

Committee Report

Applicant: Mr Ian Fenny

Application Ref: 22/00719/FUL; 22/00759/VAC; 22/00764/VAC; 22/00767/VAC

Location: Land at Ate Farms Ltd, Moorbarns Lane, Lutterworth

Proposal:

(1) 22/00719/FUL Erection of 21 residential holiday lodges and a management building with associated parking, gallops and landscaping

(2) 22/00759/VAC-Variation of Condition 2 (private only use of stabling) of 13/00829/FUL to enable the stables, tack room and hay barn to be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL)

(3) 22/00764/VAC Change of use of land from agricultural to equestrian, including formation of horse exercising gallop (Variation of Condition 2 (private exercising of horses) of 14/01336/FUL to enable the land and gallops to be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL)

(4) 22/00767/VAC- Variation of condition 2 attached to 15/00277/FUL. To enable the exercise arena to be used by horses other than his own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL.

Application Validated: 31.03.22

Target Date: 30.06.22 (extension of time agreed)

Consultation Expiry Date: 18.11.22

Site Visit Dates: 12.04.22

Reason for Committee decision: Call in by Cllr Ackerley highway impacts (see paragraph 3.6 below).

The application was deferred at the Planning Committee in April in order for additional highways data to be obtained from the Applicant regarding traffic movements on Moorbarns Lane (Revised Transport Statement submitted May 2023). The Highways Officer has subsequently reviewed the information, and has confirmed that no objection is raised to the proposal from a highways safety perspective, subject to recommended conditions.

Parish & Ward: Lutterworth West

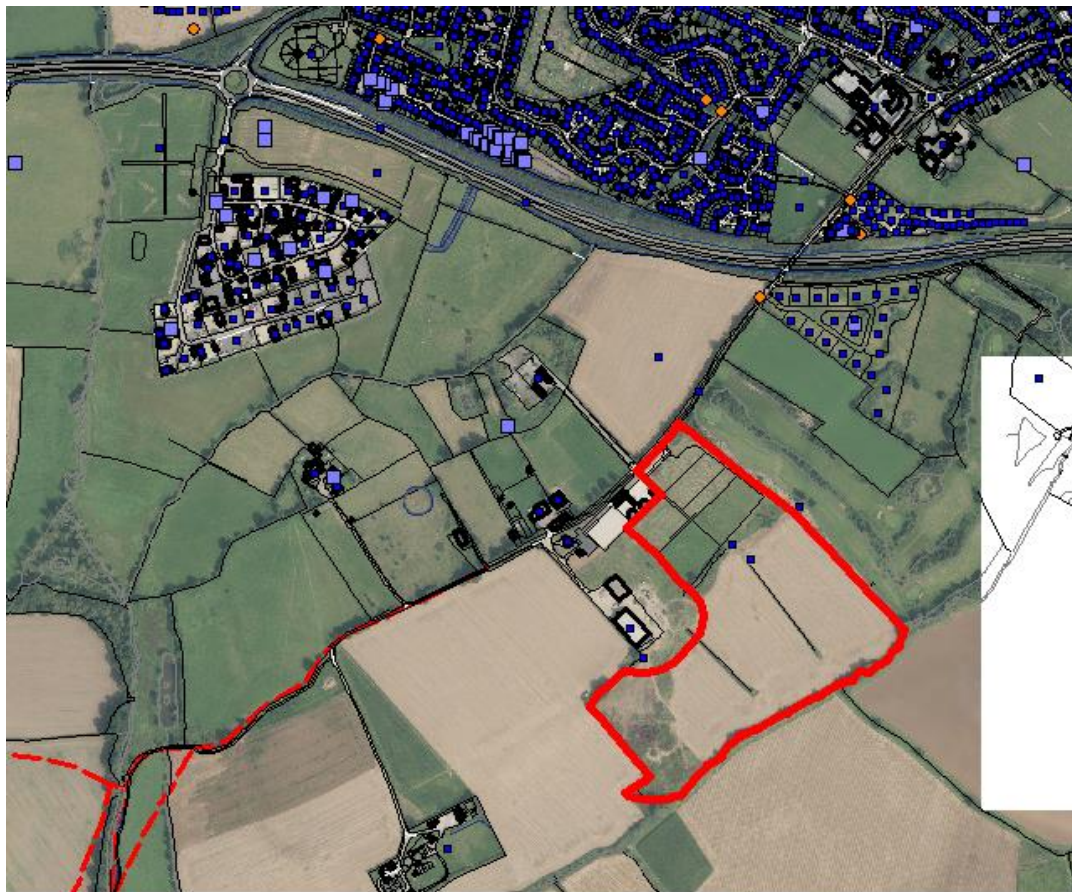
Recommendation

It is recommended that the applications are **APPROVED** for the reasons set out in this report and subject to the conditions at Appendix A and B.

1. Site & Surroundings

- 1.1 The application site is located on the Southern side of Moorbarns Lane, approximately 1.5 km from the centre of Lutterworth, with part of the Lutterworth Golf Course abutting it to the East. Moorbarns Lane serves Lutterworth High School and John Wycliffe Primary school at its northern end and also the Civic amenity site (opposite site), Old and new Showperson's site and some new residential development. It narrows before the application site as the road crosses the A4303 Bypass and becomes a dead-end road further past the application site.

1.2



- 1.3 The site comprises 13.4 hectares and is used for equestrian uses and has a range of stables and other equestrian related structures on it. Adjacent is the house, and agricultural buildings belonging to the site owner, which has a separate site access.

Existing site entrance:



- 1.4 Land levels within the site are quite varied, falling away from the top of the site closest to Moorbarns Lane down to the brook forming the Southern boundary.





- 1.5 The site comprises of two fields of improved grassland. A species-poor intact hedge and a fence was present along the middle of the two fields; it also formed the north-eastern site boundary. Surrounding landscape included arable fields, lines of trees, and small blocks of deciduous woodland.
- 1.6 The site is mostly located within Flood Zone 1 (low risk of fluvial flooding), with the minor southern portion of the site being within Flood Zone 3 (high risk of fluvial flooding).

2. Site History

- 2.1 13/00829/FUL-Erection of a ten-bay stable block including tack room and a hay barn (app) (Condition 2 refers to “private use only”).
“The development hereby permitted shall only be used for the private stabling of horses and the storage of associated equipment and feed and shall at no time be used for any commercial purpose whatsoever, including for livery, or in connection with equestrian tuition or leisure rides. REASON: In the interests of highway safety and to protect the rural character of the area and to accord with Harborough District Core Strategy Policies CS11 & CS17”.

The haybarn has subsequently been converted to additional stables (8) and livery use is taking place on site.



14/01336/FUL-Change of use of land from agricultural to equestrian, including formation of horse exercising gallop (Condition 2 refers to “private use only”)

“The development hereby permitted shall only be used for the private exercising of horses and shall at no time be used for any commercial purpose whatsoever in connection with equestrian tuition or leisure rides. REASON: In the interests of highway safety and to accord with Harborough District Core Strategy Policies CS11 & CS17”.

15/00277/FUL-Erection of horse exercise arena at Moorbarns Lane adjacent to site of existing stable block. (Condition 2 refers to “private use only”)

The development hereby permitted shall only be used for the private exercising of horses, ancillary to the existing stables, and shall at no time be used for any commercial purpose whatsoever in connection with equestrian tuition or leisure rides. REASON: In the interests of highway safety and to accord with Harborough District Core Strategy Policies CS11 & CS17

Further to the conversion of the haybarn to 8 stables, a further stable block has been added, such that there are a further 9 stables on site, 2 horse walkers and storage containers (subject of a separate enforcement case). A tenant has been using the land for a livery business for around 38 horses (February 2022).

The menage has been used for dressage lessons and has been available for private hire (all in connection with the livery business). The commercial use has prompted the submission of the Variation of condition applications.

The Agent has stated that the horse walkers were erected over 6 years ago, so are immune from Enforcement actions and the additional stable block and storage containers have been removed from site.

3. The Application Submission

a) Summary of Proposals

- 3.1 The proposal is for a new leisure use in the countryside and comprises a number of elements:

Use of part of the site for holiday lodges (Southeastern corner) with new access tracks and all weather gallop around paddock land. A management lodge is shown to the top of the site.



