

## Planning Committee Report

**Applicant:** Ms K Basra

**Application Ref:** 22/00847/FUL

**Location:** London Road, Great Glen

**Parish/Ward:** Great Glen/Glen

**Proposal:** Extensions and alterations to the existing buildings to be used as one dwelling house (No. 28), including the erection of a single storey front extension, the erection of a single storey side extension and the erection of a detached garage. Erection of a replacement dwelling (No 28a)

**Application Validated:** 06.04.2022

**Target Date:** 01.06.2022 – EOT Agreed

**Overall Consultation Expiry Date:** 21.10.2022

**Committee Decision:** Conflict with Neighbourhood Plan

**Parish / Ward:** Great Glen

## Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report and subject to the appended Planning Conditions (Appendix A) and confirmation from County Ecology that the Biodiversity Net Gain calculation is acceptable.

### 1. Site & Surroundings

- 1.1 The application site (hereafter referred to as 'the site') comprises of an existing two storey residential property which was divided into two dwellings (in 1964) known as The Laurels 28/28A London Road, to the west of the village centre of Great Glen.
- 1.2 Number 28 is a two storey cottage and forms the northern part of the building. It is a modestly sized two bedroom building of brick construction.



**No.28 London Road**

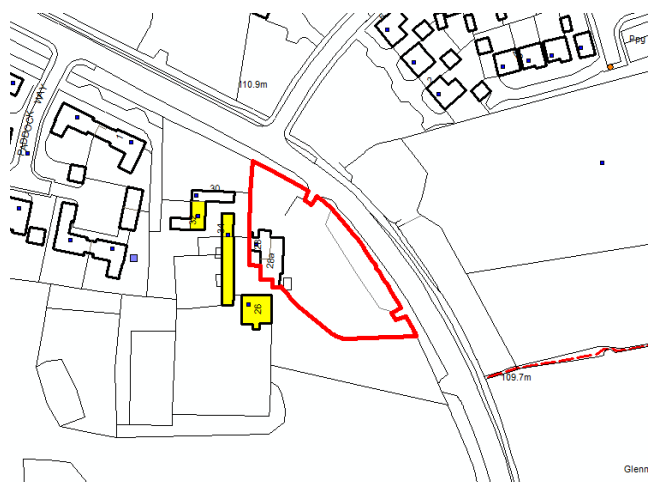
- 1.3 Number 28A London Road forms a larger two storey Georgian style brick and slate building.



**No.28A London Road (eastern front elevation and northern side elevations)**

- 1.4 The site is currently served by two vehicular access points from London Road.
- 1.5 The property is located along the western boundary with the listed property The Sycamores, 26 London Road (Grade II listing 1061600) to the south of the application site. The former outbuildings to No.26 which have since been converted into separate residential units (No.32 and 34 London Road) are according to Council records curtilage listed.
- 1.6 The boundary of the site with London Road, until recently had a screen of mature trees; the site has since been cleared of trees and is now visible from London Road.

- 1.7 The topographical survey indicates that the site sits within a natural hollow. The land falls approximately 1400mm from the highway rising up to 2000mm above the base of the hollow on the southern western boundary.



**Site Location Plan (Uniform)**  
(Red line = site; Yellow = Listed Building (inc. curtilage); Red dash = Public Right of Way – C23)



**Aerial Photo's - Uniform 2012 and Google 2022**



**Aerial Image of the Site and in relation to new housing estates to the north and west (St Cuthbert's View and St Cuthbert's Park) and the centre of the village**



## Site Photo's



Corporate Architecture Photos (February 2021)





**Case Officer Photos 21.04.2022**



**Access Point 1 (Google; November 2022)**



**Access Point 2 (Google; November 2022)**

## **2. Site History**

2.1 The site has the following relevant planning history

**PREAPP/21/00064** – Proposed demolition of 2 dwellings and replace with three dwellings



**PREAPP Proposed Site Plan**



## 2.2 The pre-application response advised:

- Site lies outside settlement limits as defined in Neighbourhood Plan
- Potential impact to the setting of the adjacent listed building (No.26 London Road)
- Concerns over layout and scale of dwellings proposed

## 21/00706/BPN

2.3 As the pre-application enquiry proposed to redevelop the site including the demolition of the existing dwellings an assessment had to be made as to whether there was merit in seeking to retain these buildings.

2.4 Exterior site visits were made, and it became apparent that No.28 London Road was of some historic interest from its age and architectural quality as well as its potential association with the listed property adjacent (No. 26). Notwithstanding later alterations, it was considered the building may meet the criteria for formal listing. A report was prepared and presented to Planning Committee as an Exempt Item on 13<sup>th</sup> April 2021 where it was agreed to serve a Building Preservation Notice and a formal listing application submitted to Historic England.

2.5 Historic England advised HDC on 1<sup>st</sup> September 2021 not to add 28 and 28a London Road, Great Glen to the List of Buildings of Special Architectural or Historic Interest for the following reasons:

28 and 28a London Road is a well-proportioned house of the early C19 with a symmetrical façade typical of the late Georgian period. It is notable for its handsome door and doorcase, and roof covering of the local Swithland slate finely laid in diminishing courses. Internally, the small entrance hall appears to retain some joinery of the early C19, including display niches and six-panelled doors in reeded doorcases leading to the reception rooms. The rear north wing incorporates the remains of a much older outbuilding with a roughly chamfered bridging beam and joists which probably historically belonged to the adjacent former farmhouse. 28 and 28a London Road thus has claims to a degree of architectural and historic interest.

Balanced against this, however, is the level of alteration that the house has undergone and the impact this has had on its architectural integrity. On the principal frontage, the replacement of the wooden canopy over the doorcase with one made of uPVC, and the substitution of the window sills and lintels with reconstituted stone or concrete are unfortunate interventions which mar the key architectural features of the façade. The C20 windows on both gable ends are out of keeping with the late Georgian style and, together with the rebuilding and extension of the north wing in the 1960s, severely detracts from the aesthetic quality of the house. Furthermore, apart from the joinery in the hall and the window shutters in the reception rooms, there are no other features of historic interest remaining in the interior of the house which has been thoroughly modernised throughout the preceding decades.

Overall, whilst 28 and 28a London Road has some architectural and historic interest as a typical late Georgian house, it has been too altered to meet the criteria for listing. It is therefore recommended that the Building Preservation Notice is not upheld.

## 3. The Application Submission

### a) Summary of Proposals

- 3.1 The proposal seeks consent to refurbish and extend 28/28A into one dwelling and replace 28A with a single storey dwelling to the south.
- 3.2 Following feedback from the Case Officer, the plans were amended, and it is these plans which are to be assessed and are illustrated below:



**Proposed (amended) Site Plan**



**Proposed (amended) Elevations - extensions**





3.3 In addition to the amended plans; additional information was submitted as requested by the Case Officer and consultees and included:

- A cross-section
- Soft landscape proposals
- Heritage statement

3.4 A response has also been provided by the Applicant in relation to the Third Party commissioned Highway Letter by a Roberts Highway Consultants and Heritage Letter by Heritage Archaeology

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

4.1 Consultations with technical consultees and the local community were carried out on the application. A Site Notice was posted on 21.04.2022 and the application was advertised in the Leicester Mercury on 21.04.2022.



**Site Notice Posted 21.04.2022**

4.2 A summary of the technical consultee responses which have been received are set out below. If you wish to view comments in full, please request sight or go to [www.harborough.gov.uk/planning](http://www.harborough.gov.uk/planning)

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

##### **Leicestershire County Council, Local Highway Authority (LHA)**

The Local Highway Authority refers the Local Planning Authority to current standing advice provided by the Local Highway Authority dated September 2011. The proposals seek permission for extensions and alterations to an existing building (No. 28/28A) to create one dwelling (No. 28) and for the erection of replacement dwelling (No. 28A). Therefore the development proposal does not represent an intensification. However, consideration should be given to access width, surfacing, parking and turning provision.

##### **LHA Response to Third Party commissioned Highway Letter dated 08.11.2022**

Having reviewed the document the LHA make the following comments. Roberts Highway Consults believe the access to the north on the site should be considered as a new access, and as such the Applicant should provide access details in order for the LHA to consider it against Leicestershire Highway Design Guide (LHDG) standards. However, given there is a



dropped kerb vehicular crossover in situ at the location, dashed road markings to the front along the carriageway edge and no likely intensification of use given the proposals, the LHA consider this to be an existing situation. If the proposals were likely to lead to an intensification of use of the access, access details are likely to have been requested to assess its suitability. However, as pointed out within the previous observations provided to the LPA, the LHA do not consider given the proposals this would be the case and are not required in this instance. Give the above the LHA refer the LPA to their previous comments.

## **Leicestershire County Council Ecology**

### *Initial comments*

Bat survey requested, together with a biodiversity net gain calculation.

### *Follow-up comments*

The Preliminary Bat Roost Assessment Report found that the main building had high potential for bats given the number of holes and crevices in the roof and brickwork. It was also not possible to check all of the loft void for evidence of use by bats. The recommendation for 3 further activity surveys by RammSanderson are in keeping with all best practice guidance. However, because the loft void is being retained, there is some scope for flexibility, since replacement roosting features can be incorporated into the building without altering the submitted plans. This would be through a Condition requiring the findings of these further surveys to be submitted for approval, with either a mitigation scheme or precautionary method of working strategy, if necessary, before any works affecting either the roof, loft void or external brick work commenced. There is still the potential for other works at the property to potentially impact bats, so it's not ideal, but I will take the view that internal works could take place anyway regardless of planning permission.

I have also reviewed the Biodiversity Net Gain calculations. I am not satisfied with the calculations, as they do not consider the site clearance that has already occurred to facilitate the development. As per the CIEEM guidelines, the BNG User Guide and the Environment Act, assessments should be made on pre-degradation habitats.

Case Officer Note – A revised Biodiversity Net Gain calculation has been submitted and County Ecology have been re-consulted. Members will be updated on this matter via the Supplementary Planning Paper.

## **Leicestershire County Council Archaeology**

We would recommend that a condition is attached for a level 2 historic building survey is undertaken. Regarding the development of the new building, it is within an area of low archaeological potential and therefore advise that the new building warrants no further archaeological action.

### **HDC Environmental Services (Contaminated Land Officer)**

No comment regarding land contamination

## **Great Glen Parish Council**

The Parish Council object to this application on the grounds that the plot is outside the settlement boundary of Great Glen as stated within policy GG2 of the Neighbourhood Plan. Consideration may be given for a redevelopment within the footprint of the current house.

Currently the proposal is too prominent and extends beyond the front of the existing build form, therefore does not comply with policy GG3c respecting the shape and form of Great Glen, and also GG3f unacceptable loss of amenity for neighbouring occupiers, and also the impact on the Listed Building at 26 London Road. This building is important to the Parish because it contributes to our history. This designation, whilst giving it statutory protection beyond the Neighbourhood Plan, does highlight it, ensuring that all interested parties are aware of its local importance and merit. Policy GG7 references.

Although the site has access to the road there are no sightlines drawn on this dangerous bend in the road (where a fatal road traffic accident has recently occurred).

The Parish Council do not believe that the execution of this application will have a positive impact on this area of the village. Policy GG3b an outward extension of a built-up area.

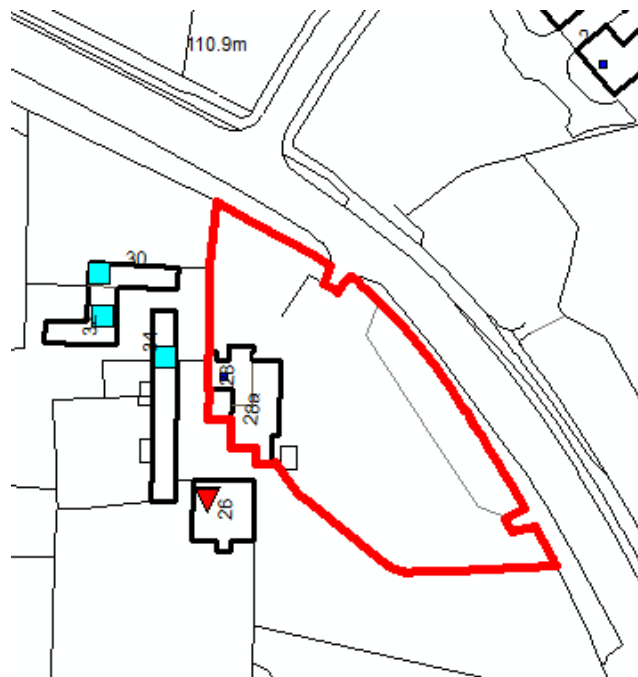
Although a designated conservation area does not exist the Neighbourhood Plan highlights the needs and importance of such a designation which would give the power of special control in matters of new development, demolition of existing buildings and protection of trees, which the Council note has already been violated.

#### *Amended Plans*

The PC have previously objected to this application and all comments made then still apply.

#### **b) Local Community**

The following properties were directly consulted on the application:



**Neighbour consultation (blue square – consulted; red triangle – objection)**

2 letters of objection from 26 London Road have been received; raising the following concerns:



1. Impact upon the setting of No.26 a Grade II listed building
2. Do not believe the heritage aspect has been adequately addressed within the planning documentation
3. The ripping out of mature trees prior to the submission of the planning application has adversely affected the setting of our listed home and the character and heritage of the village of Great Glen.
4. The garden has flooded since the removal of the trees
5. I also have concerns about the access points to 28 and 28a as submitted on the layout plans. This is a dangerous bend with limited visibility
6. Can the applicant demonstrate suitable visibility splays?
7. The proposed design of the detached property is out of keeping with the character of the area as are the proposed extensions to No.28.

In addition, No.26 commissioned a highway report and heritage letter to support their objection. These documents were submitted in November 2022.

## **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 (hereafter referred to as the 'DP') (this is the statutory presumption), unless material considerations indicate otherwise.

