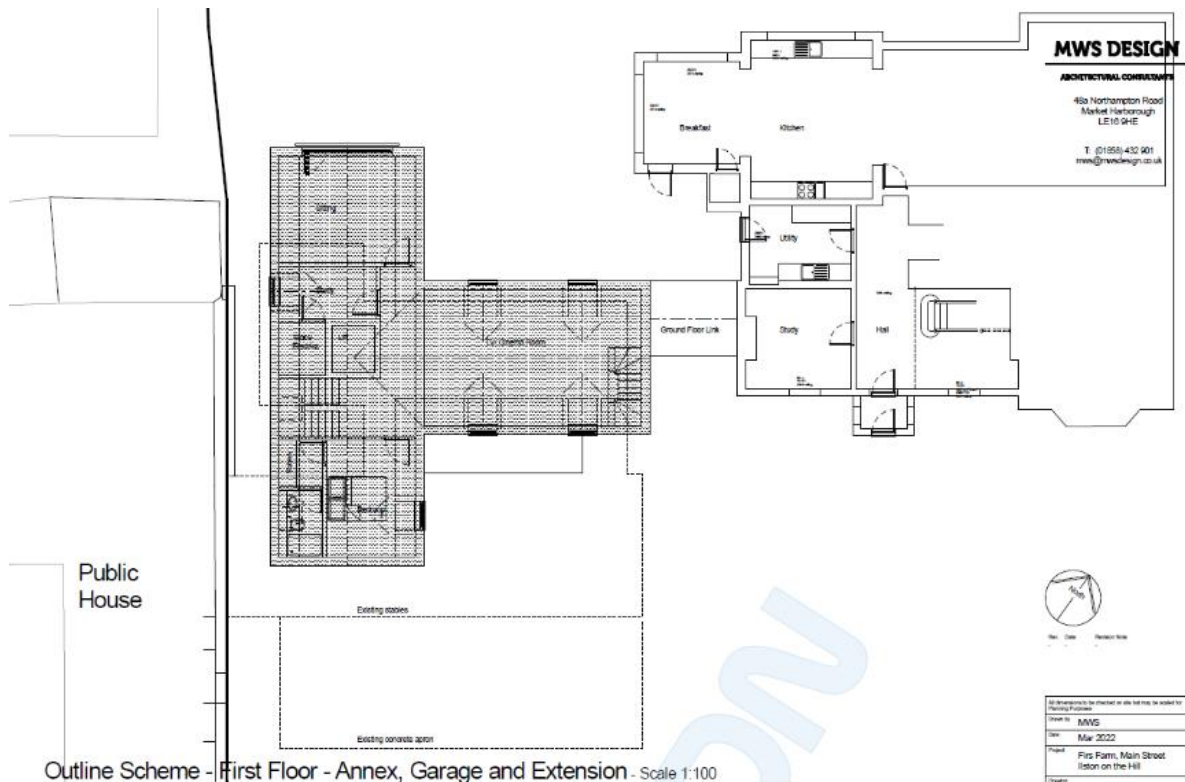
#### *Pre-application Discussions*

- 2.5 No pre-application advice has been given to the current proposal, however, historic pre-application discussions (July 2019) with the Applicant have taken place with the current case officer. Pre-application advice was sought on the demolition of the existing outbuilding to create an annex for the Applicant's parents to reside. The Applicant was advised the principle of demolishing the outbuilding and replacing it with a subservient building to be used as an annex would be acceptable in principle. However, the proposal as designed, was for a link-detached dwelling with a link to the host dwelling. The Applicant was advised this could not be considered as an annex and was advised the new building should be more traditional in design, reduced in height/scale and set back further from the road/pub frontage. It was suggested a conversion of the existing outbuilding with a rear extension would be more appropriate – which led to an application being submitted and being approved (Ref:20/01546/FUL).

### 3. Proposal

- 3.1 The proposal (following demolition of the outbuilding) is for a two storey side extension for residential accommodation including an annex and garaging with a single storey link to the main dwelling.





3.2 The accommodation comprises 2 bedrooms with en-suite bathrooms (one at ground floor and one at first floor); a kitchen, utility, WC; single garage and a lobby at ground floor and a sitting, study and TV Cinema room at first floor. The accommodation also includes an internal lift and a ground floor link connecting the new building into the host dwelling.





## 4. Consultations and Representations

### Neighbours

4 properties consulted (Fox and Goose Pub; Church Close Cottage; Western House and the Knoll) – No comments received.