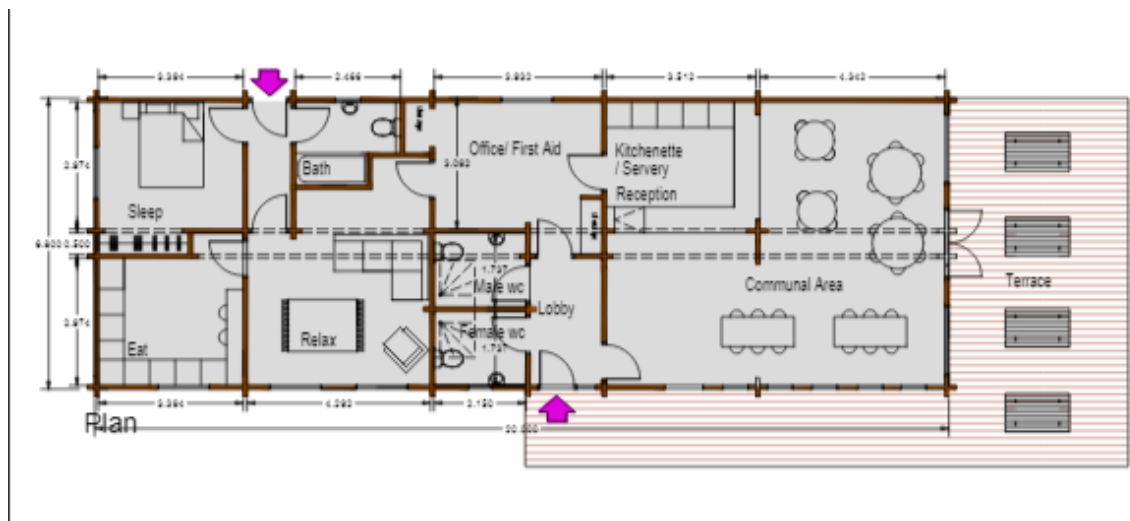
Site Plan 1:2500

Accommodation

Erection of 21 holiday lodges (2-bed each 86sq m internal floor area), Materials are Timber, with grey profiled metal sheeting roofing. External decking. Maximum height 3.55m.



A management building (approx. 136 sq.) Height and materials as previously. The majority of the building is shown as communal area/kitchenette/reception/office/first aid, whilst approximately, one third is ancillary accommodation (for manager).



3.2 Highways and parking:

The Applicant proposes minor amendments to the existing access which will be shared with the existing stables on to Moorbarns Lane, an adopted unclassified road with a 60mph speed limit. Approximately 50 metres to the south of the access on the opposite side of the carriageway is the access to Lutterworth Household Waste Site. After serving Moorbarns Farm and the main entrance for ATE Farms, Moorbarns Lane eventually terminates to the south at the Severn Trent Treatment Works. Moorbarns Lane is approximately five metres wide from the site access to the treatment works to the south and from the access to the access to Bond Street/ the Grange Residential Park to the north

Individual parking for each lodge is provided.

3.3 Landscaping:

Whilst the layout plan shows a spacious layout on the site, with the existing hedge across site and boundary hedges and trees retained, further planting and details can be conditioned so as to enhance the development further, provide screening and enhance the biodiversity of the site.

3.4 Equestrian uses on site; (Variation of conditions applications).

There are existing stables, manege and exercise equipment on the site, all of which are subject to a private, non-commercial condition. The applicant is also applying to vary the relevant conditions such that a commercial use can take place, including use by holiday makers who wish to use the facilities. Riding school use would be excluded

as this is likely to create additional traffic which has not been fully assessed and is a more intensive use in respect of traffic movements than a livery use.



b) Documents submitted

i. Plans

3.5 The application as finally amended is accompanied by the following proposed plans:

Site layout and lodges
Site access plan

ii. Supporting Information

3.6 The application as amended has the following supporting information:

Noise Assessment
Tree Survey
Transport Assessment (revised) and revised Transport Assessment dated May 2023
Ground Investigation Report
Flood Risk Assessment (revised)
Ecology Report
Topological survey

c) Pre-application Engagement

3.7 No pre-application advice was sought or given for this application.

d) Other Relevant Information

3.8 The application (for holiday lodges) has been called-in to Planning Committee at the request of Cllr Ackerley for the following reasons:

1. Access to this site goes past two schools and the County Council waste site. There has been a great deal of concern from local residents about development on Moorbarns lane.

The other items are reported for completeness, given the linkages.

2. The application was deferred at the Planning Committee in April in order for additional highways data to be presented-this has been done with a revised Transport Statement, to include an additional vehicle/pedestrian/cycle survey at the site access. The Highways Officer has made further comments-see highways section.

4. Consultations and Representations

4.1 Consultations with technical consultees and the local community were carried out on the application, including site notices.

- 4.2 Reconsultation has been carried out on amended plans with relevant consultees as and when the amended information has been submitted, this being chiefly with Highways, Ecology and LLFA..
- 4.3 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.

a) Statutory & Non-Statutory Consultees

4.4 Cotesbach Parish Council

Object:

1. Site is very visible from Cotesbach as on open land, and from footpaths. Would be harmful to the landscape. No planting scheme is shown which would screen the site.
2. Site is visible from the grounds of listed church with views through to Lutterworth Church.
3. Concerns about the design of the lodges which could result in a series of obtrusive dwellings without adequate screening.
4. No waste facilities, business plan and would question how it would be run?
5. Concerned about additional traffic, including horse boxes.
6. If minded to approve, would like to see conditions in regard to; Screening, lighting, duration of stays, noise and event management.
7. Raise issue of Ragwort on site.

4.5 Lutterworth Town Council;

Object to this planning application due to location, it is a single-track road with ditches either side making increased traffic here a major issue.

This is also very near 2 large schools one of which is already increasing in size due to recent expansion so there is already a high volume of traffic and this would add to this with amount of cars/horse boxes passing through. At school start and end times there are a large amount of students/parents leaving this area in cars and on foot crossing the main roads.

Lutterworth Town Council have also advised there is no clear detailed plan on the application and would request this before the application is processed any further.

Lutterworth Town Council fully support the LCC objection that has been issued.

4.6 Lead Local Flood Authority

Leicestershire County Council as Lead Local Flood Authority (LLFA) notes that the 13.39ha greenfield site is mostly located within Flood Zone 1 (low risk of fluvial flooding), with the southern portion of the site being within Flood Zone 3 (high risk of fluvial flooding). The site is also at low risk of surface water flooding. The proposals seek to discharge at 10.4l/s discharge rate via natural processes and a controlled outfall to the River Swift, an on-site main river. Newly clarified information has satisfied the LLFA's concerns over the site layout and drainage strategy for this application. As such the LLFA is happy to condition the remaining outstanding information (maintenance and management of assets)

4.7 Environment Agency:

Recommend that the development is carried out in accordance with the Flood Risk assessment and condition recommended;

Development entirely with Flood zone 1 and finished floor levels of lodges.

4.8 HDC Environmental Health

No contaminated land requirement.

4.9 LCC Highways

Following the submission of further information, highways are satisfied that it is unlikely that the additional trips generated by the proposed development would have a material impact on the existing highway network during the weekday or weekend highway network peak hours. (refers to all applications).

Conditions recommended.

4.10 LCC Archaeology

Welcome the archaeological desk-based assessment provided with the application and agree that there is a potential for archaeological remains to be located within the application area and to be impacted by the proposed development. In accordance with National Planning Policy Framework (NPPF), Section 16, paragraph 194, the development area is of archaeological interest and also has the potential for further unidentified archaeological deposits. Based upon the available information, it is anticipated that these remains whilst significant and warranting further archaeological mitigation prior to the impact of development, are not of such importance to represent an obstacle to the determination of the application (NPPF paragraph 195). While the current results are sufficient to support the planning decision, further post-determination trial trenching will be required in order to define the full extent and character of the necessary archaeological mitigation programme.

Recommend condition.

4.11 LCC Ecology

The site was comprised of two fields of improved grassland. A species-poor intact hedge and a fence was present along the middle of the two fields; it also formed the north-eastern site boundary. Surrounding landscape included arable fields, lines of trees, and small blocks of deciduous woodland.

4.12 LCC Minerals and Waste:

It is unlikely that a minerals assessment would have revealed any need to object to the proposal.

b) Local Community

4.13 One letter of objection received from resident in Dunton Bassett, expressing the following concerns:

- Highway safety, already over developed on a no through road with schools at one end.
- Loss of open countryside
- Residential development in the countryside should be resisted.

5. Planning Policy Considerations

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

a) Development Plan

- *Harborough Local Plan*

5.2 The following policies of the adopted Local Plan are considered most relevant in consideration of the application:

- SS1 – Spatial Strategy
- GD3 – Development in the countryside
- GD5 – Landscape Character
- GD8 – Good design in development
- GD9 – Minerals Safeguarding
- RT4 – Tourism and Leisure
- HC1 – Built Heritage
- GI5 – Biodiversity and Geodiversity
- CC1 – Mitigating Climate Change
- CC3 – Managing Flood Risk
- CC4 – Sustainable Drainage
- IN2 – Sustainable Transport
- IN4 – Water resources and services

b) Material Planning Considerations

5.3 The following are considered material planning considerations:

- *National Planning Policy Framework*
- *National Planning Practice Guidance*
- *Leicestershire County Council Highway Design Guide*
- *The Environment Act*
- *Leicester & Leicestershire Economic Growth Strategy 2021-2030 (Leicester and Leicestershire Enterprise Partnership Limited, November 2021)*

6. Assessment

a) Principle of Development

- 6.1 The Local Plan seeks to support and promote sustainable development throughout the District. The primary means to achieve this is through policy SS1, the Spatial Strategy, setting out the most sustainable locations for development, down to the least sustainable. By directing development towards the most sustainable locations, the Plan seeks to reduce reliance on the private motor vehicle and to support local communities and settlements. The application site is not adjacent to the committed or built-up area of Lutterworth an identified key Centre settlement and is thus in the open countryside, where SS1 says development shall be ‘strictly controlled’.