### **a) Development Plan**

- 5.2 Section 38(3) (b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.
- 5.3 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019
  - Made Neighbourhood Plans.
- 5.4 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land. The other material considerations to be taken into account in considering the merits of these applications include the National Planning Policy Framework and the National Planning Policy Guidance, together with responses from consultees and representations received from all other interested parties in relation to material planning matters.
- *Harborough Local Plan*
- 5.5 The Local Plan (hereafter referred to as the 'HLP') was adopted on April 30<sup>th</sup> 2019 and covers the period from 2011 to 2031. HLP policies relevant to this application are:
- GD1
  - GD2

- GD5
- GD8
- H1
- HC1
- G15
- IN2

5.6 Following a referendum in the village in November 2017, Harborough District Council proceeded to make the Great Glen Neighbourhood Plan (GGNP) on 27th November 2017. Since then, the Local Plan has been adopted and the NPPF updated so a decision was made to formally review the Neighbourhood Plan. The Review was adopted on 5 February 2020 (following referendum on 23 January 2020). The Neighbourhood Plan forms part of the Development Plan and carries full weight. The following policies are relevant in the consideration of this application:

- Policy GG1: Residential site allocation
- Policy GG2: Settlement boundary
- Policy GG6: Design Quality
- Policy GG21: Residential Parking

*Note - Policy GG7: Local heritage assets of historical and architectural interest (site is adjacent to "Surviving line of the 1725 London to Manchester Turnpike (London Road – but the proposals do not directly affect this).*

## **b) Statutory Duties and Material Planning Considerations**

- *Planning (Listed Buildings and Conservation Areas) Act 1990*
- 5.7 Sections 66 & 72 imposes a duty on Local Planning Authorities to pay special regard/attention to Listed Buildings/assets and Conservation Areas, including setting, when considering whether to grant planning permission for development. For Listed Buildings/assets, the Local Planning Authority shall "*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*" (Section 66) and for Conservation Areas "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*" (Section 72).
- *Public Sector Equality Duty*
- 5.8 Section 149 of the Public Sector Equality Act 2010, introduced a public sector equality duty that public bodies must, in the exercise of their functions, have due regard to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- *The National Planning Policy Framework*
- 5.9 The National Planning Policy Framework (hereafter referred to as 'The Framework') was most recently published in July 2021. The overarching policy objective of the Framework is the presumption in favour of sustainable development. It identifies three



dimensions to sustainable development: economic, social and environmental (paragraph 8). These are mutually dependent and in order to achieve sustainable development economic, environmental and social gains should be sought jointly and simultaneously through the planning system. The presumption in favour of sustainable development is at the heart of the Framework.

- 5.10 The Framework indicates that where development accords with an up to date DP it should be approved. The weight to be accorded to development plans depends on whether they are up to date. The ability of the Local Planning Authority (hereafter referred to as the 'LPA') to demonstrate a 5 year housing land supply is relevant to this issue and this is discussed in more detail below.
- 5.11 Paragraph 111 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
- 5.12 Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural and local environment
- 5.13 Paragraph 179-182 address the protection and enhancement of the natural and local environment and advises LPAs when determining planning "to conserve and enhance biodiversity".
- 5.14 Paragraph 197 in determining applications, LPA's should take account of:
  - the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - the desirability of new development making a positive contribution to local character and distinctiveness
- 5.15 Paragraph 199 advises that great weight should be given to the asset's conservation when considering the impact of a proposed development on the significance of a designated heritage asset. The more important the designated asset, the greater the weight should be. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 5.16 Paragraph 200 states any harm to the significance of a designated heritage asset, including from development within its setting, should require clear and convincing justification.
  - *Planning Practice Guidance*
- 5.17 The Planning Practice Guidance (hereafter referred to as the PPG) complements The Framework.
  - *National Design Guide*
- 5.18 This guide (published in October 2019) illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice.
  - *Circular 11/95 Annex A - Use of Conditions in Planning Permission*
- 5.19 Although publication of the PPG cancelled Circular 11/95, Appendix A on model conditions has been retained. These conditions are not exhaustive and do not cover every situation where a condition may be imposed. Their applicability will need to be

considered in each case against the tests in paragraph 206 of the Framework and the guidance on the use of planning conditions in the PPG.

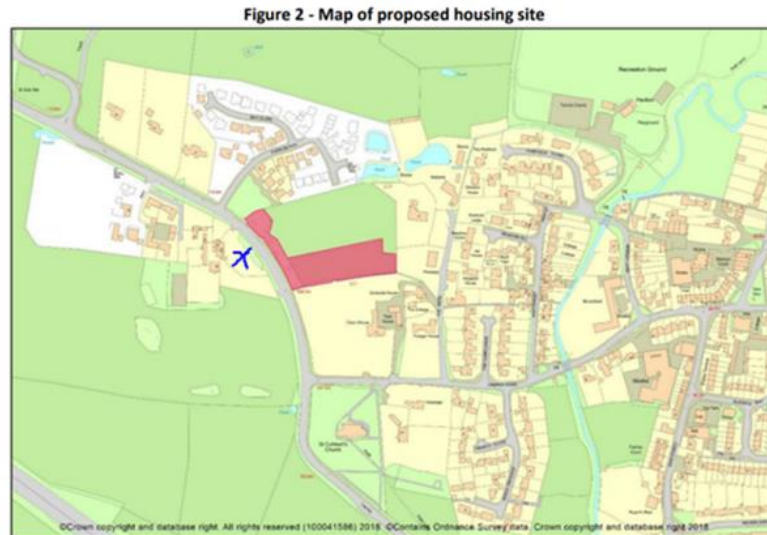
- *Leicestershire County Council Highways Design Guide*
- 5.20 The Leicestershire Highway Design Guide deals with highways and transportation infrastructure for new developments
  - *Housing Land Supply Statement*
- 5.21 Due to the fact that The Council now has a Local Plan, it now produces annual (rather than bi-annual) monitoring reports on the level of housing supply within the District. These reports include a five year housing land supply calculation and a housing trajectory for the remainder of the DP period. The latest report covers the period from 1<sup>st</sup> April 2022 to 31<sup>st</sup> March 2027 and demonstrates a housing supply of 7.43 years.
- *Rural Centres Landscape Character Assessment and Landscape Capacity Study (July 2014; The Landscape Partnership)*
- 5.22 This Assessment included an identification of Landscape Character Areas across the District. The detail of the report is considered further within this report.
  - *Development Management Supplementary Planning Document (Dec 2021)*
- 5.23 This Supplementary Planning Document (SPD) provides additional guidance to assist with the interpretation and implementation of Harborough Local Plan Policies
- *Great Glen Village Design Statement (September 2005)*
- 5.24 Great Glen Parish Council produced a Village Design Statement aimed at safeguarding for future generations the distinctive character and rich heritage of the village and surrounding area and providing a guide to development to ensure that it is sympathetic and would enhance the existing the existing environment.
- Environment Act 2021
- 5.25 Under the Environment Act 2021, all planning permissions granted in England (with a few exemptions) will have to deliver at least 10% biodiversity net gain from an as yet unconfirmed date, expected to be in November 2023. BNG will be measured using Defra's biodiversity metric and habitats will need to be secured for at least 30 years.

## 6. Assessment

### Principle

- 6.1 Policy SS1 of the HLP sets out the spatial strategy for Harborough District to 2031. The strategy is to manage planned growth in accordance with a settlement hierarchy. Great Glen is designated a Rural Centre within the hierarchy as it has a good range of services including the following: Co-Op; GP surgery; Library; Post office; Primary school; 2 x Public house (two) and is on a Bus Route.

- 6.2 HLP Policy GD2b permits development which adjoins the existing (or committed) built up area of Rural Centres, such as Great Glen. As is illustrated on the map below; the site is judged to adjoin both the existing and committed built up area, given existing development to the north-west and north-east of the site and directly opposite the site to the east, the GGNP Review allocates “land north of Glen House” for residential development.

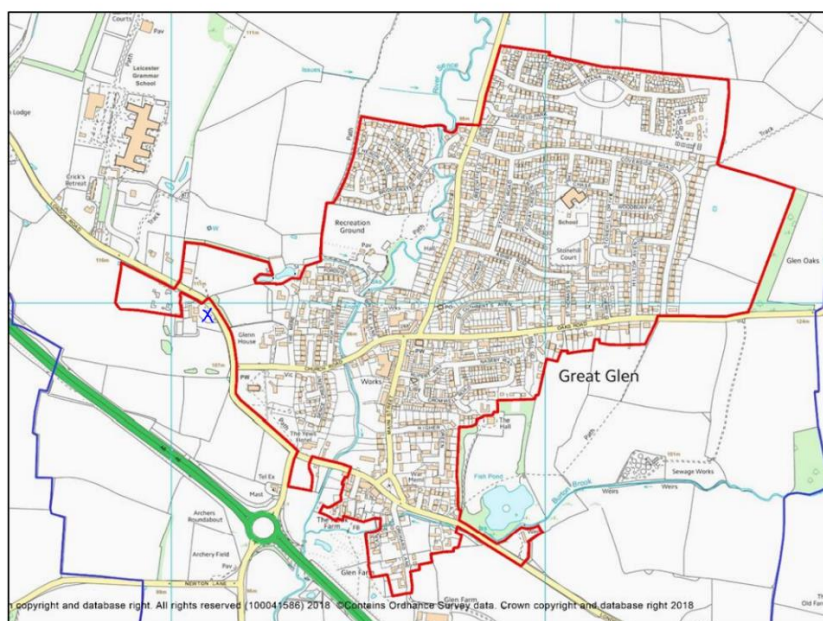


**Proximity of site (blue cross) to residential development allocation (red highlight) in GGNP Review**

- 6.3 As the site is considered to adjoin the built up area, it is also judged to be physically and visually connected to the settlement and as will be expanded on further within this report respects the form and character of the existing settlement and landscape (HLP GD2be). The site is also within reasonable walking and cycling distance of a number of services in Great Glen and is judged therefore to be locationally sustainable. It should also be noted that the site forms part of Land parcels 1 and 2 as identified within the 2014 Landscape Character Assessment which assessed these parcels as being of medium capacity to accommodate development in landscape terms.
- 6.4 If Members take a different view from Officers that the site is not adjoining, then Officers would refer Members to HLP policies GD3h which permits “*minor extensions to existing dwellings and to other buildings that are subordinate in scale and appearance to the existing building*”; and GD4f which permits “*the rebuilding or replacement of an existing dwelling providing that the resultant dwelling preserves or enhances the character and appearance of the countryside. In Officers opinion, the development does satisfy both HLP Policies GD2, GD3 and GD4.*”
- 6.5 However, there is a conflict between the HLP which permits residential development and GGNP which does not (as the site is outside the settlement boundary) as illustrated on the map below.



Figure 3 - Settlement Boundary



**Map showing site (blue cross) outside the settlement boundary (red outline) as identified within the GGNP Review**

- 6.6 It is necessary therefore to assess whether the development would represent sustainable development if permitted and as will be seen from the remaining part of this report, the development is judged to represent sustainable development and as such the principle of development are in Officers opinion acceptable in this location.

#### **Design, Visual Amenity and Landscape**

- 6.7 Section 12 of the NPPF refers to achieving well designed places, specifically; paragraph 126 states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 130, amongst other things states that developments should be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.8 Policy GD2 requires that developments are physically and visually connected to and respect the form and character of the existing settlement and landscape. Furthermore, developments should retain as far as possible existing natural boundaries within and around the site, particularly trees, hedges and watercourses. Policy GD5 of the HLP requires developments to be located and designed in such a way that it is sensitive to its landscape setting and landscape character area and will be permitted where it respects and where possible enhances local landscape, the landscape setting and settlement distinctiveness. Policy GD8 requires development to achieve a high standard of design which is inspired by, respects and enhances local character and distinctiveness. Where appropriate development can be individual and innovative yet sympathetic to local vernacular. Development should respect the context and characteristics of the individual site, street scene and wider local environment to ensure that it is integrated as far as possible into the existing built form. Furthermore, development should protect existing landscape features, wildlife habitats and natural assets.

- 6.9 Policy GG6 of the GGNP Review requires development proposals to be of a high quality design, layout and use of materials

*28 London Road – refurbishment and extensions*

- 6.10 The existing buildings are in a very poor state of repair in need of refurbishment and visual improvement – they are visually unattractive due to poor alterations in the past - all the windows and doors are now uPVC; the original roof has been covered in concrete tiles from the 1960s, except for part of it which retains the Swithland slate; and only two original chimney pots remain. There are also a series of ugly and visual incongruous additions. Internally, the interior only retains two wooden window frames with shutters from 1920 and window lights to the front door.
- 6.11 The existing buildings will be converted into a single property, using the original two storey elements. The single storey extensions to the front of number 28 will be removed. A new single storey extension is proposed on the front of number 28, whilst a modest single storey extension is proposed to the side of number 28A, with the existing garage removed. A new detached garage is then proposed to the north of the property.
- 6.12 The proposed extension to the north of number 28 has been set back from the main façade retaining the visual hierarchy of the existing house and will be connected by a glazed link and form a new lobby area/entrance into the property. The original door into number 28A will also be retained. A single storey T-shaped extension is proposed to create a new family room. This will be constructed from brick, with a slate roof. Brick and stone lintels are proposed along with raking brick detail on the end gables.
- 6.13 The small southern extension is designed to provide a structure set off the main house, with a new doorway/corridor as a connection. This will provide a new study. This will partially sit over the detached garage to be demolished. It will be finished in brick and slate, with Georgian style windows and stone headers to match the existing building (no. 28A).
- 6.14 The revised floor layout returns the large ground floor rooms within the house to their former proportions. The oversized windows within the northern gable are to be reduced to be more in keeping with the period of the building

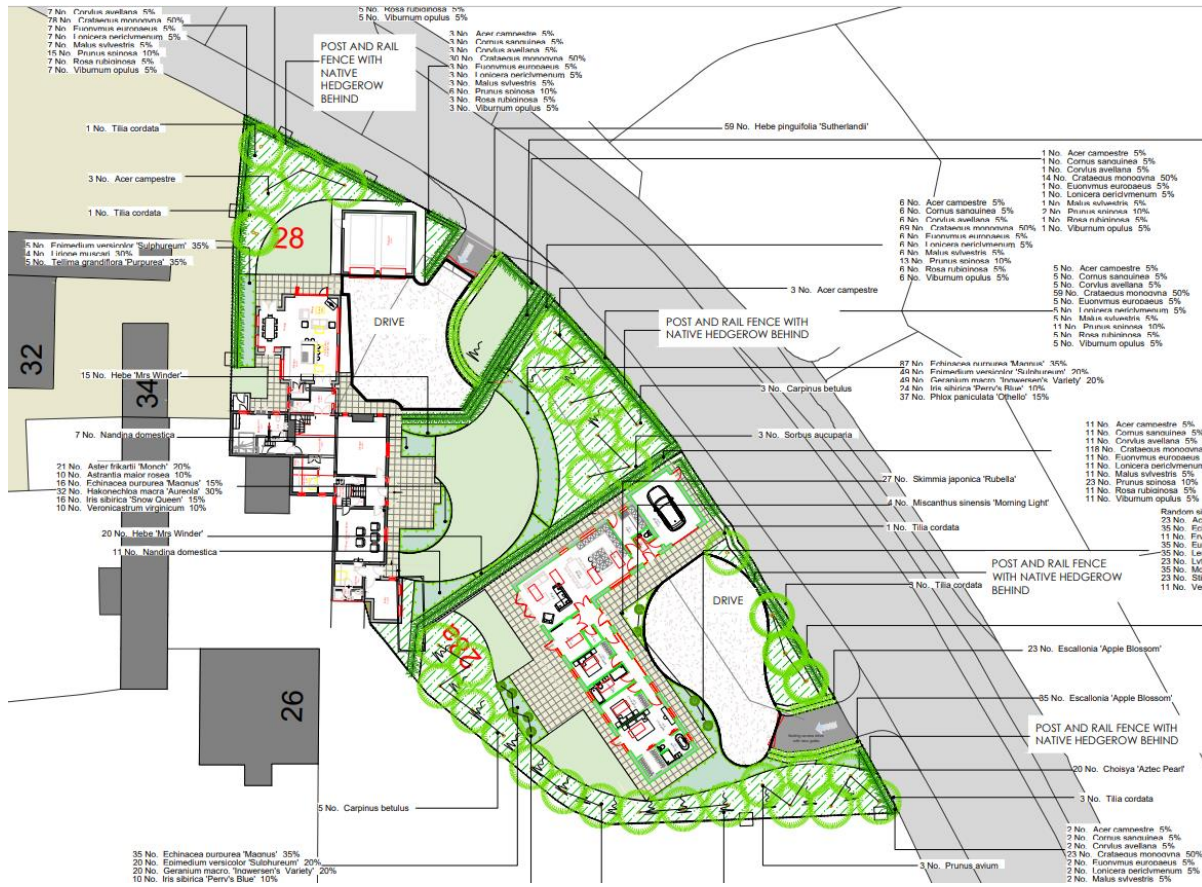
*28A London Road – replacement dwelling*

- 6.15 The replacement for 28A London Road will be sited the south-east of the existing buildings on a lower ground level than the existing main house. The replacement dwelling has been designed to have a simpler more ancillary appearance to the main house. The dwelling will be single storey, 'L' shaped and provide 3 bedrooms.
- 6.16 The extension and the replacement dwelling will utilise a rich palette of local materials found within Great Glen including brick, timber and slate. Whilst also, in places, introducing a metal standing seam roof

*Landscaping*

- 6.17 As previously mentioned the site did have an established mature tree cover; which has recently been cleared, exposing the site to the wider street scene. To try and replace some of this lost tree cover; the Applicant has submitted a detailed soft landscape scheme; which over the medium to longer term will provide some green cover to the site.