### Parish Council/Meeting

Ilston Parish Council has a number of comments regarding this planning and rejects the proposal on the following:

1. The plans for a two story building are not sympathetic in our conservation village, as it will tower over the quaint 18th century village pub and cottages, as the land rises.
2. The plans suggest that this will be an individual property in its own right in the future.
3. The plans include a garage but the property already has planning permission for 3 separate garages so we question the need for this.
4. The Right to Light has recently obstructed by a new fence and planting of trees directly in front of the pub window, on the right of way and blocks out all light. Everards wish to re-instate the right of way and clearance of trees.
5. A two story building will directly effect the light to the pub. Right to light Act 1959
6. Major concerns are raised for construction access as the Fox and Goose does not have deep foundations and therefore will weaken the pub building. Other concerns over drainage and run off which is already and existing issue.
7. The Fox and Goose pub, which dates back to the 18th Century, has a 1 metre right of way adjacent to the neighbouring property. This is for general maintenance to access drains, windows and walls. The plans have drawn a door, windows and a canopy directly onto this access.
8. No planning application notice has been displayed at the property

### Case Officer Response:

1. Right to Light Act – This is a civil matter and is separate from the daylight and sunlight considerations considered by the LPA as part of the planning process.

2. Construction concerns – The building will be provided with foundations appropriate for the location, with due regard for the nearby building. If any damage is caused to the pub as a result of the development again this will be a civil matter.
3. Private Right of Way - Like with the Right to Light, this is a civil matter. The plans indicate the building will be approx. 0.8m from the pub building which will allow for maintenance if needed.
4. Site Notice – As can be seen form the photo below, a Site Notice was placed on the 21.04.2022



**Copy of Site Notice – posted 21.04.2022**

### County Ecology

1<sup>st</sup> Response – Requested a bat survey

NB: The Case Officer queried the need for such a survey given the Ecologist accepted the results of the previous bat survey which identified no bats or evidence of such within the outbuilding and that it also had low potential for roosting bats.

2<sup>nd</sup> Response (04.05.2022) - Following clarification from the Case Officer that the existing dwelling was not being demolished. Request for a bat survey was withdrawn.

### **5. Planning Policy Considerations**

- The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

#### *Government Documents:*

- National Planning Policy Framework
- National Planning Policy Guidance

#### *Harborough Local Plan 2011 to 2031 (Development Plan):*

- GD3- Development in the countryside
- GD5- Landscape

- GD8- Good design in development
- HC1 Built heritage
- IN2 Sustainable transport

Other:

- LCC Highway Authority Standing Advice
- Illston on the Hill Conservation Area Statement
- Development Management SPD

## 6. Assessment

### Principle of Development

- 6.1 It is proposed to seeks permission to demolish the existing outbuildings and erect a two storey side extension for residential accommodation including an annex and garaging with a single storey link to the main dwelling.
- 6.2 Illston on the Hill is a sub-Selected Rural Village in HDC's hierarchy of settlements. with poor locational sustainability credentials . It lacks shops, services and employment opportunities, and public transport and cycling links are poor. Residents are all more spatially distant from healthcare and other key services and are more reliant on private motor travel.
- 6.3 As such Policy GD3 (Development in the Countryside) is relevant. Policy GD3(h) permits development for *"minor extensions to existing dwellings and to other buildings that are subordinate in scale and appearance to the existing dwelling"*.
- 6.4 The remaining sections of this report will explore whether the development complies with GD3h; together with Policy GD8 which permits development where it achieves a high standard of design and Policy HC1 which permits development where is protects, conserves or enhances heritage assets and their settings.

### Design

- 6.5 The extension will be positioned 1.8m back from the front elevation of the outbuilding to be demolished and 13.3m back behind the frontage of the pub and 1.4m from the side elevation of the pub. The two storey side extension is 'T' shaped and will be connected to the existing dwelling via a 3m x 2.6m single storey glazed link. The elevation of the two storey extension facing towards the side elevation of the pub will be 14.4m long and 5.3m wide, with the middle section measuring 7.7m by 5.3m (at first floor, slightly deeper at ground floor (6.7m) to provide space for the integral garage.
- 6.6 The height of the dwelling varies between 6.7m (front gable) to 6.4m (rear gable) due to the slight difference in ground levels. The extension will be 0.8m lower than the main ridge of the existing dwelling and approx. 0.8m higher than the main ridge of the pub.
- 6.7 A blank gable end will front Main Street, together with a front door and garage door and two dormer windows. A large expanse of glazing is proposed at both ground and first floor on the gable end facing the rear garden, together with two dormer windows and three windows at ground floor. The side elevation facing the existing dwelling will contain a dormer window and two ground floor windows. The side elevation facing the pub will contain a dormer window, two rooflights; a door and two windows.