GD3 (development in the countryside) however recognises the importance of tourism to the District, supporting proposals for: “tourist accommodation, if it is of a scale that is proportionate to the identified tourism need and subject to policies RT2 and RT4.” (GD3.1.a.iii, iv). This policy also allows for equestrian uses, outdoor sport and recreation uses and associated buildings in the countryside.

- 6.2 The proposal is considered to comply in principle with GD3, noting that there are already equestrian uses and facilities on the site (albeit restricted usage). GD3 1.a supports farm diversification and gives tourist accommodation as an example of this. With regard to the need for new tourist accommodation, the Tourism Action Plan for Leicester and Leicestershire advises that tourism is the fastest growing sector in the local economy since 2010 with the Leicester & Leicestershire Economic Growth Strategy 2021-2030 also seeking to build tourism and the visitor economy:

“We will continue to support the Leicester and Leicestershire Tourism Growth Plan and Tourism Advisory Board which sets out actions for the sector’s recovery while strengthening and differentiating it in the long-term. This includes developing the potential of the region’s tourism assets to welcome more visitors, increase tourist spending, enable profitable businesses, create jobs and deliver positive economic impact” (p 23, *LLEP Economic Growth Strategy 2021 -2030*)

- 6.3 Policy RT4 of the Local Plan supports the development of tourism and leisure attractions “that are well connected to other leisure destinations and amenities, particularly by public transport, walking and cycling” (RT4.1 b). The policy also allows for new tourist accommodation outside of sustainable settlements, subject to compliance with certain criteria:

“a. an initiative requires a countryside location or setting or it is directly related to a specific tourist destination and, where possible, it re-uses previously developed land and existing buildings; or

b. it involves the diversification of agricultural uses or otherwise benefits rural businesses and communities; and

c. its scale and appearance respects the character of the countryside, the local landscape and the surrounding environment; and

d. it does not adversely affect the local transport infrastructure” (RT4.2)

6.4 The holiday lodges, and overall leisure/tourism use including stables and other equine development is considered appropriate in the countryside. The proposal will provide an additional tourist attraction linked with the equine usage and help to support the role of Lutterworth as a key centre. The land is already in equine use and the lodges will support this by offering linked accommodation, reducing potential traffic movements. The proposal will diversify the applicant’s existing agricultural use. Matters of visual impact and transport infrastructure are addressed below.

6.5 Paragraph 85 of the NPPF recognises that proposals to serve local businesses (and officers consider this includes the proposed tourism use by way of farm diversification) may have to be in areas that are not well-served by public transport or within an existing settlement. In these instances however, proposals are expected to be sensitive to their surroundings, “exploit” opportunities to increase the environmental sustainability of the site, and not have an unacceptable impact on local roads. These matters are further addressed below.

6.6 In the opinion of officers, the proposal finds support from Local Plan policies RT4 2 b) and GD3 and paragraph 85 of the NPPF and is considered an acceptable use in principle of the site.

b) Technical Considerations

1. Design, Layout and Landscaping

6.7 The layout respects the existing contours of the land and retains these with the levels falling across the site from North (top) to South by some 17m overall. The lodges are low key (3.55m max) and timber construction and are well spaced to allow for additional landscaping. They can be dug into the ground where required to mitigate further, and to this end, a further levels plan will be required by way of condition.

The proposed buildings have an acceptable low-key design with suitable materials for the countryside location.

The siting of the equestrian development, at the top of the site will keep activity and development associated with that use within the existing built form, close to the road. Additional planting is required for screening given the visibility of the site from Cotesbach and neighbouring footpaths will help to improve the biodiversity and green nature of the site.

Boundary treatment looking towards Cotesbach from bottom of site.



Areas of hard landscaping (tracks, car parking etc) have been kept to a minimum and sensitive materials will be required (C8 refers).

- 6.8 Officers consider that the proposal has a layout, design and landscaping which respects the context in which the development is sited and has a harmonious appearance, in accordance with Local Plan policy GD8.

2. Impact upon the character and appearance of the area and the countryside

- 6.9 Due to existing varying land levels the proposed development can be mitigated with careful positioning. Any glimpses of the proposed buildings will not be viewed as unsympathetic however, given the good design and materials. Officers note the concerns of Cotesbach Parish Council regarding impact on the character and appearance of the countryside. It is noted however that the proposal retains all existing trees and hedges and a further landscape plan will be required to include new planting and future maintenance. This can be controlled by condition and can be enforced if necessary. The trees already on site are not protected under the Planning system and their protection by way of this consent (if granted) is considered a benefit of the proposal, particularly given the sensitivity of the site in ecological terms.
- 6.10 Officers consider that the proposal preserves the character and appearance of the countryside and landscape, in accordance with GD8 and GD5 of the Harborough Local Plan.

3. Heritage

- 6.11 Under the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act'), a Local Planning Authority must have special regard to the desirability of preserving a Listed Building or its setting or any features of special architectural or historic interest which it possesses. Similar applies to Conservation Areas.

Preservation in this context means not harming the interest in the building/asset, as opposed to keeping it utterly unchanged.

- 6.12 The NPPF and policy HC1 of the Local Plan require great weight to be given to a heritage asset's conservation. If 'less than substantial' harm to the asset or its setting is identified, then the decision-maker is to weigh up the public benefits of the proposal against this harm. Assets which do not currently have any statutory protection can be considered 'non-designated heritage assets' and these too are protected under the policies.
- 6.13 Whilst there are not any designated heritage assets on or close to this site, the Parish Council refer to concerns that the proposal may disturb views between Cotesbach and Lutterworth churches. However it is considered that the nature of the low key structures, combined with their positioning within the land contours and existing and proposed boundary/landscaping will mitigate any impact and the site is offset also from the main line of vision, with more significant development between.
- 6.14 Non-designated heritage assets are firstly any below-ground archaeology. County Archaeology have no objection to the proposal but have requested an archaeological condition (C 9 refers).
- 6.15 The proposal is judged to have no harmful impact on designated or non-designated heritage assets, to preserve the setting of Listed Buildings and Conservation Areas. It thus accords with HC1, the NPPF and the Act.

4. Highways

- *Highway impacts*

- 6.16 Plans submitted show an access width of 7.6 metres which reduces in width to 6.1 metres within the site and a five metre junction radii. Also demonstrated is the safe passing at the access of two landrovers travelling in opposing directions that are each towing a large horsebox. The Applicant has also demonstrated the achievement of vehicular visibility splays of 2.4 x 43 metres to the south and 2.4 x 54 metres to the north. These splays are based on an Automatic Traffic Count undertaken between 9 - 15 February 2022 adjacent to the proposed site access, which indicated 85%ile speeds of 31mph southbound and 29mph northbound. The LHA are satisfied that the access is safe and suitable to serve the proposed development

Photograph 1: Existing Site Access



- 6.17 The Applicant undertook a review of the TRICS database to determine suitable weekday trip rates from other similar sites. Selected were two sites, one in Derbyshire from which the survey results for 29 July 2011 were analysed and one in Norfolk from which the survey results for 17 August 2021 were analysed. The resulting proposed weekday vehicular trip rates for the development are detailed in Table 1. Table 1:

	Trip Rates (per unit)		Trip Generation (21 units)		
	Arrive	Depart	Arrive	Depart	2-Way
AM Peak (08:00-09:00)	0.045	0.058	1	1	2
PM Peak (17:00-18:00)	0.214	0.179	4	4	8

Weekday vehicular trip rates, 21 holiday lodges. In addition to the AM and PM peak trips generated as shown above the data contained in Appendix F of the 'Transport Statement' shows that the proposed development may generate a total of 69 weekday two-way movements. The Applicant has undertaken a further review of the TRICS database to determine suitable weekend (Saturday) trip rates from other similar sites. Again two sites were selected, one in Derbyshire from which survey results for 28 July 2018 were analysed and one in Moray from which the survey results for 17 July 2021 were analysed. The LHA note that the site in Moray is unlikely to provide a direct comparison with the proposed development. However taking into consideration the limited number of surveys for holiday lodges available in the TRICS database the LHA

is minded to accept the submitted rates for holiday lodges. The resulting proposed weekend (Saturday) vehicular trip rates for the development are detailed in Table 2:

	Trip Rates (per unit)		Trip Generation (21 units)		
	Arrive	Depart	Arrive	Depart	2-Way
AM PEAK (11:00-12:00)	0.077	0.103	2	2	4
PM PEAK (17:00-18:00)	0.112	0.092	2	2	4

In addition to the AM and PM peak trips generated as shown above the data contained in Table 6 of the 'Transport Statement' shows that the proposed development may generate a total of 46 weekend (Saturday) two-way movements. The LHA are satisfied that it is unlikely that the additional trips generated by the proposed development would have a material impact on the existing highway network during the weekday or weekend highway network peak hours.