It is also proposed to remove the unsightly 2m high close boarded fence adjacent London Road and replace this with estate railings with native hedgerow behind.



## Soft Landscaping Proposals – Extract

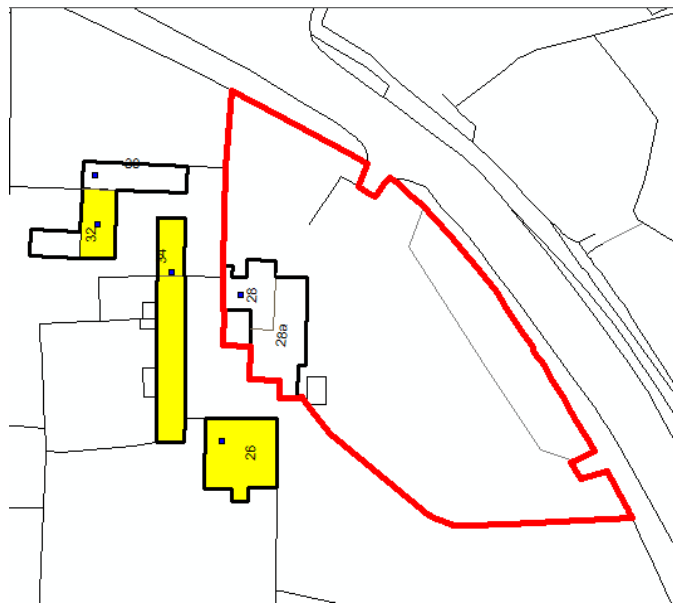
6.18 In summary, the proposed development will be sympathetic to its surroundings whilst enhancing the current appearance of the site.

## Heritage Assets

- 6.19 The Planning (Listed Buildings and Conservation Areas) Act, 1990 requires decision makers when determining application to have special regard to the desirability of preserving a listed building or its setting or of any features of special architectural or historic interest it possesses (section 66).
- 6.20 Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It emphasises that the weight given to an asset's conservation should be proportionate to its significance, and notes that this great weight should be given irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.21 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraph 202).



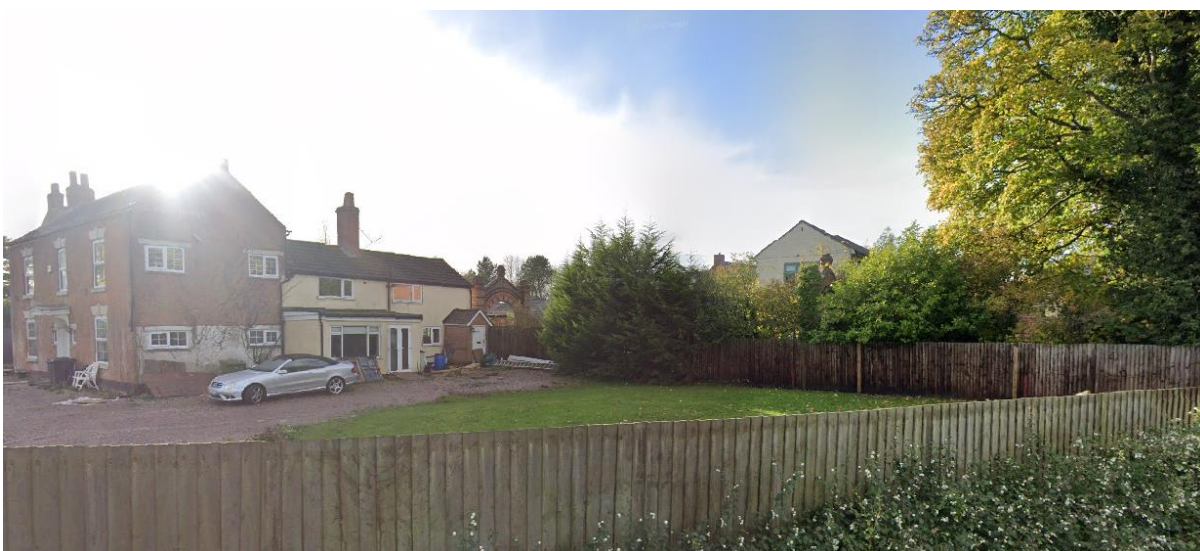
- 6.22 The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset (paragraph 203).
- 6.23 The PPG recognises that heritage assets may be affected by direct physical change but is also clear that what matters in assessing whether a proposal might cause harm is the impact on the significance of the heritage asset. The PPG also points out that it is the degree of harm, rather than the scale of development that is to be assessed.
- 6.24 Policy HC1 reflects the wording of the NPPF.
- 6.25 GGNP Review Policy GG7 says “*Development proposals that affect the buildings and structures of local historic or architectural, or their setting, will be expected to conserve their historic and architectural interest in those development proposals*”
- 6.26 The Laurels is not listed, but 28A is judged to be a non-designated heritage asset (in particular its front façade) as it has a “*degree of architectural and historic interest*” as noted by Historic England when considering whether to list the property.
- 6.27 Located to the immediate west of the application site, is The Sycamores, No.26 London Road, a Grade II building (listed January 1986). Its front elevation faces southwards, presenting the side elevation towards the application site, and London Road beyond. The Listed Building is set on higher land than the application site, and set further south enabling the side elevation to be visible of this three storey house (red brick and Welsh slate roof).



**Location of listed buildings to site relative to the application site**



**Relationship between The Laurels (front elevation) and The Sycamores, No.26 London Road (side gable and rear return) (Google; November 2022)**



**Relationship between The Laurels and The Sycamores curtilage structures/outbuildings, No.26 London Road (Google; November 2022)**

- 6.28 The proposed refurbishment of The Laurels, will rectify the numerous structural deficiencies which have been identified, along with re-instating some of the original appearance of this building. It will remove a modern flat roof garage sited adjacent to the front (eastern) façade of No.28A and replace the uncharacteristic windows on the northern façade. The unsympathetic alterations and extensions to No.28 will be removed and replaced with a well designed extension, which has been set back from the front façade of No.28A. Existing window arrangements will be rationalised and slate will be reinstated on the roof of No.28 removing the concrete tiles. The extension / garage due to their single storey nature, intervening boundary treatment / vegetation and separation distance will not cause any harm to the setting of the curtilage structures of No.26 The Sycamores. The alterations/extensions proposed are judged to be a positive enhancement of the property.
- 6.29 In terms of the proposed new dwelling, due to its scale (single storey) and design (appearance of a converted outbuilding); together with the separation distance from the listed building (between 18.5 and 31m) difference in ground levels, (approx. 2m lower)

and proposed landscaping it is judged the setting of the listed building will be overall be preserved.

- 6.30 A report commissioned by a third party objector from 'Heritage Archaeology' (November 2022) raised concerns in respect the heritage assessment undertaken by Aitchison Raffety (August 2022), for which a rebuttal has been provided. The Case Officer has considered the concerns raised but in light of the reasons given above does not consider the proposal will result in harm to the listed building.
- 6.31 It should be noted the Heritage Assessment also considers the impact upon Glenn House, Church Road (Non Designated Heritage Asset), Church of St Cuthbert, Church Road (Grade II\* Listed) and The Vicarage, Church Road (Grade II Listed). The Case Officer concurs with the conclusions made that due to intervening vegetation and separation distance (circa 120m and 200m respectively), the proposed scheme will result in no harm to these assets.
- 6.32 County Archaeology have advised that the new building warrants no further archaeological action as it lies within an of low archaeological potential, however have requested level 2 historic building survey is undertaken prior to the alterations/extensions proceeding. This can be secured by way of condition.

## Highways

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- 6.33 Policy GD8 of the HLP states that development will be permitted where it ensures safe access, adequate parking and safe, efficient and convenient movement for highways users. Policy IN2 states that development proposals should have regard to the transport policies of the Local Transport Authority and that development should provide safe access and parking arrangements and where possible protect or connect to existing pedestrian, cycle and equestrian routes. Policy GG21 of the GGNP Review requires at least two off-street car parking spaces should be provided within the curtilage for each new dwelling. Three spaces for four bedroom or larger.
- 6.34 There are currently two accesses into the site from London Road.
- 6.35 The Local Highway Authority (LHA) advised the LPA "the development proposal does not represent an intensification" and due this they raised no objections to the proposals. Following these comments, the LPA received a letter from 'Roberts Highway Consultants', commissioned by the adjacent neighbour, suggesting that although "the proposals on face value appear to utilise an existing access onto London Road, there has not been an existing vehicle access onto the highway in this location for over 13 years" and as such "the proposed access should be treated by the Local Highway Authority as a new access onto the highway and therefore, sufficient information should be provided as part of the planning application to fully assess the impact of the access upon the highway network"
- 6.36 In response to the letter, the LHA re-iterated their previous position that the access should be considered existing stating that *"given there is a dropped kerb vehicular crossover in situ at the location, dashed road markings to the front along the carriageway edge and no likely intensification of use given the proposals, the LHA consider this to be an existing situation."* On this basis the LHA re-iterated their previous position.
- 6.37 In summary, the proposed development will not have a n adverse impact o highway safety.



## Ecology

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- 6.38 Policy GI5 of the HLP states that developments will be permitted when there will be no adverse impact on the conservation of priority species, irreplaceable habitats, nationally designated or locally designated sites, unless in all cases, the need for, and benefits of, the development clearly outweigh the impacts. Developments should also contribute towards protecting and improving biodiversity through protecting and enhancing habitats and populations of priority species.
- 6.39 LCC Ecology initially commented that a bat survey and biodiversity net gain (BNG) report would be required. Following a discussion between the Applicant and Ecology a Preliminary Bat Roost Assessment was submitted. The report identified potential features suitable for roosting bats and suggested 2 further activity surveys. However, because the loft void is being retained, Ecology advised there is some scope for flexibility, since replacement roosting features can be incorporated into the building without altering the submitted plans. This would be through a Condition requiring the findings of these further surveys to be submitted for approval, with either a mitigation scheme or precautionary method of working strategy, if necessary, before any works affecting either the roof, loft void or external brick work commenced. Ecology noted that there is still the potential for other works at the property to potentially impact bats, but given that the internal works could take place anyway regardless of planning permission, was happy to suggest the above approach (i.e. condition).
- 6.40 In terms of BNG, Ecology advised the calculations were not satisfactory as they do not consider the site clearance that has already occurred to facilitate the development. Revised calculations have been submitted (December 2022) and Ecology have been re-consulted. Members will be updated on this matter via the Supplementary Paper.

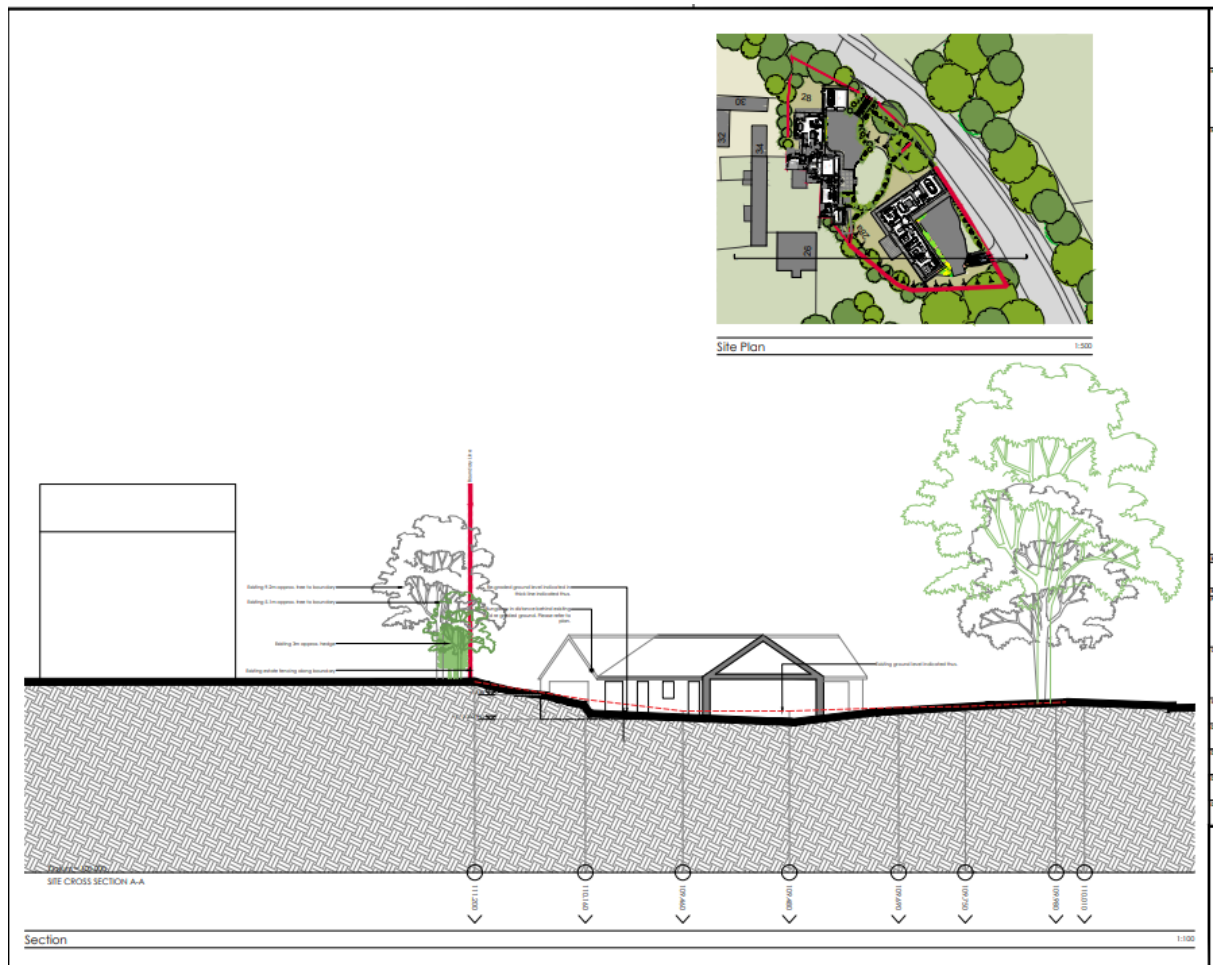
## Residential Amenity

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- 6.41 Policy GD8 of the HLP states that development should be designed to minimise impact on the amenity of existing and future residents through loss of privacy, overshadowing and overbearing impact. Nor should developments generate a level of activity, noise, vibration, pollution or unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions. HDC's Development Management Supplementary Planning Document (SPD) also contains guidance relating to neighbouring amenity standards, including separation distances, however, such standards are applied flexibly as noted in the guidance.
- 6.42 As is illustrated below; the proposed dwelling at its closest will be 18.5m (corner to corner); the majority of the dwelling will be more than 25m away and at its furthest over 31m away. Given the difference in ground levels, the single storey nature of the dwelling proposed; combined with existing and proposed landscaping; no significant harm can be identified to No.26 London Road.