- 6.8 The plans indicate the roof materials (slate) and wall materials (facing brick) will match the existing dwelling.
- 6.9 In Officers opinion the 'extension' is not '*minor*' or '*subordinate in scale and appearance to the existing dwelling*'. The extension will increase the existing floor area of the dwelling by nearly 60% and will be sited 5.3m forward of the existing dwelling. The proposal does not therefore satisfy Policy GD3. Furthermore, based on the appearance of the 'extension' it is more appropriate to describe the proposal as a link-detached dwelling with a temporary (and easily reversible) link to the current dwelling. This 'dwelling' has separate vehicular and pedestrian access to Main Street as well as its own parking area. If the proposal was assessed as a dwelling, it would also not satisfy Policy GD4.
- 6.10 Whilst it is acknowledged the extant approval for an annex contained accommodation such as a bedroom, en-suite, separate w.c. kitchen, living/dining area, a study and a snug, such that the occupiers of the annex would not be reliant on any facilities from the host dwelling, the annex approved was not considered to be of an unreasonable scale and one which clearly had an ancillary appearance to the existing dwelling and one where the use of the building as an annex could be sustainably controlled by way of condition. That would not be the case here.
- 6.11 Whether the building is considered to be a dwelling or an extension, in Officers opinion the proposal does not achieve a high standard of design nor does it respect or enhance local character and distinctiveness within which it is situated. As already mentioned the extension is not '*minor*' or '*subordinate*' in scale and appearance and with the exception of matching materials does not reflect the existing design of the existing dwelling with a 'T' shaped footprint; sited 5.3m further forward than the front elevation of the existing dwelling, different fenestration to the main dwelling, introduction of dormer windows (which are also not reflective of the wider streetscene – although hipped dormers are noted on 3 older properties); integral garage and canopy overhang which you expect to see within modern housing estate; non conservation roof lights and a featureless gable end, fronting Main Street. The proposal does not satisfy Policy GD8.

### **Impact on the Character of the Area and Heritage Assets**

- 6.12 Due to topography, views of the existing dwelling and to a lesser extent the existing outbuilding are possible from the rural roads leading from Gaulby and Kings Norton and wider surrounding countryside, including from public rights of way. Views into the site are also possible from Main Street, although limited to some degree due to the established front boundary hedgerow. Views are also possible from the village church, a listed building.
- 6.13 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 *requires decision makers to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*"
- 6.14 Section 72(1) of same Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
- 6.15 Given the distance from the Church combined with the intervening host dwelling and adjacent paddock in between, it is judged the proposal, despite concerns being raised with its scale and design will preserve the setting of the Church.

- 6.16 However, the same cannot be said with the Conservation Area. In Officers opinion the poorly designed and incongruous extension would not preserve or enhance the character and appearance of the Conservation Area. The proposal fails to satisfy Policy HC1.

### **Impact on Neighbouring Amenity**

- 6.17 The building is located in between the host dwelling and the pub and a small part of the extended garden area of The Knoll a residential property.
- 6.18 It might be possible to view at an oblique angle over the extended garden area of The Knoll, but as this view is not over the 'immediate' and more private garden area of The Knoll, which is located directly to the rear elevation of the property (see photo below) it is judged the residential amenity of the The Knoll would be safeguarded.



Rear garden of The Knoll (Rightmove.co.uk)

- 6.19 It is noted the side elevation of the public house contains two low level windows. Both windows are already obscured by the fencing and conifers to this part of the boundary appear to largely obscured internally by the public house by shelving and bottles for bar storage. Officers have no evidence before it that that proposal if approved will directly affect the business of the Fox and Goose Public House.
- 6.20 Due to the set back of the proposal from Main Street, no harm to residential amenity has been identified to the properties opposite, namely Church Close and Western House.

### **Highway Matters**

- 6.21 The proposal would not affect the existing off street parking provision and would not harm highway safety.

### **Other Matters**

- 6.22 Although no supporting statement has been submitted with the application, Officers are aware from previous discussions with the Applicant, that accommodation has been

sought that would allow for elderly parents to live close by so they can provide home care & care by relatives when the time arrives which is acknowledged can bring benefits in terms of quality to life and well as reduced dependence on state care.

- 6.23 However, it is not clear why these needs could not be met given the extant consent for an annex and/or via the existing dwelling. Irrespective, these needs are relatively transient and are not considered to outweigh the permanent harm which would result from the proposal as identified above.

### **Summary - Sustainable Development**

- 6.24 At the heart of the National Planning Policy Framework (the Framework) is the presumption in favour of sustainable development, which consists of three dimensions.
- 6.25 In regard to the economic dimension, some small benefits would be accrued in the construction works required to facilitate the extensions and improvements, while the social dimension would be through the provision of additional living accommodation. Notwithstanding this, the proposals would cause harm to the character and appearance of both the host dwelling and the Conservation Area, this environmental harm is significant and as such when taking the three dimensions together, the development would not constitute sustainable development.
- 6.26 Less than substantial harm has been identified to the character and appearance of the Conservation Area. Great weight is attached to this harm. In accordance with Paragraph 196 of the Framework, less than substantial harm should be weighed against the public benefits of the proposal.
- 6.27 No public benefits can be identified which would outweigh the harm identified to the Conservation Area.
- 6.28 In conclusion, the proposal is contrary to Policies GD3, GD8 and HC1 of the Harborough Local Plan which amongst other matters, expect development to be subordinate in scale and appearance to the existing dwelling, enhance the local character and distinctiveness of the settlement concerned and reflect the special characteristics of the Conservation Area.
- 6.29 For the reasons given, the application is recommended for **REFUSAL**.