- 6.18 Officers consider that this “worst-case” scenario is extremely unlikely to occur in practice. Trips are much more likely to be staggered throughout the day, and are unlikely to occur at peak hours when the road is busiest (weekdays 8-9am, 3-4pm) due to the nature of the uses. The trips are also likely to vary according to season and in the winter months for example there may be fewer vehicle movements associated with the holiday use proposal. The tourist use is likely to only reach its peak in holiday periods when (for example) school traffic will be limited. With the different equestrian facilities available on the site, the accommodation is likely to be attractive to those who wish participate in equine activities whilst on holiday, also reducing the number of trips in and out of the site.

The Transport Statement shows the distance to key amenities/facilities from the site:

Table 2: Accessibility Assessment

Facility	Approx. Distance (m)	Approx. Journey Time (minutes)*	
		Walking	Cycling
Health			
Fortnams Chemist Alphega Pharmacy	1500	18	7
Feldding Palmar Hospital	1900	23	9
Retail			
Onsite Shop	N/A	-	-
Morrisons	1700	21	9
Aldi	1800	23	9
Waitrose & Partners Lutterworth	1900	23	9
Leisure			
The Fox Inn	1400	17	6
Lutterworth Cricket Club	1600	19	7
Lutterworth Sports Centre	1700	20	7

*Assumes a walking speed of 1.4m/s (3.2mph or 5.0kph) taken from the Guidance for Providing for Journeys on Foot (IHT, 2000) and cycling speed of 4m/s (9mph or 14.4kph), taken from Local Transport Note 1/86.

**Closest facility of each type shown, additional facilities may be present at a further distance.

The Department for Transport (DfT) found that whilst walking constitutes around 25% of all journeys made in a year, it found that approximately 80% of all walking trips were under one mile (1.6km). On average, people are willing to travel 16 minutes per walking trip. Table 2 demonstrates that some key facilities and amenities future visitors and staff may require within the local area are located within a realistic walking distance of the site (within 1.6km). There is no separate footpath on this section of Moorbarns Lane.

Photograph 2: Moorbarns Lane Carriageway



There are also opportunities for cycling and the nearest bus service is on Woodmarket, approximately 1.1 km away.

- 6.19 County Highways consider that the assessment is both robust and a worst-case scenario, acknowledging that in practice, the number of trips is likely to be lower. Having considered all the evidence, including concerns raised by Members and residents, County Highways are satisfied with the proposal and consider that that it will not lead to severe highway harm, including from cumulative impacts on the wider highway network. Giving weight to the response of this statutory consultee, and also bearing in mind the use and layout of the existing access, Officers consider that the applicant has satisfactorily demonstrated a safe and suitable access and that the use would not generate levels of traffic which would be harmful to highway safety.

The application was deferred at the LPA Planning Committee meeting which took place 4 April 2023 pending further clarification that the highway assessment has considered traffic levels over several days and the equestrian use of Moorbarns Lane. Clarification has also been requested that the multiple uses on Moorbarns Lane have been taken into account including activity from the school, travelling show persons site and the civic waste tip.

The Applicant has subsequently submitted a revised Transport Statement (TS) created by M-EC (Report Ref. 27061-08-TS-01 Rev. C) May 2023. The TS states that an additional vehicle/ pedestrian/ cyclist/ equestrian survey was undertaken at the site access during the period Thursday 27 April 2023 to Sunday 30 April 2023.

The survey recorded a maximum daily two-way car flow of 616 on Saturday 29 April 2023 and a maximum pedestrian flow of 24 during Sunday 30 April 2023. No passing equestrian traffic was recorded during the survey and only one cycle journey passed the access. The above survey is in addition to an Automatic Traffic Count undertaken between 9 - 15 February 2022. The LHA understand that both of the above surveys were undertaken during school term times and when the civic waste tip was open to the public.

The LHA have accessed the additional information submitted and advise that no changes are required to the LHA advice provided through the response issued 28 June 2022. For clarity, conditions have been suggested.

- 6.20 For these reasons, the proposal is considered to comply with GD8 and IN2, and paragraphs 85 and 101 of the NPPF, together with the Leicestershire Highway Design Guide.

5. Residential Amenity

- 6.21 The nearest residential properties to the site are Spring Farm (opposite) and the adjoining dwelling (owned by site owner). The equestrian use is already in operation and provides a buffer to the road, whilst the holiday lodges are relatively low key and some distance away such that no loss of amenity is identified.

- 6.22 The proposed holiday lodges would be well insulated and noise would be mitigated internally by this and by the inclusion of well fitted windows and doors. The submitted noise assessment confirms that the impact of the motorway would not be significantly adverse to the occupiers
- 6.23 The management lodge will enable the use of the site to be controlled, such that any issues of noise or nuisance can be adequately dealt with. Further details of external lighting and a minor Construction management plan to control hours of construction and wheel washing is also required, but the construction period for such low key structures (often pre-built) is typically relatively short. Officers consider that the proposal will safeguard residential amenity, in accordance with GD8.

6. Ecology, biodiversity, trees and soils

- 6.24 The Framework places great importance on the protection and enhancement of biodiversity, stating that development plans should identify and pursue opportunities for securing measurable net gains for biodiversity. Furthermore, when determining planning applications, opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 6.25 Local Plan Policy GI5 states that development will be permitted where, amongst other things, opportunities for improving habitats are incorporated, and unavoidable loss or damage to habitats, sites or features is addressed through mitigation, relocation or, as a last resort, compensation to ensure there is no net loss of environmental value. The policy also states that development should, as relevant, provide contributions to wider biodiversity improvements in the vicinity of the site.
- 6.26 The applicant has submitted an ecology survey which County Ecology consider to be acceptable. A scheme to enhance biodiversity net gain required by way of landscaping condition 17.
- 6.27 The site is of mineral interest with the soil in an area of sand and gravel value. However, the County Council Minerals Planning team have raised no objection to the proposal.
- 6.28 A tree survey has been submitted, and the proposal will not harm veteran, aged or good-quality trees, retaining the existing trees on site boundaries.

- 6.31 Both the LLFA and the Environment Agency are satisfied with the information submitted and relevant conditions are recommended (C5-7 refer). This includes that there is no development in flood zone 3, and that the lodges are a certain level to avoid the chances of flooding. Further a scheme for rainwater harvesting is included as part of Condition 15. Officers consider that the proposal complies with CC3, CC4 and IN4 of the Local Plan.

8. Climate Change and electronic connectivity

- 6.46 Harborough District currently has a 6.9 tonne carbon footprint per person, higher than the England, County and Regional per capita amount and primarily due to the rural nature of the District and the dependency on motorised transport. A projection of the District's emissions shows that we will only reach carbon neutrality by 2042. In June 2019 the Council declared a Climate Emergency with the aim that all council functions and decision-making should lead to the Council being carbon neutral by 2030.

- 6.47 Local Plan policy CC1 relates to major development (the site area means this proposal is for major development) requiring proposals to demonstrate passive design, best-practice accreditation, renewable energy technology and minimised carbon emissions during construction (*inter alia*). Whilst this scheme is not classified as major development, in accordance with Para 85 of the NPPF (to make the development sustainable), a condition will require a package of "Green" measures to be agreed (C 15 refers).

7. The Planning Balance / Conclusion

- 7.1 The application is to be assessed against the policies of the development plan together with all material considerations.

○ *Development plan*

- 7.2 The above assessment concludes that the proposal complies with policies GD3, GD5, GD8, GD9, HC1, RT4, GI5, IN2, IN4, CC1, CC3 and CC4 of the Harborough District Local Plan.

○ *Material considerations*

- 7.3 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."*

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.

- 7.4 The Framework identifies three dimensions to sustainable development – economic, social and environmental. Taking each of these in turn the following conclusions can be reached.

- o Economic:* The proposal will create economic benefits for the applicant (farm diversification) and for the wider area, as it is for tourist accommodation for visitors to the District. There may be some benefits from Business Rates. The proposal will create some limited employment and this is likely to be both permanent and seasonal jobs. Officers consider that the economic benefits are modest however they should be afforded some positive weight.
- o Social:* benefits include health and well-being benefits for the users, including equestrian users and holiday makers, and offer an opportunity to combine the two. Officers consider that social benefits should be given modest positive weight.
- o Environmental:* The proposal is in keeping with the character and appearance of the surrounding countryside and will retain existing boundary trees and there will be landscape enhancement and bio-diversity net gain can be achieved. During development there may be some short-term disturbance/inconvenience to residents. Horse owners in Lutterworth will be able to keep their horses in a relatively sustainable location, avoiding longer journeys elsewhere.

- 7.5 The proposal is considered to meet all three strands of sustainable development and represents an acceptable use in the countryside. Conditions are proposed that would restrict the use of the accommodation to that linked with holiday purposes and its management, as residential accommodation is not justified in this location (Conditions 11 and 12 refer).

The proposed development is acceptable on the basis that the site occupies a sustainable location on the edge of a key centre. The details of the scheme, subject to conditions, demonstrate that it is capable of being assimilated into its surroundings without adversely affecting the character and appearance of the area, the amenities of occupiers of nearby properties, highway safety, biodiversity, archaeology, flooding, or any other interest of acknowledged importance.