Separation distance between the replacement dwelling and No.26 London Road



**Cross-section between the replacement dwelling and No.26 London Road**

- 6.43 In terms of the relationship between the existing dwelling and the replacement dwelling; the outlook for the existing dwelling will change from an extended garden area to built form; but as the replacement dwelling will be single storey, sited on a lower level to the existing dwelling and have appropriate landscaping in between; no significant harm can be identified to the existing dwelling.

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

- 7.1 The site is outside of the Settlement boundary of the GGNP Review and therefore conflicts with the policy. However, the site is judged to adjoin existing development to the north east and west and will eventually adjoin the committed built form directly opposite the site and as such is judged to comply with HLP Policy GD2b.
- 7.2 The existing dwelling is in a poor state of repair and has been unsympathetically extended in the past. The alterations and extensions proposed will result in a visual enhancement to the property, a non-designated heritage asset.
- 7.3 The single storey replacement dwelling has been designed sympathetically and will with appropriate landscaping be a positive addition to the surrounding area.
- 7.4 No adverse harm has been identified to the setting of The Sycamores, No.26 London Road; due to the design, scale and positioning of both the extensions and replacement dwelling. Furthermore no harm has been identified to the setting of the Church of St



Cuthbert (Grade II\*), The Vicarage (Grade II) or Glenn House (Non-Designated Heritage Asset).

- 7.5 Subject to appropriate conditions, the development will not result in a highway safety issue, and no harm will come to protected species (bats). Furthermore, no harm to adjacent residential amenity has been identified.
- 7.6 The proposal is therefore considered to represent sustainable development and accord with Development Plan as a whole, the NPPF and Act and planning permission should be granted, subject to the conditions listed below.

## **Appendix A- Conditions**

### **1. Full Planning Permission Commencement**

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. Approved Plans**

The development hereby permitted is in accordance with the approved plans:

- Proposed Section (5122-027P2)
- Proposed Site Plan (5122-020P3)
- Soft Landscape Proposals (2210-PL1-02 Rev A)
- Proposed Plan & Elevations No.28A – (5122/MD/20/026 P2)
- Proposed Elevations No.28 (5122/MD/20/023 P2)
- Proposed Floorplans No.28 (5122/MD/20/022 P0)
- Proposed Garage Plan & Elevations – No.28 (5122/MD/20/024 P0)

### **3. Materials to be submitted/approved**

Prior to construction of any external walls, details of all external materials 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, The Kibworth Villages' Neighbourhood Development Plan Policy H4 and the National Planning Policy Framework.

### **4. Landscaping plan implementation**

Prior to first occupation of the extension and dwelling hereby approved the boundary fence adjacent to London Road shall be replaced with a 1.5m high post and rail fence and thereafter retained in perpetuity. During the first available planting season, following 1<sup>st</sup> occupation of the extension and dwelling hereby approved the soft landscaping details shown of the approved landscape plan shall be implemented in full and thereafter maintained in perpetuity.

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, to protect drainage interests (promote sustainable drainage) and highway interests (prevent deleterious material and surface water entering the highway) having regard to Harborough Local Plan Policies GD2 and GD8.

#### **5. Construction Environmental Management Plan**

No development (including any site clearance/preparation works) shall be carried out until a Construction Environmental Management Plan has been submitted to the Local Planning Authority for approval in writing. Details shall provide the following, which shall be adhered to throughout the period of development:

- a) hours of construction work, site opening times, hours of deliveries and removal of materials;
- b) full details of any piling technique to be employed, if relevant;
- c) contact details for site manager, including how these details will be displayed on site.

REASON: To minimise detrimental effects to the neighbouring amenities and the amenities of the area in general, having regard to Harborough Local Plan Policy GD8 and the National Planning Policy Framework.

#### **6. Bat surveys / bat mitigation scheme**

No works impacting the roof, external walls or loft voids (including ceiling) of the existing main building (building 1 in the Preliminary Bat Roost Assessment report by RammSanderson Nov 22) shall take place until the findings of three bat activity surveys, and a bat mitigation scheme or precautionary method of working statement (if applicable), have been submitted to and approved in writing by the Local Planning Authority. This is also to detail whether or not a Natural England licence will be required, and show any mitigation/enhancement features on a plan. All works are to proceed strictly in accordance with the approved document.

#### **7. Level 1 Historic Building Survey**

No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been [submitted to and] approved by the local planning authority in writing. For the land and structures that are included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI

Reason: To ensure a satisfactory historic building survey and to record and advance understanding of the significance of the affected resource prior to its loss.

#### **8. PD Removal – replacement dwelling**

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

REASON: To safeguard the character and appearance of the area, the setting of adjacent heritage assets and the residential amenities of adjoining dwellings having regard to Harborough Local Plan Policy GD8 and HC1, and the National Planning Policy Framework.

#### **9. PD Removal – Gates, walls etc**

Notwithstanding the provisions of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending that Order with or without modification) no gates, fences, walls or other means of enclosure, other than those shown on the approved plans, shall be erected, anywhere within the site.

REASON: To safeguard the character and appearance of the area, the setting of adjacent heritage assets and the residential amenities of adjoining dwellings having regard to Harborough Local Plan Policy GD8 and HC1, and the National Planning Policy Framework.

#### **Informative - Building Regulations**

## Planning Committee Report

**Applicants:** Leisure Parks Luxury Living Ltd

**Application Ref:** 22/01395/CLU

**Location:** James Bond Caravan Park, Moorbarns Lane, Lutterworth, Leicestershire, LE17 4QJ

**Application:** Certificate of Lawfulness of proposed use or development for the use of the land as a mixed use residential caravan site and travelling showpersons site

**Application Validated:** 25/07/2022

**Application Target Date:** 19/09/2022 (extension of time agreed)

**Consultation Expiry Date:** 24/08/2022

**Reason for Committee Decision:** Call in by Cllr Geraldine Robinson in order to (1) ensure an open and transparent process to accommodate community concerns (2) public interest.

**Parish / Ward:** Lutterworth/Lutterworth West

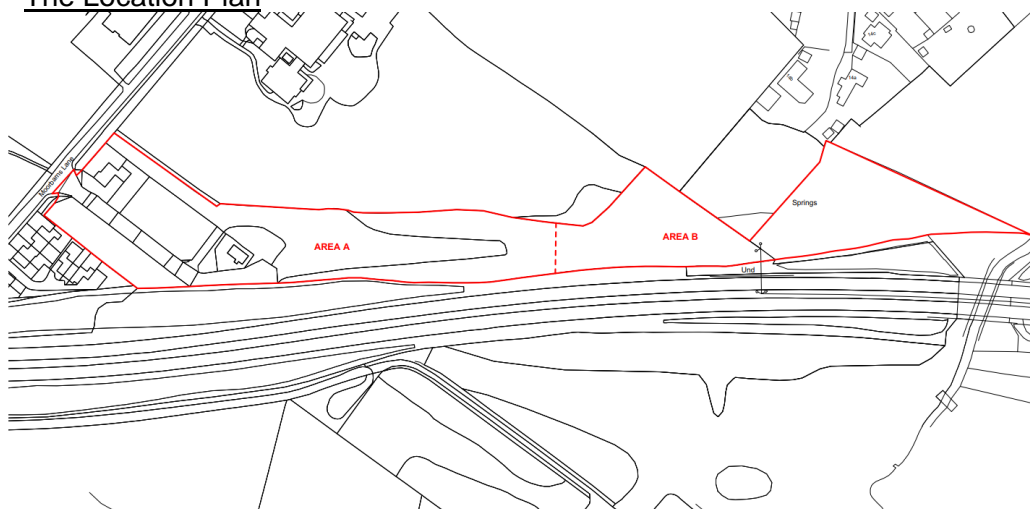
### Recommendation

A Certificate of Lawfulness is **APPROVED** for the reasons set out in the report.

#### 1. Site & Surroundings

- 1.1 The application site is located to the north of the A4303 on the southern edge of Lutterworth. It is elevated above the road which runs in a cutting alongside the applications site. Access to the site is from Moorbarns Lane which is a no through road to the south of the A4303. There is no direct access to the site from the A4303. John Wycliffe Primary School is located to the northeast with Lutterworth High School opposite to the north.

##### The Location Plan





## 2. The Application Submission

- 2.1 The applicants have applied for a Lawful Development Certificate for Proposed Use or Development (CLOPUD) under Section 192 of the Town and Country Planning Act 1990 ('the 1990 Act') for use of land as a mixed use residential caravan site and travelling showpersons site.

In support of the application the applicants have submitted the following evidence and documentation:

1. Applicants supporting statement;
  2. A site location plan, with a red line denoting an area of land that they seek a certificate for (plan reference 1713-0003-01);
  3. Planning history schedule for the application site;
  4. Planning history schedule.
  5. Appeal Decision White Horse Park Homes, Weymouth (APP/F1230/X/18/3206065);
  6. Appeal Decision Kings Copse, Garsington (APP/Q3115/X/18/3199426).
- 2.2 The applicants are seeking to establish that the area identified as Area A on the location plan which was confirmed as having a mixed use for a residential caravan site and travelling Showpersons site (Lawful Development Certificate reference 19/01990/CLU issued on the 15.05.2020), applies to the entire application site, i.e. includes Area B, as annotated on the location plan, and therefore lawful under section 192 of the Act. In summary the CLOPUD application seeks to establish in principle that the entire area bounded by the red line can all be used as a "**mixed use** residential caravan site and travelling showpersons site" and that neither is ancillary to each other.

## 3. Certificate of Lawful Use – Legislation

- 3.1 Section 192 of the Act is relevant to this application. It states the provision in law if a person wishes to ascertain whether,

- a) any proposed use of buildings or other land; or
- b) any operations proposed to be carried out in, on, over or under land,

would be lawful, then they may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

And that

If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

- 3.2 The planning merits are not relevant at any stage in this application or in any subsequent appeal process.

#### 4. Consultations and Representations

4.1 There is no statutory requirement to consult third parties on applications for a CLOPUD, this is because the matters to be determined are solely matters of whether the use is lawful, not requiring planning permission. Any views expressed by third parties on the planning merits of the case, or on whether the applicant has any private rights to carry out the operation, use or activity in question are irrelevant when determining this application.

4.2 However, notwithstanding the above, the Lutterworth Town Council was consulted, with an overall expiry date of the 24 August 2022.

4.3 Response to Consultation Exercise:

4.4 ***The Lutterworth Town Council***

**Strongly object** to the application on following grounds in summary:

- As far as the main part of the site is concerned (Area A), planning permission was originally granted for the use of the land at Moorbarns Lane for the seasonal parking of showmen's caravan's trailers and equipment (82/00631/3P). We believe that this CLU should not have been granted and if previous planning objections and subsequent enforcement actions had been duly acted upon then the Certificate of Lawfulness could not have been applied.
- The Council wishes to state that the Area B has not been in existence and is undeveloped therefore a CLU cannot be issued as the Council does not consider the unit of the mixed-use residential caravan site and travelling show person's site should include Area B. We know that the land bounded by the red line under the 2022 LDC is land that is "subsidiary" to the mixed-use residential caravan site and travelling show person's site
- In addition, the Council wishes to further raise their concerns previously made against the planning application in 2021 which although may not be relevant to a CLU but does need to be considered due to the additional stress on the vicinity being a minor road with two schools adjacent plus Section 55(1) of the 1990 Act provides that the making of a material change of use of land is development

4.5 ***Local Community***

No response received

4.6 ***Ward Councillor***

**Strongly objects** to the approval of a Certificate of Lawfulness given to plan B due to the fact the land is open countryside and was approved for showman's pitches due to need. Furthermore, Site A has been around for over 40 years and in the last few years only a few pitches were occupied also Mr. Bond, the owners bungalow was on the site.

Site B was only permitted for showman's provision and should never be used for any other alternative, being mindful of the original inspectors report. Any commercial development or alternative uses is against the local plan and policies. It would be

unnecessary development in the open countryside furthermore should there ever be any need for showman's requirement going forward there will be no available land.

## **5. Relevant Planning History**

- 82/00631/3P - Change of use from agricultural land to seasonal parking of showmens caravans' trailers and equipment (Approved 6/7/82 - expiring on 30th April 1988.)
- 83/00173/3P - Siting of caravan (Approved 29/3/83 - expiring on 30th April 1988)
- 83/01358/3O - Erection of a dwelling house (Refused 8/11/83)
- 84/00861/3P - Retention of showmens wintering quarters on a permanent basis and erection of caretaker's bungalow (Approved 31/7/84)
- 84/01497/3R - Erection of caretaker's bungalow (Approved 14/11/84)
- 86/00137/3Z - Continuance of existing use of site without compliance with condition 3 restricting number of caravans and residential trailers to 20 to give a new maximum of 40 caravans and residential trailers on 20 pitches on planning consent number 82/0631/3p (Approved 6/5/86)
- 87/00817/3Z - Continuance of use of site without compliance with condition 2 of planning consent no 82/0631/3P to allow siting of 2 caravans between 30th April and 1st October 1987 (Approved 30/7/97)
- 91/01575/3T - Renewal of temporary permission for siting of 40 showmans caravans, trailers and equipment O S 0700 & 0093 Moorbarns Lane Lutterworth Approved 30/10/91 (Approved 30/10/91 – expires 31<sup>st</sup> October 1993)
- 92/00313/3P - Add use of land for showman's quarters to incl. site coal store & delivery of coal to cust & erect of 2 main bldgs. (Refused 20/5/92)
- 93/00554/3P - Use of land as showmans quarters for siting of caravans trailers and equipment. (Approved 7/7/93 – not time limited)
- 94/00002/3P - Continuation of use of site for siting of 40 showmans caravans, trailers and equipment. (Approved 23/2/94)
- 94/00459/3P - Use of land as showmans quarters for siting of caravans trailers and equipment storage and distribution of fuel and the parking of fuel lorries. (Refused 27/8/94)
- 94/00853/3P - Continuation of use of site for siting of 40 showmans caravans, trailers and equipment (renewal of 94/0002/3P). (Approved 22/6/94 expiring 31<sup>st</sup> December 1994)
- 94/01911/3P - Continuation of use of site for siting of 40 showmans caravans trailers and equipment (renewal of 94/0853) (Approved 15/12/94 expiring 30th June 1995)

- 95/00976/3P - Continuation of use of site of 40 showmans caravan trailers and equipment (renewal of 94/1911/3P). (Approved 26/7/95 expiring 31 December 1995)
- 09/00580/FUL - Change of use of land to form seven showmen's yards (Approved 21/12/09 – this covers land o/s the application site, further beyond the foot of the site to the east and was renewed in 2012 (12/00819/FUL) and 2016 (16/01165/Ful).
- 13/01906/OUT - Demolition of existing dwelling, erection of up to 50 dwellings, and associated estate roads, hardstanding and landscaping (revised scheme of 12/01579/OUT) (means of access to be assessed) (Refused 12/03/2014. Appeal Dismissed 31/03/15)
- 17/01356/OUT - Outline application for the erection of 36 dwellings (access, layout and scale to be considered) (Revised scheme of 16/01497/OUT) (Refused 11/4/18. Appeal Dismissed 25/9/19)
- 19/01990/CLU – Use of land for an existing mixed use as a residential caravan site and travelling Showpersons site. (**Area A**) (Certificate granted on the 15/05/2020)
- 21/02023/CLU – Use of land as land ancillary to a mixed use travelling showpersons site and residential caravan site use. (**Area B**) (Certificate granted on 21/02/2022)

## 6. Assessment of the CLOPUD Case

- 6.1 Of relevance to this case is the definition of a caravan site and travelling showpersons site. To this end, Section 1(4) of the Caravan Sites and Control of Development Act 1960, defines a caravan site as: 'land on which a caravan is stationed for the purpose of human habitation and land which is used **in conjunction with land** [*author emphasis*] on which a caravan is so stationed'. For planning purposes both the 1990 Act, and The Town and Country Planning (General Permitted Development) Order 1995 (as amended), adopt this definition.
- 6.2 The use of the words 'in conjunction with land', is relevant and should be interpreted as land ancillary/incidental to the caravan site.
- 6.3 With regard to defining a travelling showpersons site, the most up to date guidance/policy is the 'Planning policy for traveller sites, 2015 (PPTS 2015)', which amongst other things removed people who had retired from travelling permanently from the definition of a travelling showperson as follows:
- 'Members of a group organised for the purposes of holding fairs, circuses or shows (whether or not travelling together as such). This includes such persons who on the grounds of their own or their family's or dependants' more localised pattern of trading, educational or health needs or old age have ceased to travel temporarily, but excludes Gypsies and Travellers...'
- 6.4 The PPTS 2015 policy does not precisely define what a 'travelling showpersons site' is as such, but it does provide some guidance as follows:



'For the purposes of this planning policy, "pitch" means a pitch on a "gypsy and traveller" site and "plot" means a pitch on a "travelling showpeople" site (often called a "yard"). This terminology differentiates between residential pitches for "gypsies and travellers" and mixed-use plots for "travelling showpeople", which may / will need to incorporate space or to be split to allow for the storage of equipment.'

6.5 Notwithstanding, the definition in PPTS 2015, in a recent Court of Appeal judgement **Smith v Secretary of State for Levelling Up, Housing & Communities & Anor [2022] EWCA Civ 1391 (31 October 2022)**, the Court of Appeal ruled that the definition found in the PPTS 2015 policy for travelling showpeople was unlawful and discriminatory in that it excluded those that were no longer able to travel due to age, ill health or disability. As a result of this ruling, the definition for travelling showpeople should be taken from the PPTS 2012 policy which does not exclude those groups that have ceased to travel.

6.6 In essence, a travelling showpersons site is primarily a site to meet the unique accommodation needs of people not only are travelling as part of an organised group, who may have additional storage needs for equipment, which in the case of a fairground would be rides, sideshows, kiosks, etc, but also the needs of those people who have ceased to travel due to age, ill health or disability.

6.6 The applicant refers to case law that draws a helpful distinction in planning terms between a residential caravan site and a traveling showpersons site:

In the case of **Winchester City Council v Secretary of State for Communities and Local Government and others [2015] EWCA Civ 563**, Mott J held that travelling showpeople are a distinct group, which does not include gypsies and travellers or residential caravan sites drawing on conclusions as to the nature of such sites.

6.7 In short, land that is used incidental, or ancillary to that site, forms part of the same planning unit.

#### 6.8 The Planning Unit

6.9 The key case in defining the planning unit is found in **Burdle v Secretary of State for the Environment and another [1972] 1 WLR 1207**, where Bridge J held that there were 3 broad categories of distinction to help to determine the planning unit:

1. Where the occupier pursues a single main purpose to which secondary activities are incidental or ancillary, the whole unit of occupation should be the planning unit.

2. Where there are a variety of activities none of which are incidental or ancillary to another and which are not confined within separate and physically distinct areas of land, again the whole unit of occupation should normally be the planning unit. (This is usually said to be a composite use.)

3. Where within a single unit of occupation there are two or more physically separate and distinct areas occupied for substantially different and unrelated purposes, each area (together with its incidental and ancillary activities) should be a separate planning unit.

6.10 The planning decision ref:93/00554/3P for the use of land as showmans quarters for siting of caravans trailers and equipment (approved 7/7/93 – not time limited) (referred to as the '1993 decision') was clearly implemented. The previous CLU's issued on both sites A and B, establish a continuous travelling showpersons site since 1982, and that

since as early as the 1990's, there was also a proportion of non-showpeople who have been permanently living on the site. Importantly, since both these uses are different and quite distinct, they are both primary uses in their own right, and not ancillary to another.

- 6.11 The case law referred to above, considers these to be quite different and distinct uses, falling into the second Birdle category as a 'composite', mixed use as a residential caravan site and showperson's site. This mixed use is the single planning unit and applies to both Site A and B.

## **7. Conclusion**

- 7.1 In order for the Certificate to be issued, it must be demonstrated that it would not be a material change of use to station residential and showpeople's caravans across the whole site (Areas A & B – the application site). For the reasons set out in this report, along with case law cited in the applicants supporting statement, it is concluded that the entire site is a mixed use residential caravan site and showperson's site so residential and showpeople's caravans, as well as other showperson's equipment, can be stationed across the entire application site without there being a material change of use.

## **8. Section 149 of the Equality Act 2010**

- 8.1 Section 149 of the Equality Act 2010 created the public sector equality duty. It states:-

"A public authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it."

- 8.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act, 2010, in the determination of this application.

## **9. Recommendation: Grant CLOPUD**

- 9.1 The Local Planning Authority considers that the application site in its entirety has a lawful mixed use residential caravan site and showperson's site. Consequently, a certificate should be issued.

## Committee Report

**Applicant:** Willoughby (610) Ltd

**Application Ref:** 22/01738/FUL

**Location:** Red Lion, 5 Main Street, Great Bowden, Leicestershire

**Proposal:** Permanent retention of converted storage container for serving outdoor food and drink

**Application Validated:** 29.09.2022

**Target Date:** 24.11.2022

**Consultation Expiry Date:** 02.11.2022

**Reason for Committee decision:** Call-in by Cllr Knowles and Cllr Champion

**Parish / Ward:** Market Harborough Great Bowden and Arden

## 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.

### 1. Site & Surroundings

- 1.1 The Red Lion Public House is located in the centre of Great Bowden fronting Main Street. The pub has a pub garden to the rear with an existing decked area closest to the pub and a gravel area beyond with a number of outdoor tables. There is a gravelled parking area to the west of the site which is not formally demarked into bays.
- 1.2 The pub is surrounded by residential properties.
- 1.3 The site is within the Conservation Area and there are a number of Listed buildings nearby, the closest of which is No.11 Main St which is the neighbouring property to the west.
- 1.4 Red Lion is recognised as an Asset of Community Value in the Great Bowden Neighbourhood Plan.

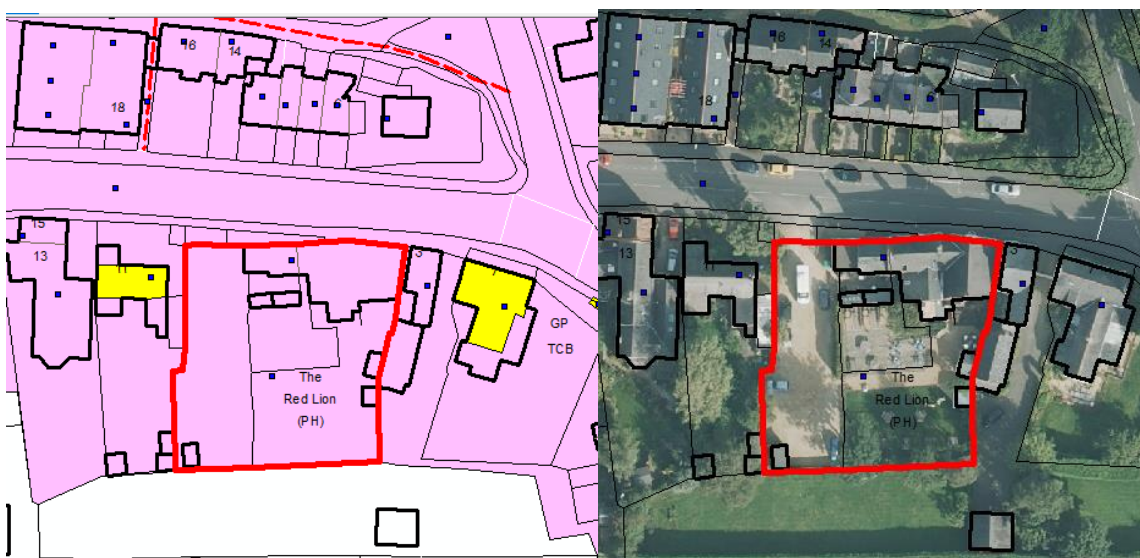


Figure 1. Site location (left) and aerial (2018) view (right) (Uniform Database)

## 2. Site History

2.1 The site has the following relevant planning history:

- **20/01194/FUL** – Temporary siting of a converted storage container for serving outdoor food and drink and renovation to existing pergola (retrospective) (**Approved**)
- **20/01468/FUL** - Temporary siting of converted storage containers forming a quadrant courtyard for the purposes of providing covered outdoor space and serving food and drink, temporary removal of smokers shed and outside kiosk bar (retrospective application) (**Withdrawn**)
- **20/01884/FUL** - Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective) (**Refused, appeal in progress**)
- **21/00306/VAC** - Removal of Condition 3 (Painted White) of 20/01194/FUL so that the storage container can remain red in colour (**Refused**)
- **22/00787/FUL** - Red Lion Site - Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area, permanent retention of converted storage container for serving outdoor food and drink, and repainting of the exterior of converted storage container. Dingley Road Site - Creation of a vehicular access from Dingley Road and creation of community car-parking spaces, erection of three dwellings with associated landscaping and environmental enhancement (**Pending Consideration**)

## 3. The Application Submission

### a) Summary of Proposals

3.1 The application, seeks permanent retention of a converted storage container for serving food and drink.



- 3.2 The container is situated in the pub garden (to the rear of the pub). The container is 2.9m in height, 6m wide and 2m deep. The container is used for serving food and drink with two service openings to the front accessed from the decking area. Staff access is to the side with links to the existing kitchen area. Adjacent to the container is a pergola type structure with a roof covering extending over part of the decking area.
- 3.3 The container was introduced as direct result of the Covid-19 pandemic as the interior of the public house building was not accessible at the time by the public other than the use of its toilet facilities. All public access is within the garden to the rear (which forms part of the licensed premises). The addition of the container does not increase the capacity of the licenced public house.
- 3.4 The container was granted temporary planning permission on the 4<sup>th</sup> November 2020 (20/01194/FUL). Condition 1 of the decision notice says:
- The development hereby permitted is granted for a temporary period which expires on 30 September 2022. On or before that date, the storage container shall be removed and the land shall be restored to its former condition (all associated infrastructure, hard standing etc shall be removed from the site by that date).*
- REASON: To limit the harm caused by the storage container to the character and appearance of the area and on residents to a temporary period where the temporary business benefits of the storage container outweigh the conflict with Policies GD8 of the Harborough Local Plan and Policy H6 of the Great Bowden Neighbourhood Plan.*
- 3.5 The temporary consent was conditioned requiring the container to be painted from red to white. A subsequent planning application (21/00306/VAC) was pursued to revert this colour back to red, but this was refused. The container was subsequently repainted white as per the terms of the temporary consent
- 3.6 Since the temporary consent was approved, the end gable wall of the Red Lion and associated fencing has been painted from white to black. It is therefore intended to paint the external elevations, including the street-facing and ends, of the container in a matt dark grey colour ('lamp black').
- 3.7 It should be noted that closure of the car park which has occurred, alongside other structures which have been placed on the car parking area, do not form part of this application. Furthermore, no pre-application advice has been sought or provided.

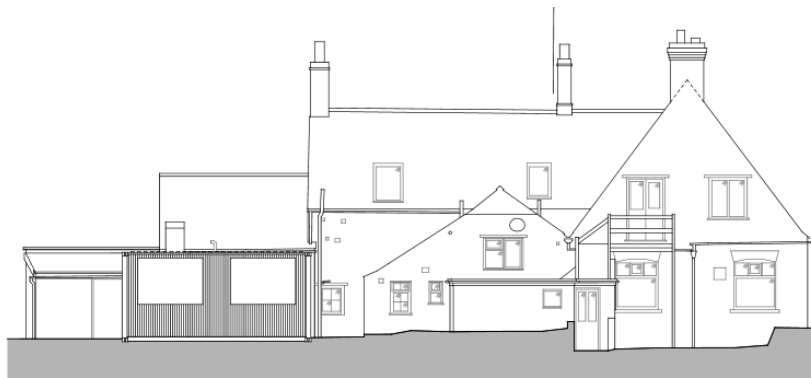
## **b) Plans**

- 3.8 The site plan; floorplan and elevations of the container are illustrated below





**Side Elevation**  
Scale: 1:100



**Rear Elevation**  
Scale: 1:100



**Front Elevation**  
Scale: 1:100

## 4. Consultations and Representations

- 4.1 Consultations with technical consultees and the local community were carried out on the application. A site notice was posted and an advert posted in the Harborough Mail on 27.10.2022.