There are no material considerations which are judged to outweigh the policies of the development plan and thus the proposal is recommended for approval (Appendix A conditions).

- 7.6 It is also recommended that the relevant conditions relating to the private equestrian use of the site are varied, such that the existing equestrian facilities can be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL). This is on the

basis, that highways are satisfied that the impact of doing so will not be harmful (as demonstrated), and that the variation will not have a harmful impact on the character of the countryside. (Appendix B conditions)

Appendix A – conditions

1. 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. Permitted plans

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

Site location (1002A), Block Plan (1003), log05, log03

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

3. Materials

The external materials used in the construction of the development hereby approved shall be as detailed within the permitted application particulars and shall be retained in perpetuity, unless prior written consent is obtained from the Local Planning Authority.

REASON: To safeguard the appearance of the development and the character and appearance of the area, having regard to Harborough Local Plan Policies GD5 and GD8, and the National Planning Policy Framework.

4. Surface water drainage scheme

The surface water drainage scheme shall be carried out in accordance with the FRA and drainage strategy (BSP including amendments and updates) and retained in perpetuity.

REASON: To prevent flooding by ensuring the satisfactory storage and disposal of surface water drainage and to accord with Harborough District Local Plan policies CC3 and CC4, and the National Planning Policy Framework.

5. Surface water management during construction

No development approved by this planning permission shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be adhered to throughout all construction works prior to first use of the development hereby permitted.

REASON: to prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase and to accord with Harborough District Local Plan policies CC3 and CC4 and the National Planning Policy Framework.

6. SUDs management

No use of the development approved by this planning permission shall take place until such time as details in relation to the long-term maintenance of the surface water drainage system within the development have been submitted to and approved in writing by the Local Planning Authority. The approved maintenance scheme shall be maintained in accordance with these approved details in perpetuity.

REASON: To establish a suitable maintenance regime that may be monitored over time; that will ensure the long-term performance, both in terms of flood risk and water quality, of the surface water drainage system (including sustainable drainage systems) within the approved development and to accord with Harborough District Local Plan policies CC3 and the National Planning Policy Framework.

7. Flood Risk Assessment

The development shall be carried out in accordance with the submitted flood risk assessment (ref MLLL-BSP-ZZ-XX-RP-C-0001- 01_Flood_Risk_Assessment, dated 28 Feb 2022) and the following mitigation measures it details:

- In order to mitigate fluvial flood risk on-site the proposed development should be constrained to areas that are entirely within Flood Zone 1 (as shown on DRAFT drawing No. 1002) - sections 4.1.2, 9.0 and Appendix B.
- Finished floor level of the lodges shall be set no lower than 104.85 metres above Ordnance Datum (AOD) or 150mm above external finished ground levels, whichever is the higher (the latter in order to prevent internal surface water flooding). Where possible ground levels should fall away from the proposed lodges and towards the surrounding land which falls towards to River Swift - sections 4.1.2 and 9.0

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

REASON: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is NOT required, and to reduce the risk of flooding to the proposed development and future occupants.

8. Hard surfacing areas

Prior to the erection of any building approved by this permission on the site, details of all areas of hard surfacing, parking, trails, turning, internal roads and tracks shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to first use of the site and retained in perpetuity.

REASON: To ensure a satisfactory form of development in the interests of the character and appearance of the countryside having regard to Harborough District Local Plan policies GD8 and GD5, and the National Planning Policy Framework.

9. Archaeology:

No demolition/development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a written scheme of investigation (WSI), which has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed mitigation 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 satisfactory archaeological investigation, recording, dissemination and archiving The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor

10. Holiday let occupation

The tourist accommodation (holiday lodges) hereby approved shall only be occupied for holiday purposes, in accordance with the following terms:

- a) The tourist accommodation shall be used for no other purpose (including any other purpose within Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or any Order revoking and re-enacting that Order, with or without modification).
- b) Occupation of the tourist accommodation shall not exceed a continuous period of 30 days.
- c) The tourist accommodation shall not be occupied as a person's or persons' sole or main place of residence.
- d) The site/premises owners or operators shall maintain an up-to-date register of the names of all occupiers of the tourist accommodation, their main home address/es and telephone and/or email contact details, the purpose of their stay, and the dates of their stay, and shall make this information available at all reasonable times to the Local Planning Authority.

REASON: To prevent unrestricted residential development in the open countryside, to support local tourism development and its associated economic benefits, to ensure that the holiday let unit remains available for tourist accommodation and to accord with Harborough Local Plan Policies GD3 and RT4 and the National Planning Policy Framework.

11. Management Building:

The management building hereby approved shall be set out and thereafter retained as shown on the plans, primarily for management purposes in association with the holiday lodges, and any occupation shall be ancillary to this purpose by someone employed to manage the accommodation.

REASON: To prevent unrestricted residential development in the open countryside, to support local tourism development and its associated economic benefits, to ensure that the holiday let unit remains available for tourist accommodation and to accord with Harborough Local Plan Policies GD3 and RT4 and the National Planning Policy Framework.

12. External Lighting

No external lighting shall be installed on the site until details (including luminance levels and measures to minimise light spillage) have been submitted to and approved in writing by the Local Planning Authority. External lighting shall only be installed in accordance with

the approved details and shall not be replaced with any alternative lighting without the prior permission in writing of the Local Planning Authority.

REASON: To safeguard the rural amenities of the locality and in the interests of protected species (bats) having regard to Harborough Local Plan Policies GD8 and the National Planning Policy Framework.

13. Access

No part of the development hereby permitted shall be brought into use until such time as the access arrangements shown on the following drawings have been implemented in full:

M-EC drawing number 27061_08_020_01

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and to accord with Harborough District Local Plan policies GD8 and IN2 and the National Planning Policy Framework

14. Parking/turning

The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the BHC drawing 1003. Thereafter the onsite parking and turning provision shall be so maintained in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally, and to enable vehicles to enter and leave the site in a forward direction, in the interests of highway safety and to accord with Harborough District Local Plan policies GD8 and IN2 and the National Planning Policy Framework

15. Sustainability improvement measures:

Within two months of the commencement of development, full details of the sustainability improvement measures including rainwater harvesting, re-cycling, solar/heat ground source energy, electric charging points, shall be submitted to the Local Planning Authority. The approved details shall be implemented prior to first use of the development, and retained in perpetuity unless otherwise agreed in writing with the Local Planning Authority.

REASON: to increase the sustainability of the site in the interests of climate change and to accord with Local Plan policies IN4 and CC1 and the National Planning Policy Framework.

16. Levels;

No development shall commence on site until details of existing and proposed levels have been submitted to and approved in writing by the Local Planning Authority. The details shall include finished ground floor levels of all buildings in relation to the existing and proposed site levels, the adjacent highway and adjacent properties (if relevant), together with details of the levels of all accesses (to include pathways, driveways, steps and ramps). The development shall only be carried out in accordance with the approved details.

REASON: To safeguard the character and appearance of the area and the amenities of occupiers of adjoining dwellings, having regard to Harborough Local Plan Policies GD2, GD5 and GD8, and the National Planning Policy Framework.

17. Landscape scheme:

Prior to the first occupation of the unit(s) a Landscape Scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscape Scheme shall include measures for biodiversity net-gain, and full details of proposed hard and soft landscape works, including: access, driveway, parking, turning and all other surfacing materials; boundary treatments; retained planting/hedges/trees and new planting/hedges/trees; screened bin store area; and a timetable of implementation.

Thereafter, the landscape scheme shall be carried out in accordance with the approved details prior to the first occupation of the dwelling(s). Any trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

REASON: To ensure that the development includes landscaping, planting, boundary treatments and surfacing materials which are appropriate to the character and appearance of the development and the surrounding area, 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, GD8 and the National Planning Policy Framework.

18. Landscape management:

Prior to the first use of any of the units/buildings hereby granted permission, a management plan for the landscaped areas of the site as a whole shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscaped areas shall be managed in accordance with the approved plan.

REASON: To safeguard these natural features in the interests of the appearance of the locality and to enhance the biodiversity of the area in accordance with Harborough District Local Plan Policies GD8 and GI5 and the National Planning Policy Framework

19. CEMP (minor)

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) details of wheel washing facilities on site and regime to be implemented.
- 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.

Notes to Applicant:

1. Refer to Correspondence from LLFA dated 18.11.22
2. EA:

Although we are satisfied that the development will take place in Flood Zone 1, we would wish to highlight that the Extent of the Flood Zone adjacent to the development at the upstream end of the site has been incorrectly plotted on all site plan and block plan drawings submitted (Drawing Nos. 1003 to 1006), the correct plotting of the Flood Zone extents is as shown on

DRAFT drawing No. 1002 in Appendix B of the FRARAFT drawing No. 1002 in Appendix B of the FRA.

Appendix B– conditions:

22/00759/VAC

(2) Variation of Condition 2 (private only use of stabling) of 13/00829/FUL to enable the stables, tack room and hay barn to be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL)

Conditions:

1. The stables, tack room and hay barn may be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL) No commercial riding school use is permitted.

REASON: To safeguard the amenities of the locality and the safety of persons and vehicles using the adjoining highway having regard to Harborough Local Plan Policies GD3 and GD8 and the requirements of the National Planning Policy Framework.

22/00764/VAC

(3) Change of use of land from agricultural to equestrian, including formation of horse exercising gallop (Variation of Condition 2 (private exercising of horses) of 14/01336/FUL to enable the land and gallops to be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL)

Condition:

1. The land and gallops may be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL) No commercial riding school use is permitted.

REASON: To safeguard the amenities of the locality and the safety of persons and vehicles using the adjoining highway having regard to Harborough Local Plan Policies GD3 and GD8 and the requirements of the National Planning Policy Framework.

22/00767/VAC

(4) - Variation of condition 2 attached to 15/00277/FUL. To enable the exercise arena to be used by horses other than his own including horses owned by visitors staying in lodges which are proposed posed under planning application 22/00719/FUL.

Condition:

1. The horse exercise arena may be used by horses other than the applicant's own including horses owned by visitors staying in lodges which are proposed under planning application 22/00719/FUL) No commercial riding school use is permitted.

REASON: To safeguard the amenities of the locality and the safety of persons and vehicles using the adjoining highway having regard to Harborough Local Plan Policies GD3 and GD8 and the requirements of the National Planning Policy Framework.

Planning Committee Report

Applicant: Willoughby (610) Ltd

Application Ref: 22/00787/FUL

Location: Land Off Dingley Road, Great Bowden

Parish / Ward: Great Bowden / Great Bowden & Arden

Proposal: 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

Application Validated: 07.04.2022

Target Date: 07.07.2022 (EOT was agreed to 01.03.2023)

Committee Decision: The application was 'called-in' by Cllr Knowles (25.04.2022) "*on the grounds of transparency, environmental and highways impact considerations*"

Recommendation

Planning Permission is **REFUSED** for the following reasons:

- 1) The proposed development at the Dingley Road Site will lead to less than substantial harm to the significance and setting of listed The Vicarage, No.11 Dingley Road and the walls and gate piers (all Grade II listed); the Great Bowden Conservation Area and the Village Hall and cemetery, non-designated heritage assets. The harm identified to these heritage assets is not outweighed by public benefits of the proposal, including the proposed community car park. The proposal is therefore contrary to Harborough Local Plan Policy HC1 the Framework and the Planning (Listed Buildings and Conservation Areas) Act 1990
- 2) The proposed development at the Dingley Road Site is located beyond the settlement boundary of Great Bowden and is therefore within open countryside, where development will be strictly controlled. The proposal does not meet any of the criteria listed as being acceptable development within the countryside. The proposal is therefore contrary to Harborough Local Plan Policies GD2; GD3 and GD4 and Great Bowden Neighbourhood Plan Policies H1 and H2.
- 3) The proposed development at the Dingley Road Site by virtue of the design, scale and layout of the dwellings and car park would fail to respect the form and character of the surrounding area. The proposal is therefore contrary to Harborough Local Plan Policies GD2 and GD8 and Great Bowden Neighbourhood Plan Policy H6
- 4) The proposed development at the Dingley Road Site by virtue of the housing mix would fail to satisfy Great Bowden Neighbourhood Plan Policy H4.

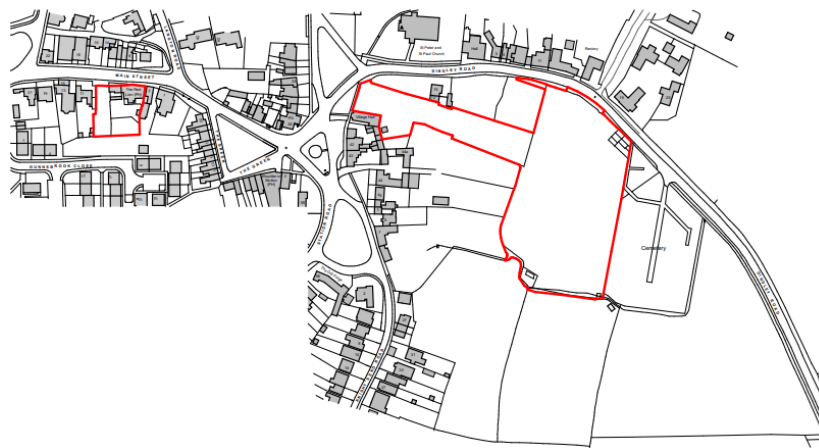
- 5) The proposed development at the Dingley Road Site by virtue of the scale, layout and use of the car park would have a significant adverse effect on the living conditions of both No.10 Dingley Road and No.44a The Green. The harm identified would not be mitigated to an acceptable standard through the measures proposed. The proposal is therefore contrary to Harborough Local Plan Policy GD8 and Great Bowden Neighbourhood Plan Policy H6.

1. Site & Surroundings

- 1.1 The application comprises a dual site located at The Red Lion Public House (RL Site) and land off Dingley Road (DR Site) at Great Bowden.



Aerial Location Plan



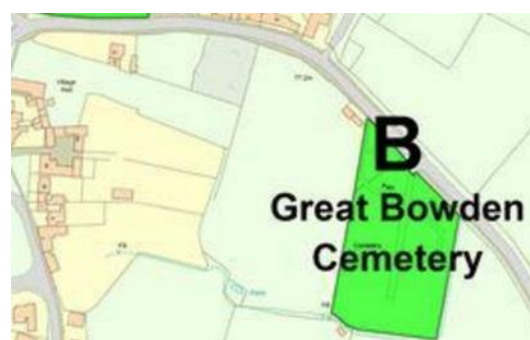
Site Location Plan

- 1.2 The RL Site is located within the centre of Great Bowden, fronting onto Main Street to the north. To the east lies 3 Main Street (a residential property). To the south lies a strip of private greenspace, beyond which lies Gunnsbrook Close. To the west lies 11 Main Street (a residential property).
- 1.3 The RL site comprises the Red Lion Pub and its garden to the rear as well as the courtyard development to which part of this application relates.
- 1.4 The RL Site is located within the Great Bowden Conservation Area (GBCA) and is designated as an Asset of Community Value (ACV).

- 1.5 The DR site is located on the eastern fringes of Great Bowden, on the southside of Dingley Road, comprising two pasture fields that extend to approximately 1.32ha
- 1.6 The narrow western field has a frontage to The Green and is demarcated by a boundary wall and brick piers (Grade II listed). It is bounded by the village hall (a non-designated heritage asset) and No.44 The Green to the south and No.10 Dingley Road and a spinney to the north. The second field then extends easterly towards the village Cemetery (also, a non-designated heritage asset and designated Local Green Space), with the northern part sharing a boundary with Dingley Road and the eastern part with the brick wall of the Cemetery. Agricultural fields are to the south / south-east, reaching the southern edge of Gunns Brook.



Non-designated heritage assets
7 – Cemetery, Dingley Road
8 – Village Hall



Local Green Spaces (LGS)

- 1.7 On the opposite side of Dingley Road is a new development of 4 detached dwellings (Planning reference 16/00997/OUT & 19/00053/REM); followed to the west by a row of properties, a number of which are Grade II listed including The Vicarage, 7, 9 and 11 Dingley Road and the Old School, terminating at the Church of St Peter and St Paul, a Grade I listed building.
- 1.8 The western field is fully within the Great Bowden Conservation Area; with the eastern field outside but adjacent to the Conservation Area.
- 1.9 There are no public footpaths located through the DR site; but there is a right of way (A54) to the south from Station Road to Dingley Road.



Public Rights of Way

- 1.10 The DR Site lies beyond the Limits to Development of Great Bowden and is located within an Area of Separation.



Settlement Boundary



Area of Separation

- 1.11 The eastern field is identified as a site of historical environmental significance (W. Christchurch paddock), includes an area of ridge and furrow earthworks; is adjacent to a candidate Local Wildlife Site (28. Ash trees, Dingley Road) and lies adjacent to a wildlife corridor to the south.