- 4.2 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 Environmental Health**

- 4.3 I have no objection from a noise perspective

##### **Great Bowden Parish Council**

- 4.4 Consulted 30.09.2022 – no objections received

#### **b) Local Community**

- 4.5 Two objections have been received. The comments are summarised below and can be viewed in full on the Council's website (under each comment, the Applicant has provided a response:

- It is an unsuitable structure for a conservation area

*The application has not received any objections from statutory consultants / Conservation Officers in terms of any impact within the Conservation Area or on the adjacent Listed Building.*

*The applicant commissioned a Heritage Impact Assessment, issued via email on 15th November to yourself, attached again for reference. The HIA was produced by Grover Lewis Associates and concludes:*

*"It is considered that the proposed retention of the converted storage container, particularly if it is painted dark matt grey, will not result in harm to the character and appearance of the conservation area or harm to the significance of the adjacent statutorily listed building and the host building as a non-designated heritage asset. The proposals will help to facilitate the continued viable use of the public house."*

- It is no longer required now the internal renovation of the pub has been completed

*The Kitchen has been designed so that the serving pass faces directly into the pub. The layout of the Kitchen, situated within the existing building, would make it impractical to serve directly into the garden. The external Kitchen enables serving directly to the outdoor seating and provides interest to those seated within the garden.*

- It's presence causes light, noise and sensory pollution

*It is the presence of The Red Lion and its use as a Public House that causes light, noise and sensory pollution not the fact that the container is sited there. It is, however, not accepted that the light, noise, or sensory pollution is excessive or causes any form of nuisance.*

*HDC's Environmental Health Officer was consulted on this application and has not expressed any concern. In fact, in his consultation response dated 12<sup>th</sup> October 2022 the Environmental Health Officer specifically stated that:*

*"I refer to the above-mentioned planning application and can confirm that I have no objections from a noise perspective"*



There have been no other comments on light or sensory pollution.

#### *In Summary*

*The Red Lion is the site of an operating Public House. The activity of running a Public House will generate activity which generates noise, light, movement and smells. The objectors comments are not supported by the relevant consulted officers within HDC, who have not objected to this application.*

- The problem with village parking is being exacerbated by the illegal siting of buildings on the Red Lion's own car park and subsequent landscaping.

No response provided by the Applicant, however as previously mentioned in Para 3.7, the closure of the car park which has occurred, alongside other structures which have been placed on the car parking area, do not form part of this application.

## **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 (hereafter referred to as the 'DP') (this is the statutory presumption), unless material considerations indicate otherwise.

### **a) Development Plan**

- 5.2 Section 38(3) (b) of the 2004 Act defines the DP as the DP documents (taken as a whole) that have been adopted or approved in that area.
- 5.3 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019
  - Made Neighbourhood Plans.
- *Harborough Local Plan*
- 5.4 The Local Plan (hereafter referred to as the 'HLP') was adopted on April 30<sup>th</sup> 2019 and covers the period from 2011 to 2031. HLP policies relevant to this application are:
- GD2
  - GD8
  - HC1
  - IN2
- 5.5 Following a referendum in the village in June 2018 Harborough District Council proceeded to make the Great Bowden Neighbourhood Plan (GBNP). Since then, the Local Plan has been adopted and the NPPF updated so a decision was made to formally review the Neighbourhood Plan. The Review made some minor modifications which were judged to be non-material and not therefore require independent examination. The following policies are relevant in the consideration of this application:
- Policy H6 – Design Standards

## **b) Material Planning Considerations**

- 5.6 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land. The other material considerations to be taken into account in considering the merits of these applications include the National Planning Policy Framework and the National Planning Policy Guidance, Development Management SPD (December 2021) together with responses from consultees and representations received from all other interested parties in relation to material planning matters
- 5.7.1 There is also a statutory requirement for decision makers to consider the *Planning (Listed Buildings and Conservation Areas) Act 1990* if a proposal affects a conservation area of listed building. For Listed Buildings/assets, the Local Planning Authority shall “*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*” (Section 66) and for Conservation Areas “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*” (Section 72).

## **6. Assessment**

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

- 6.1 The container is sited within the existing pub garden. Policy HC3 of the HLP states that development at public houses will be permitted in order to assist in their diversification including extensions and alterations to provide kitchen and restaurant facilities and improvements to the external environment.
- 6.2 The Planning Statement submitted with the application advises

The external servery has been in operation since 30<sup>th</sup> July 2020 and there have been overwhelming support from the local community and visitors to the public house.

The external tables are fully booked most weekends and a significant number of the Applicant's customers have expressed the view that they do want to get out and enjoy themselves but do not necessarily want to visit traditional indoor establishments and that they feel more comfortable in an outdoor setting (not just because of Covid but due to other winter diseases such as flu and RSV)— amongst some groups of people this sentiment may continue in the long term.

- 6.3 The proposal is judged to accord with policy HC3 and supports the diversification and expansion of facilities at the existing pub and the principle of development is therefore acceptable.

### **b) Technical Considerations**

#### **1. Design and Visual Amenity including Heritage Assets**

- 6.4 Policy GD8 of the Harborough Local Plan (HLP) requires developments to achieve a high standard of design which is inspired by, respects and enhances local character. Development should be designed so that it integrates well into the existing street scene. Policy HC1 refers to heritage assets and their settings. Development affecting heritage assets will be appraised in accordance with national policy and will be

permitted where it protects, conserves or enhances the significance, character appearance and setting of the asset. Where a proposal would lead to harm this will be weighed against the public benefits of the proposal. Similarly, Policy H6 of The Great Bowden Neighbourhood Plan (GBNP) requires new developments to enhance and reinforce local distinctiveness and character, developments should not disrupt the visual amenities of the street scene. Materials should complement the historic context.

- 6.5 The application site is located in the traditional core of the village, part of the wider Conservation Area with a number of attractive, traditional buildings (including the pub itself) nearby. As mentioned above Number 11 Main St, is Grade II Listed and neighbours the site to the west. The storage container when viewed from within the pub garden itself is not visually attractive and not in keeping with the traditional built form surrounding it.
- 6.6 It is noted that since the temporary consent was permitted; the colour of the container has been painted from red to white (as required under Condition 3) and the vegetation screening removed and replaced with different planting – see photos below

**Photos taken as part of 20/01194/FUL**



**Photos taken as part of 20/01194/FUL**



**Photos supplied by Applicant as part of the current application**





**Photo taken 04.01.2023**

- 6.7 Whilst the change in the vegetation screening has made the container more visible when viewed from Main Street, given its single storey nature and set back from Main Street and proposed change in colour from white to lamp black; Officers can identify no harm to the character and appearance of the conservation area such as to warrant refusal. Furthermore, given the siting of the structure which is separated from No.11 by a large pedestrian walkway, no harm is found to the significance of the Listed asset - No.11 Main Street. The proposal therefore judged to comply with HC1.

## **2. Highways**

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- 6.8 Policy GD8 of the HLP requires developments to provide safe access and parking for highways users. The closure of the parking area is regrettable as patrons and staff members will therefore park on the street when visiting the site by car, as such the concerns of residents is understood. However, the temporary closure of the car park does not form part of the current application and the matters under consideration here do not relate to the closure of the car park nor prohibit its use in the future. The structure is sited on the former pub garden and not the parking area, nor does the proposal intensify the use of the site and as such this proposal itself is not judged to lead to additional harm to highways safety.

## **3. Residential Amenity**

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- 6.9 Policy GD8 of the HLP states that developments should not cause significant adverse harm to neighbouring amenity through overshadowing, overdominance or loss of privacy. Nor should developments generate a level of activity, noise, vibration, pollution or unpleasant odour emission which cannot be mitigated to an appropriate level and so would have an adverse impact on amenity and living conditions. Similarly, Policy H6 of the GBNP states that proposals should minimise the impact on general amenity given careful consideration to the above factors outlined in GD8.
- 6.10 The proposal is judged to be of a scale and with sufficient separation from surrounding residential properties to minimise overlooking, loss of light or overdominance as a result of the additional structure.
- 6.11 As the structure is located within the pub garden, close to the existing building additional light pollution is unlikely to be significantly adverse to the existing situation.
- 6.12 The Council's Environmental Health Officer has raised no objections to the application from a noise perspective. The scheme would not increase capacity of the pub and again the structure is within the existing pub garden, very close to the pub itself where patrons would be permitted to eat/drink regardless of the current scheme as such additional noise generation is not deemed to be significantly adverse.
- 6.13 The proposal is therefore judged to comply with GD8 of the HLP and H6 of the GBNP.

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

- 7.1 The design of the storage container when viewed from within the pub garden itself is not considered to demonstrate a high standard of design, it is not considered to be inspired by, respect nor enhance local character and as such the proposal does not comply with Policy GD8 nor Policy H6 of the Great Bowden Neighbourhood Plan.
- 7.2 However, its single storey nature; positioning and proposed re-painting means it is not readily visible from the public highway and is judged not to cause harm to the character and appearance of the conservation area. Furthermore, no harm is found to the significance of the Listed asset - No.11 Main Street.
- 7.3 The retention of the container will also support the long term viability of the Red Lion business.
- 7.4 Finally, there are no highway safety reasons or residential amenity reasons why consent should not be given.
- 7.5 Planning permission should therefore be granted, subject to the conditions outlined below

## **Appendix A - Conditions**

### **1) Approved Plans**

The development hereby permitted is in accordance with the approved plans

L316 -BRP-00-00-DR-A-0300-P01 – Site Location Plan

L316 -BRP-00-00-DR-A-0302-P02 – Site Plan

L316 -BRP-00-00-DR-A-0304-P01 – Floorplan/Elevation

**REASON:** For the avoidance of doubt.

2) **Re-painting**

Within six months of this decision the elevations of the container hereby approved shall be repainted lamp black and thereafter maintained that colour.

**REASON:** In the interest of the character and appearance of the conservation area and to accord with policies GD8 and HC1 of the Harborough Local Plan and Policy H6 of the Great Bowden Neighbourhood Plan Review

## Committee Report

**Applicant:** Mr Gareth Dyer

**Application Ref:** 22/02048/FUL

**Location:** Yew Tree House, Elms Lane, Burton Overy

**Proposal:** Erection of a garage (retrospective) (revised scheme of 22/01301/FUL)

**Application Validated:** 29/11/22

**Target Date:** 24/01/22

**Consultation Expiry Date:** 09/01/23

**Site Visit Date:** 11/08/22 and 15/12/22

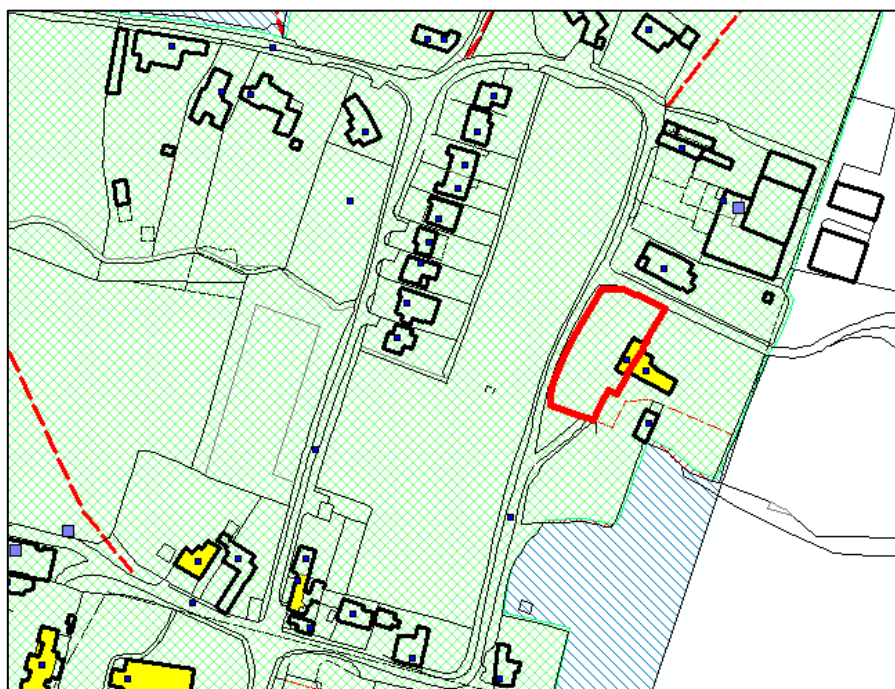
**Reason for Committee decision:** The application has been called-in to Planning Committee by Councillor Hallam on the basis that there is public interest in the proposal's history.

## Recommendation

It is recommended that the application is APPROVED.

### 1. Site & Surroundings

- 1.1 The application site is located to the north of Burton Overy, within the designated Conservation Area (see **Figure 1**). The host property is a listed building, and the application site sits wholly within the curtilage of the Listed Building, but does not affect the fabric of the building or its curtilage wall<sup>1</sup>. The site benefits from an extant consent for the erection of a garage and other works, including the erection of walls. This consent has been implemented by virtue of the walls having been constructed.



**Figure 1: Site Location (the yellow indicates the Listed Buildings, the green cross hatch indicates the Conservation Area)**

<sup>1</sup> For this reason, List Building Consent ref 22/01302/LBC is not considered necessary, and as such will not be determined

- 1.2 Originally, Yew Tree House and the adjacent property (The Elms) formed one residential unit, however, the property has been split into two semi-detached properties, The Elms being the rear wing and Yew Tree House being the front wing), with the principal elevations of the two properties facing in different directions (see **Figures 1 – 3**).



**Figure 2: Aerial photograph (2018)**



**Figure 3: Aerial photograph (Google Maps 2021)**

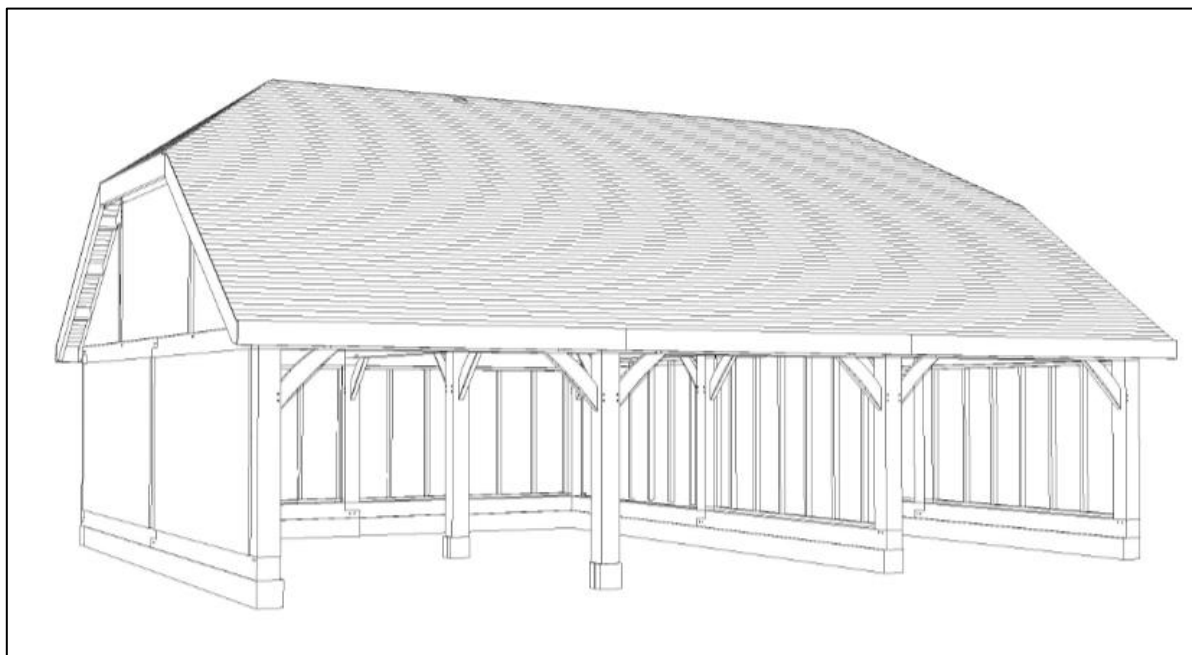
## 2. Site History

- 13/00047/TCA – Works to trees (fell 4 Ash, reduce 3 Yews and fell 1 Yew, and fell 1 Hawthorne) – Approved
- 17/01836/FUL – Erection of a detached garage, boundary wall and alterations to existing driveway and landscaping to lawn including the removal of trees – Approved
- 18/01014/FUL – Erection of a single storey extension with frameless glass link to newly formed doorway opening to side gable and new space to contain relocated family kitchen and garden room – Approved
- 18/01015/LBC – Erection of a single storey extension with frameless glass link to newly formed doorway opening to side gable and new space to contain relocated family kitchen and garden room. Former kitchen to become utility/boot room – Approved
- 21/00341/TCA – Works to trees (fell) – Approved
- 22/01301/FUL – Erection of a garage (retrospective) – Refused
- 22/01302/LBC - Erection of a garage (retrospective) – Not Determined

## 3. The Application Submission

### a) Summary of Proposals

- 3.1 The application relates to the erection of a detached garage. The garage as built measures 7m deep, 9.675m wide and 4.94m in height, is of timber construction on a brick plinth with a slate roof (see **Figures 4 & 5**). The application is retrospective in nature with the building being largely completed (apart from cladding to the northern elevation (see end bay in **Figure 5**)) when the site was visited 11/08/22 in relation to the previous, refused, application.



**Figure 4: As built (refused) Elevations**



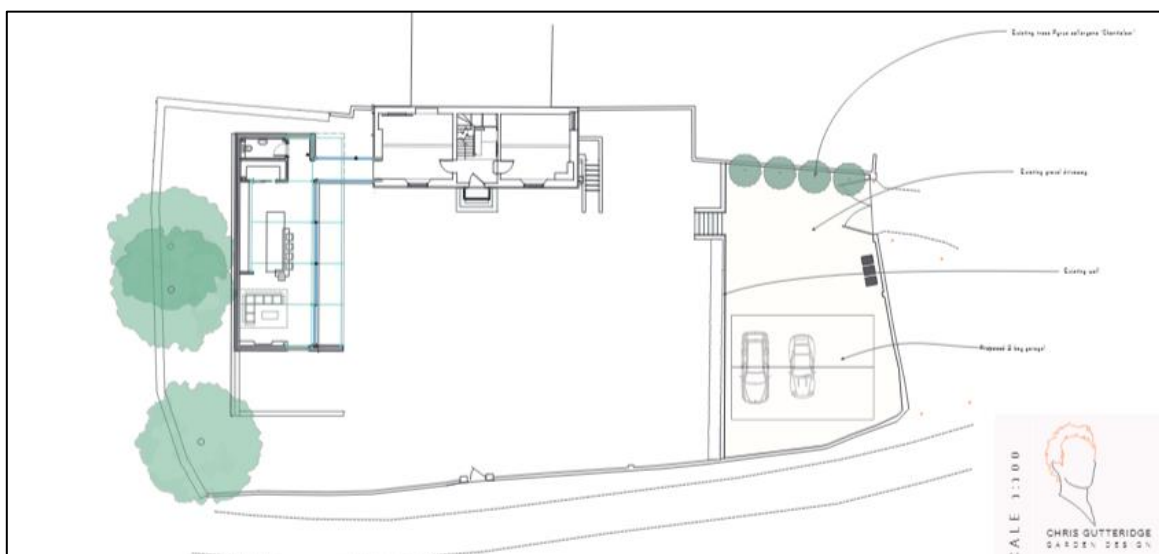


**Figure 5: Garage as built (and refused)**

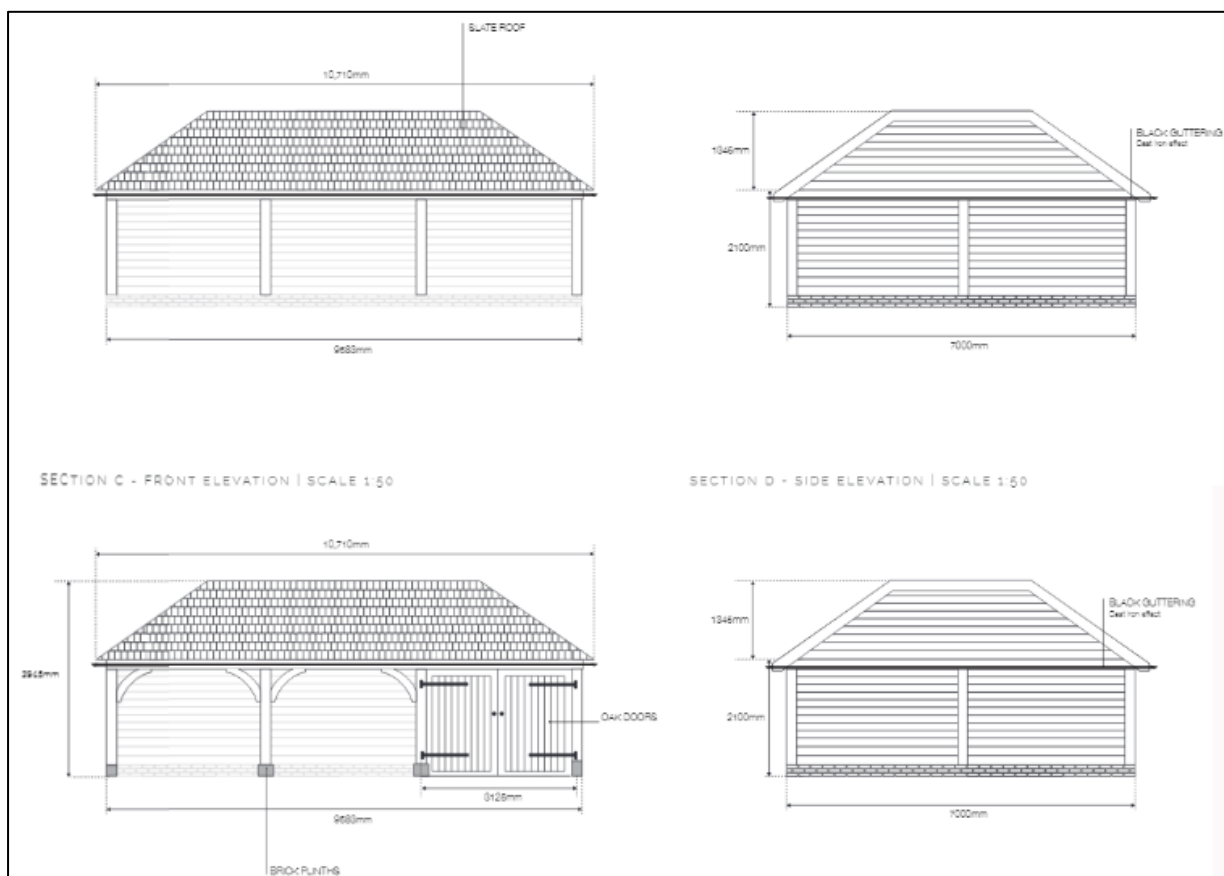
3.2 22/01301/FUL was refused under Delegated Powers for the following reason:

*“The development, by virtue of its location, scale and massing, detracts from the setting of the Grade II Listed property “The Elms”, and from the character and appearance of the Burton Overy Conservation Area. The development is therefore considered to be contrary to Policies GD8 and HC1 of the Harborough District Local Plan and Policy DBE1 of the Burton Overy Neighbourhood Plan, and there are no other material considerations (including public benefits) which outweigh this harm.”*

The current application seeks to address the concerns previously raised and formulated by the above refusal reason by reducing the height of the garage from 4.94m down to 3.945m, almost a 1m reduction in overall height (see **Figure 7**). This would be achieved through the reconstruction of the roof structure, effectively truncating the roof slope and providing a flat roof element to the proposal. The walls of the garage will remain the same as previously refused, and as such, the siting of the proposal remains unchanged (see **Figure 6**). **Figure 8** provides CGI's of the consented scheme (see **Figure 9**) and the proposed scheme and photographs from the same vantage point of the garage as built by way of comparison of the three scenarios. **Figure 10** provides a tabular comparison of the key dimensions of the three schemes.



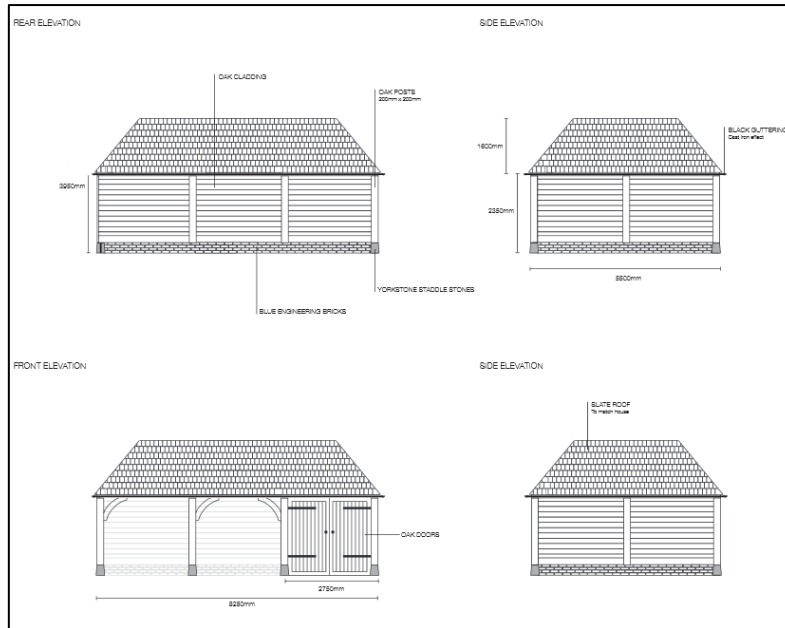
**Figure 6: Site Layout plan**



**Figure 7: Proposed Elevations**



**Figure 8: Comparative images**



**Figure 9: Approved Plans for 17/01836/FUL**

	<b>Approved Scheme (17/01836/FUL)</b>	<b>Refused “as built” Scheme (22/01301/FUL)</b>	<b>Proposed Scheme (22/02048/FUL)</b>
<b>Width</b>	8.25m	9.58m	9.58m
<b>Depth</b>	5.5m	7m	7m
<b>Footprint</b>	45.375m <sup>2</sup>	67.1m <sup>2</sup>	67.1m <sup>2</sup>
<b>Eaves Height</b>	2.35m	2.1m	2.1m
<b>Ridge Height</b>	3.95m	4.95m	3.945m
<b>Roof pitch angle</b>	51°	35°	35°

**Figure 10: Comparison of dimensions between approved, refused and proposed schemes**

## **b) Documents submitted**

### **i. Plans**

- 3.8 The application has been accompanied by the following plans:
- Location Plan
  - Existing Site Plan GD1060
  - Proposed Site Plan GD1061
  - Revised Garage Elevations GD1065 (as received 23/12/22)<sup>2</sup>

### **ii. Supporting Information**

- 3.9 The application has the following supporting information:
- Planning & Heritage Statement
  - Visual 5468-VIS004C

## **c) Pre-application Engagement**

- 3.10 Pre-application advice was sought after application 22/01301/FUL was withdrawn.

<sup>2</sup> Submitted in order to address inaccuracies as highlighted in consultation responses

#### **d) Other Relevant Information**

- 3.11 The application has been called in to Planning Committee by Cllr Hallam for the following reason:
- “...there is a lot of history with this application and enforcement have been involved, both the parish council and neighbours are unhappy with the sheer size of this garage in a conservation area and the applicant clearly thought that he could just build what he wanted with no regard to the permission granted, with that in mind I think the committee should look at this and deliberate on it. Should you or the planning officer be minded to reject this new app I will of course withdraw my call in”*
- 3.11 There is a current Enforcement Case open in relation to the garage as built. Any action against the development is currently being held in abeyance pending the determination of this application. An Informative Note is recommended to be included as part of any subsequent approval reminding the Applicant that, if the approved works are not substantively completed within 6 months of the decision, An Enforcement Notice may be served against the development.

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

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 2<sup>nd</sup> December 2022. A site notice was put up on 19<sup>th</sup> December 2022 and a press notice placed in the Leicester Mercury on 8<sup>th</sup> December 2022. The last formal consultation expired 9<sup>th</sup> January 2023. 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**

- 4.2 *LCC Highways*  
No Comments received (no objection to previous refusal)
- 4.3 *LCC Archaeology (09/12/22)*  
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 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), although it is recommended that specialist advice is obtained in order to assess any potential impacts of the development upon the setting and significance of the designated Conservation Area.
- 4.4 *Burton Overy Parish Council (20/12/22)*  
The parish council considered this application at its meeting on 13th December and resolved, on balance, to retain its objection to the proposal.
- 4.5 The council noted some inaccuracy in the dimensions quoted in the Planning Statement and Heritage Impact Assessment (PS & HIA) submitted with the proposal. This document (section 4.2) states that the dimensions of the approved garage are 6m (deep) x 8.25m (wide) x 3.95m (height). In fact, the decision notice for this approved scheme (17/018136/FUL) specifically references drawing GD 015, which shows the approved dimensions to be 5.5m x 8.25m x 3.95m. Furthermore, there is also some confusion in the proposed garage height; the elevations on the right-hand side in drawing GD 1065 show ground-to-eaves and eaves-to-rooftop dimensions of 2.1m and

1.345m respectively, which do not sum to the height of 3.945m quoted in the PS & HIA document (section 5.4). We assume that 3.945m is the correct figure (and that the actual proposed ground-to-eaves and eaves-to-rooftop dimensions are close to the 2.35m and 1.6m values quoted in GD 015).