Sites of historical environmental significance
W – Christchurch paddock
 (medieval to early modern)



Ridge & Furrow



Other sites of natural environmental significance 28 - Ash trees,
Dingley Road (cLWS)



Biodiversity Wildlife Corridor

Officer Site Photos (taken 21.04.2022 & 21.06.2022)



Looking south across the eastern field from Dingley Road

3 photo's taken from Dingley Road; looking west /south-west:







Looking east/south east across the western field from the listed pier gates



Looking east/south east across the western field from inside the listed pier gates



Looking east towards the site from The Green



Looking north from the listed boundary wall



View from No.10 Dingley Road 1st floor rear bed bedroom window



View from No.10 Dingley Road 1st floor front bedroom window



View from rear garden of No.44a The Green looking north

2. Site History

2.1 The site has the following relevant planning history:

Red Lion

Application Ref	Description	Status	Decision Date
20/01194/FUL	Temporary siting of a converted storage container for serving outdoor food and drink and renovation to existing pergola (retrospective)	Application Permitted	04.11.2020
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)	Application Withdrawn	06.11.2020

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)	<p>Appeal against non-determination.</p> <p>NOTE1: A copy of the decision letter is attached at Appendix A.</p> <p>The decision letter relates to two appeals:</p> <p>“Appeal A” Appeal against an enforcement notice issued on 6 May 2021.</p> <p>“Appeal B” Appeal against non-determination</p> <p>The enforcement notice was quashed and the appeal allowed.</p> <p>NOTE 2: The Appellant has applied for statutory review in the High Court.</p>	15.05.2023
22/01738/FUL	Permanent retention of converted storage container for serving outdoor food and drink	Application Permitted	19.01.2023
23/00815/VAC	Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective) (Variation of condition 1 (car parking area and cycle storage timescales) of Planning Enforcement Notice appeal reference APP/F2415/C/21/3276444	Pending Decision	

	to retain the Quadrant Courtyard without compliance with the requirement to lay out the 6 Parking Spaces within four months)		
23/00816/VAC	Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective) (Variation of Condition 2 (car parking area and cycle storage timescales) of 20/01884/FUL to retain the Quadrant Courtyard without compliance with the requirement to lay out the 6 Parking Spaces within four months)	Pending Decision	

Dingley Road

Application Ref	Description	Status	Decision Date
16/00802/FUL	The erection of 17 dwellings, including affordable bungalows, with infrastructure, means of access and open space	Application Withdrawn	07.03.2017
17/00705/FUL	Erection of 10 dwellings with associated infrastructure, means of access and open space (revised scheme of 16/00802/FUL)	Application Refused Appeal Dismissed NOTE1: A copy of the decision letter is attached at Appendix B.	05.10.2017

3. The Application Submission

a) Summary of Proposals

3.1 This is dual application which links two sites in Great Bowden, namely:

- The Red Lion Public House on Main Street (the **Red Lion Site**); and
- The strip of land which begins north of the village hall and extends eastwards along Dingley Road (the **Dingley Road Site**)

- 3.2 Whilst not a common occurrence at HDC, the two sites, are covered by a single planning application. The Development Management Procedure Order (DMPO) does not prevent such applications providing the requirements for submitting an application have been met, and in this case they have been met.
- 3.3 In addition, to support their application, the Applicant submitted Case Law to further justify that a single application was lawful given the two sites are in close proximity to each other and have a direct planning relationship namely that *“the community car park at the DR Site mitigates the alleged on-street parking impact which the LPA claims to be caused by the element of the Development at the RL Site. It would therefore be misleading and detrimental to the public understanding of the proposal to separate them into two or more discrete planning applications and there is no legal requirement to do so”*
- 3.4 The RL Site is seeking retrospective planning permission for the erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area and installation of cycle-parking racks on the westerly boundary; and a paved path from the Main Street frontage to the courtyard to facilitate access by elderly or disabled patrons; permanent retention of converted storage container for serving outdoor food and drink and repainting of the exterior of that container in ‘Lamp Black’. All of these elements are referred to with the application supporting documentation as the ‘Hospitality Space’. It should be noted the majority of this development has largely been carried out (with the exception of the glass roof to the pergola and the cycle racks). The hospitality space was the subject of planning application 20/01884/FUL which was appealed against non-determination. The appeal was allowed and planning permission was granted subject to the conditions listed within the decision letter (see **Appendix A**).
- 3.5 Following the outcome of the appeal, the Applicant was asked to remove the RL Site from the application description but the Agent advised via email (05.06.2023):
- “Having discussed your e-mail and the application with our client they have confirmed that notwithstanding the successful appeal outcome they would like to proceed with the application as submitted.”*
- 3.6 On 07.06.2023 the Applicant informed the LPA that they had made two Section 73 applications in respect of the recent decision notice issued on 15th May 2023 by the Planning Inspector relating to the RL Site.
- 3.7 In essence the Applicant is seeking to extend the time to construct the 6-space car park from 4 months to 24 months which was deemed necessary by the Planning Inspector, *“so that resource is not wasted until planning application 22/00787/FUL submitted on 29th March 2022 and validated on 7th April 2022 has been finally determined. The delay in determining application 22/00787/FUL results from the desire by Harborough Council to wait for the Inspector’s decision prior to referring the application to the planning committee”*. These applications are to be considered later on this Agenda.
- 3.8 On 09.06.2023, the LPA was informed by the Applicant’s legal team that they have applied for permission to apply for statutory review in the High Court. It does so on three grounds:

Ground (1A): the Inspector has mis-directed herself and/or acted unreasonably in a Wednesbury sense by imposing a requirement to provide the On-Site Car Park or lose the benefit of the planning permission entirely despite finding no evidence of any causal connection between the development in either form and parking demand on the local highway network; or

(Ground (1B): in the alternative, even if the Inspector were entitled to impose CB2 on the grant of planning permission under Appeal B for the development defined in the Planning Application, she was not entitled to impose CA1 in respect of the development in Appeal A (against the Enforcement Notice) which did not propose or contain the On-Site Car Park or any other such parking area; and

Ground (2A) : in imposing CA1 and CB2, the Inspector failed to apply the legal test for the legality of planning conditions stated by Viscount Dilhorne in the Newbury case and/or failed to apply the requirement that a planning condition must be necessary to address a material effect of the development if it is to be justifiably imposed;

Ground (2B) : in the alternative, even if in respect of CB2 the Inspector were understood to have applied the legal test for the lawfulness of planning conditions stated by Viscount Dilhorne in the Newbury case and to have applied the requirement that a planning condition must be necessary to address a material effect of the development if it is to be justifiably imposed, she failed to do so when imposing CA1 in respect of the development in Appeal A (against the Enforcement Notice) which did not propose or contain the On-Site Car Park or any other such parking area; and

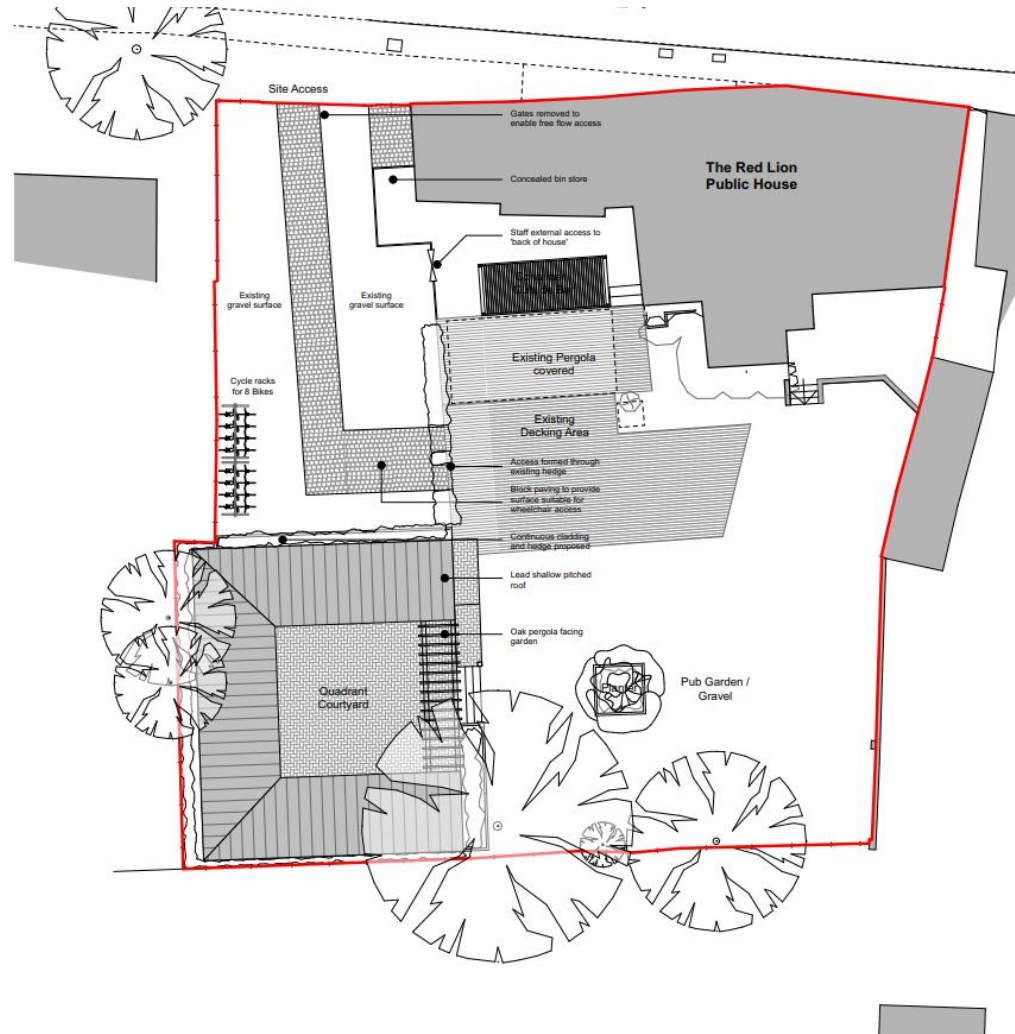
Ground (3) : the Inspector failed to give sufficient reasons for imposing CA1 and CB2 in the context of her findings respecting the absence of any material effect of the development on on-street parking demand and the local highway network.