- 4.6 The focus of the revised proposal is to remove the top metre or so of the gabled roof (as built) and thereby restore the garage roof to a hipped form in keeping with that envisaged in the originally approved scheme. The height of the proposed hipped roof would then be (very) marginally lower than that previously approved. However, the current application seeks to maintain the extent of proposed garage at 7.0m (deep) x 9.583m (wide) (namely the as built dimensions) resulting in a substantially larger footprint than that originally approved (a 47% increase).
- 4.7 The increase in the footprint of the proposed building coupled with a hipped roof of very similar eaves-to-rooftop dimension as that originally approved, results in a much larger roof volume than originally envisaged (we estimate the increase to be about 42%, although this is dependent on the pitch angle of the sloping sides of the hipped roof - a design parameter which is not specifically mentioned in the application). The result is a roof of scale and mass that still has a significant impact on the view of the adjacent listed building scene (The Elms, List Entry Number 1360660) when approaching from the south along Elms Lane (see the Figure on page 10 of the PS & HIA document). Similarly, the roof of the proposed garage does not sit particularly happily in the scene looking south across the front of Yew Tree House (same figure), despite the fact that the base of the garage is set 1.5m below the garden level. The view of the parish council is that, on balance, this is detrimental to the locality of the listed building and hence to the Burton Overy Conservation Area as a whole.
- 4.8 The fact that this application seeks to maintain the footprint of the garage as built is perhaps understandable, at least from the applicant's perspective. One solution to the problem of the resulting scale and mass of the roof might be to require the height / pitch of the hipped roof to be further reduced.

## **b) Local Community**

- 4.9 2 neighbours were consulted. Three letters of representation have been received (2 from one property, 1 from an address in Market Harborough) and are summarised below:
- Yew Tree House is one of the most prominent and architecturally important heritage assets in the village.
  - Placing a building that takes no design cues from those already on site, which significantly obscures the view of the property and also obscures the older, adjoining property cannot in any way satisfy the desire of planning laws to preserve or enhance the character or appearance of the property or its immediate surrounding area.
  - The new application fails to adequately address a number of the objections that had been raised in the previously rejected application.
    - 1) Size, design and appropriateness of the materials of the building: The design of the building still remains substantially the same except for an adjustment to the roof design. This introduces a third significantly different design and major material onto the plot with no coherent architectural and design theme to tie the buildings together. The multiple materials and architectural designs are jarring and conflict, significantly reducing the aesthetic aspect of the plot and detracts from the main



residence.

2) Appropriateness within the site:

The original Design and Access statement suggested that the building would "nestle" within the site. Despite the reduction in height this building cannot be said to "nestle". Due to the significantly increased size, the new garage has been shoehorned into the available space and access to the sides and rear of the garage are now severely restricted. Due to the lack of access to the rear of the building a significant amount of "dead space" has been created which was not a factor in the original application.

3) Loss of parking space and room to manoeuvre vehicles:

The construction of the garage has led to a loss of available parking space within the plot. The garage takes up over half of the available parking area which means that the space to accommodate guests vehicles and to be able to manoeuvre the residents' vehicles has been significantly reduced. Yew Tree House had far more than 3 available parking spaces prior to the construction of the garages. This construction has actually reduced the number of available parking spaces within the property so instead of improving the parking facilities, they have actually made it worse.

4) Errors in the application:

Both the Planning Statement & Heritage Impact Assessment and the original proposed elevations contain material errors, inaccuracies and inconsistencies. Given the sensitivity of the overall size and mass of the building it is paramount that we understand what the applicants are actually requesting in order for a proper consultation to take place. These errors are regrettable given that this is the third time the applicants have made a submission.

- This new application, while reducing the overall height of the building, does not substantially reduce its scale and mass which was one of the key reasons for the previous application being rejected. The increase in size has significant detrimental impacts on the site, its surrounding area and the adjacent properties. As a result, I believe that this proposal should, as per the previous proposal, be rejected.
- Yew Tree House is a beautiful house in a beautiful historic setting. What a shame to spoil this with such a large unattractive building which looks like an oversized shed. Even with a reduced roof, it will still look out of place and spoil the conservation area. What an eyesore.
- The Elms has now been blocked out to such an extent that delivery drivers do not know that it exists anymore. Many of our Christmas parcels did not arrive this year and many were delivered to the wrong address. When we asked about this the drivers said that they couldn't see our house because there is another "house" (meaning the garages) in the way.
- The applicants have made their parking area so small that their visitors often park on our garden (The Elms) or reverse into our garden to get out as they can no longer turn around on their property because the base of the garages is too big.
- The applicant is the only one in the village to leave 5 bins outside the property on the grass verge permanently. Previously their bins were kept on their own property, but they no longer have the space because they have built the garages too big.
- There are 2 parts to the listed building - Yew Tree House and The Elms. With the garage as it is, we can barely see either property from the road and the photographs show that this will not change much by the alterations to the roof.

- I still don't understand why a garage needs a roof of this size. It is nearly as tall as the base and because the base is much bigger than originally planned, the roof is still excessive in its mass.
- I also don't understand why the base is so large. It creates a lot of dead space that can no longer be used for manoeuvring vehicles and this is causing the problems mentioned above.
- It is upsetting that the owners of a listed building in a Conservation area decided to build what they wanted to regardless of the planning permission granted, then ignored the enforcement officer's instructions to stop building and now after having had their first retrospective application refused, are trying again to convince the council that it should stay with minor alterations.

## **5. Planning Policy Considerations**

### **a) Development Plan**

- *Harborough Local Plan*
- 5.1 The following policies of the adopted Local Plan are considered most relevant in consideration of the application:
- GD8 – Good design in development
  - HC1 – Built Heritage

### **b) Material Planning Considerations**

- 5.2 The following are considered material planning considerations.
- *National Planning Policy Framework (NPPF)*
  - *Burton Overy Neighbourhood Plan 2018 – 2031*
    - DBE1: Design
  - *Planning (Listed Buildings and Conservation Areas) Act 1990*
- 5.3 Planning (Listed Buildings and Conservation Areas) Act 1990 s72 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Furthermore, Planning (Listed Buildings and Conservation Areas) Act 1990 s66 states that 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. Assessment**

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

- 6.1 The principle of a building ancillary to the enjoyment of the dwellinghouse is well established. Furthermore, as set out above, the property benefits from an extant consent for the erection of a garage in the approximate location of the current proposal. The principle of the development is therefore considered to be acceptable

### **b) Technical Considerations**

1. Impact on street scene / designated heritage assets
- 6.1.1 The application site is in a relatively secluded part of Burton Overy, however, due to the nature of the site, the location of the garage is prominently sited. It is also in a historically sensitive location being within the Burton Overy Conservation Area and the host and neighbouring dwellings being Listed Buildings. The property and its brick

boundary wall currently make a positive contribution to the character and appearance of the street scene and Conservation Area.

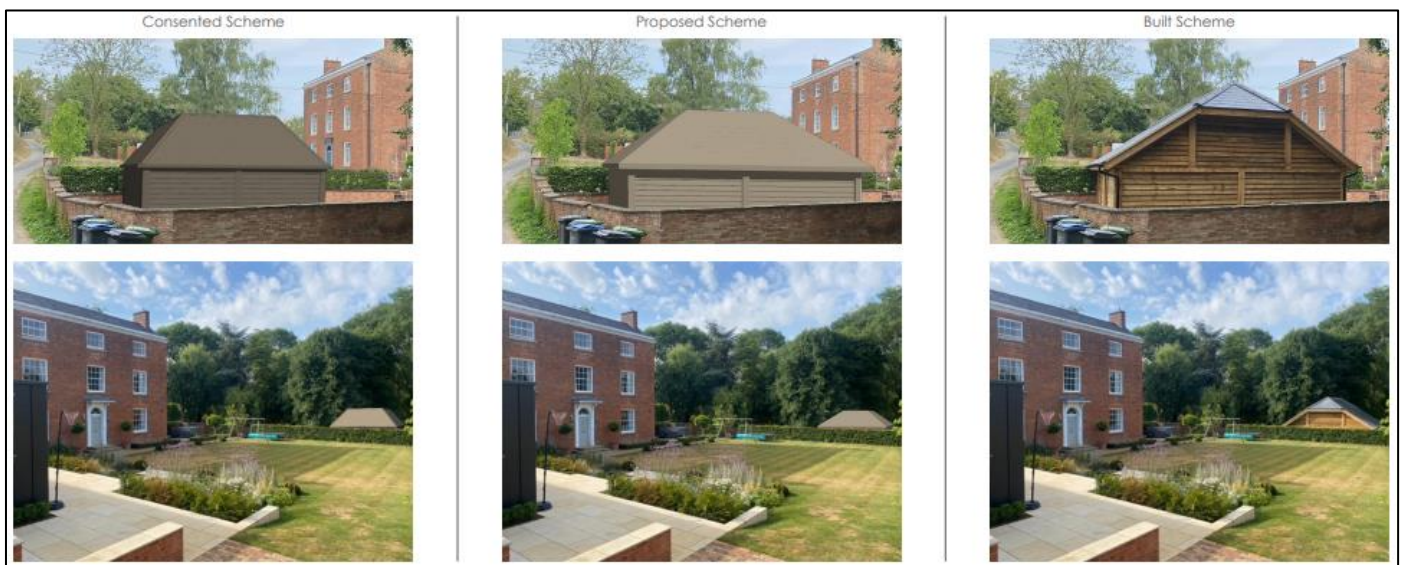
- 6.1.2 Section 66 of the Listed Building and Conservation Areas Act states that LPA's must have special regard to the desirability of preserving the setting of the building. Furthermore, S72 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas.
- 6.1.3 Policy GD8 of the Harborough Local Plan states that development must be inspired by, respect and enhance both the local character and distinctiveness of the settlement concerned. In areas with high heritage value development must reflect those characteristics that make these places special. Development should also respect the context and characteristics of the individual site, street scene and wider local environment.
- 6.1.4 Policy HC1 of the Harborough Local Plan states that development affecting heritage assets and their settings will be appraised in accordance with national policy and be permitted where it protects, conserves or enhances the significance, character, appearance and setting of an asset. Development within or affecting a Conservation Area will be permitted where it preserves or enhances the character or appearance of the Conservation Area, including local design and materials.
- 6.1.5 Policy DBE1 of the Burton Overy Neighbourhood Plan states that new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated, and proposals should clearly show within a Design and Access Statement how the general character, scale, mass, density and layout of the site, of the building or extension fits in with the aspect of the surrounding area. Care should be taken to ensure that the development does not disrupt the visual amenities of the street scene and impact negatively on any significant wider landscape views.
- 6.1.6 The garage as built is located in a very prominent location within the street scene and this part of the Conservation Area. Located in the front roadside corner of the property, when approaching from the south, views of the property are now dominated by the presence of the garage, hence the reason for the refusal of the retrospective application 22/01301/FUL. It is acknowledged that the site already benefits from an extant consent for a garage in this location, and as a result of works associated with the extant consent, the existing trees in this part of the site have already been removed. However, the garage as built is approximately 1m higher, 1.5m deeper and 1.4m wider than the consented scheme. As can be seen at **Figure 11**, this resulted in a very substantial, dominant structure in a very prominent location which is considered to be to the detriment to both the character of the Conservation Area and the setting of the Grade II Listed Building resulting in less than substantial harm to the setting of the designated heritage asset (see **Figure 12**). The size and scale of the garage as previously approved would have ensured that views of the listed building from Elms Lane approaching the site from the south would have been retained.
- 6.1.7 Based on the proposed plans, including the comparative CGI's, which can be seen at **Figure 13**, Officers are of the opinion that the proposed reduction in height of the garage by way of alterations to the construction of the roof ensure that the impact of the garage will no longer have demonstrably greater impact on the setting of the Listed Building or the character and appearance of the Conservation Area than the approved scheme. On this basis, it is considered that the proposals (by way of the alterations to the built roof structure) would preserve both the setting of the Listed Building and the character of the Conservation Area.



**Figure 11: Existing Garage as per 22/01301/FUL**



**Figure 12: Principal Elevation of Yew Tree House (Listed Building)**



**Figure 13: Comparative images**



- 6.1.8 It is therefore considered that the size, siting, height and design of the proposed garage will respect the original character and setting of the Listed Building, and will respect and preserve the character and appearance of the Conservation Area. Overall, it is considered that the development will be in accordance with Policies GD8 and HC1 of the Harborough Local Plan and Policy DBE1 of the Neighbourhood Plan in this respect.

## 2. Amenity

- 6.2.1 Policy GD8 of the Harborough Local Plan states that the impact on the amenity of existing and future residents must be minimised by not having a significant adverse effect on the living conditions of existing and new residents through loss of privacy, overshadowing and overbearing impact.
- 6.2.2 Yew Tree House is a semi-detached property, adjoined to The Elms. The Elms is the only property adjacent to the proposed development. Despite being semi-detached due to the historic development of the property (ie, originally it was all one property, which was previously split in to two, The Elms being the rear wing and Yew Tree House being the front wing), the principal elevations of the two properties face in different directions, Yew Tree House facing approximately west, and The Elms facing approximately south. The garage is in excess of 21m from the front elevation of The Elms, at an oblique angle, on lower ground level and with intervening landscaping and boundary treatments. On the basis of this, it is not considered that the proposal will have any adverse impact on the residential amenity of neighbouring properties. The impact of the development upon residential amenity is therefore considered to be in accordance with Policy GD8 of the Harborough Local Plan and Policy DBE1 of the Burton Overy Neighbourhood Plan in this respect

## 3. Highways

- 6.3.1 Whilst the garage will likely lead to a reduction in the overall parking provision for the property, it will still benefit from adequate parking and turning facilities. The impact of the development upon highway safety is therefore considered to be in accordance with Policy GD8 of the Harborough Local Plan and Policy DBE1 of the Burton Overy Neighbourhood Plan in this respect

## 7. The Planning Balance / Conclusion

- 7.1 The application is to be assessed in accordance with the policies of the development plan together with all material considerations. The above assessment concludes that the proposed development accords with Policies GD8 and HC1 of the Harborough Local Plan and Policy DBE1 of the Burton Overy Neighbourhood Plan.

## 8. Planning Conditions and Notes

- 8.1 If Members are minded to approve the application, a list of recommended Planning Conditions and Informative Notes follows in **Appendix A**.



## Appendix A

### Recommended Conditions

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

- Location Plan
- Existing Site Plan GD1060
- Proposed Site Plan GD1061
- Revised Garage Elevations GD1065 (as received 23/12/22)

REASON: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.

2) Notwithstanding the hereby approve plans, the external materials (including slate and ridge tiles) used in the reconstruction of the amended roof-structure hereby approved shall match the existing dwelling as far as possible

REASON: To safeguard the appearance of the development and the character and appearance of the area, having regard to Harborough Local Plan Policies GD8 and HC1, Policy BDE1 of the Burton Overy Neighbourhood Plan and the National Planning Policy Framework.

### Informative Notes

- 1) You are 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. Market Harborough 821090). As such please be aware that complying with building regulations does not mean that the planning conditions attached to this permission have been discharged and vice versa.
- 2) You are advised that, if the approved works to amend and rectify the roof structure of the garage as built are not completed within 6 months of the date of this decision, an Enforcement Notice requiring the removal of the existing building or its alteration to the approved scheme is likely to be served.