RL Site

- 3.9 The quadrant courtyard is located to the southwest corner of the site. The external aspect of the quadrant is closed on three sides with an open side facing into The Red Lion garden (where existing external seating is located) through an oak pergola. The centre of the courtyard is open with covered bays to the perimeter on two sides and a staff area and 2no. internal WCs to the third covered area.
- 3.10 The quadrant courtyard offers external covered space for 6no. picnic style benches within designated bays, seating a maximum of 36no. customers in an all-year outdoor covered seating area and additional 12no. seating within the courtyard area, totalling 48no. seats. Existing external seating is located within the garden area.
- 3.11 The outside bar provides the food and drinks to the external seating areas both in the existing garden and the quadrant courtyard. The external bar has been located within the former external kitchen yard behind The Red Lion kitchen and storage sections of the building.
- 3.12 The container fronts onto the existing decking area, which has been retained. An existing pergola has been renovated with new support rafters and sheeting material over to provide a covered outdoor space. Serving access to the public is to the front of the container via two large openings accessed from the decking. Staff access is to the side of the converted storage container with links to the existing Kitchen area, this is separated from public access.
- 3.13 The ends of the quadrant facing the garden are clad in reclaimed timber Yorkshire boarding, which has silvered over time. The courtyard is open to the garden to provide free flow between the outdoor spaces. The north elevation facing Main Street is clad in reclaimed timber Yorkshire boarding. The south and west elevations are also clad in vertical Yorkshire boarding. The roofs are finished with rolled lead which covers a 1.2m canopy inboard of the containers. The canopy structure is formed with oak posts and beams. The covered seating pods are separated with reclaimed stable partitions and the internal surfaces (base, sides & ceiling) are all lined with painted

boarding. The central courtyard is block paved to provide level access throughout the quadrant. The current exterior of the outside bar is white which was re-painted from the original red colour. This current application proposes to re-paint the container bar in Lamp Black and has separate permission to do so (Planning Ref:22/01738/FUL)

3.14 The proposed site layout for the Red Lion PH site is illustrated below:



Proposed Site Plan

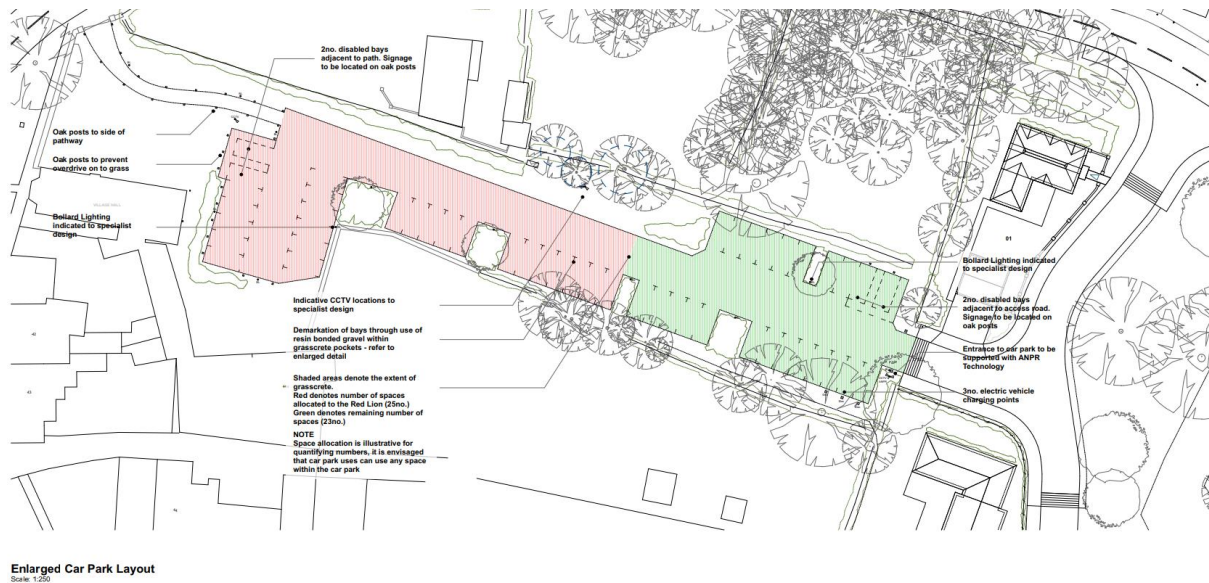
Case Officer Note: No on-site parking is proposed; unlike the plan which was submitted as part of the recent appeal.

DR Site

3.15 The proposal comprises the erection of three open market dwellings and a community car park.

3.16 The three dwellings will be located on the eastern field; but to the west of the new internal access road which will be created off Dingley Road. To the east on the new access road a buffer zone will be created around the archaeological earthworks and a landscape buffer created along the eastern side the cemetery wall. Within the buffer will be an attenuation pond.

- 3.17 Within the western field a car park laid out in a linear arrangement and positioned south of the existing tree spinney fronting Dingley Road is proposed. The car park would be formed by reinforcement of existing grassland using a cellular confinement system. Demarcation of bays will be through use of resin bonded gravel.
- 3.18 The car park will provide 48no spaces car park for use by both the local community to serve existing facilities within Great Bowden and by customers and staff of the Red Lion Public House.
- 3.19 To ensure that those car parking spaces are occupied by only customers and staff of the Red Lion, Automatic Number Plate Recognition (ANPR) technology will be employed. To support the ANPR, a database will be created which will store information including the registrations of customers and eligible staff employed at the Red Lion. Customers to the Red Lion will be required to scan a QR code or to inform staff upon table booking or arrival stage that they are using the car park in order for them to stay parked beyond the maximum stay limit.
- 3.20 A Car Park Management Plan has been submitted, which advises, the car park will be available to the public free of charge. It will however be subject to a maximum duration of stay of 2 hours between the hours of 08.00 and 20.00 Monday to Sunday, with no return allowed within 3 hours during this period. No overnight parking will be permitted within the car park. Those wanting to park longer than the maximum stay will be charged. The Applicant has advised that costs would be similar to the car parking charges elsewhere within Harborough District.
- 3.21 A draft S106 Agreement has been submitted which includes a requirement to offer ownership of the car park to HDC at nil cost. The Council's Regulatory Service Manager has advised the Case Officer *"we would not be in a position to take on the ownership of this resource. The proposed Car parking Management Plan is not conducive with the enforcement requirements of public car parks and there is concern that the introduction of any charging structure for the car park would displace vehicles on to neighbouring highways."*
- 3.22 The Applicant has advised, that if HDC were to decline to accept the management of the car park, this would be addressed either through a planning condition securing that the Carpark Management Plan (CMP) is observed and performed or through a more detailed CMP secured under the s106 agreement.



Car Park Layout

Case Officer Note: The shaded areas denote the extent of grasscrete. Red denotes number of spaces allocated to the Red Lion (25no.). Green denotes remaining number of spaces (23no.). Space allocated is illustrative for quantifying numbers, it is envisaged that car park users can use any space within the car park.

3.23 The proposed site layout plan (amended during the course of the application) for the DR site is illustrated below:

- FPCR's Biodiversity Off-setting Technical Note dated August 2022
- BRP's Proposed Site Plan reference L343-BRP-00-ZZ-DR-A-0103-P04
- BRP's Proposed Boundary Treatment Plan L343-BRP-00-ZZ-DR-A-0104-P04
- BRP's Proposed Car Parking L343-BRP-00-ZZ-DR-A-0107-P02
- BRP's Existing Tree & Hedgerow Site Plan L343-BRP-00-ZZ-DR-A-0108-P01
- BRP's Amenity Impact Mitigation Plan (No. 10 Dingley Rd) L343-BRP-00-ZZ-DR-A-0109-P01
- Draft Section 106 Agreement
- Community Car Park 'Response Table'

28.09.2022

A "Supplementary Planning Supporting Statement" was submitted.

The documentation submitted in September 2022 was uploaded to the online planning file and full re-consultation was undertaken.

31.10.2022

The Applicant provided a response to additional comments received from LCC Highways and LCC Ecology and submitted the following documentation:

- FPCR's Biodiversity Matrix Excel Document
- RDS Speed Survey Location Map
- MAC's 567-TN-01-B Stage 1 RSA Designer's Response with Road Safety Consulting Ltd's Stage 1 RSA enclosed within Appendix A

Both LCC Highways and Ecology were re-consulted accordingly.

22.11.2022

The Applicant provided a response to the additional observations from LCC Highways and LCC Ecology and further queries from the Public.

c) Pre-application Engagement

3.25 The Applicant did not engage in pre-application discussions prior to the submission of this application.

4. Consultations and Representations

- 4.1 Consultations with technical consultees and the local community have been undertaken (including re-consultation where necessary)
- 4.2 Site notices were placed along Dingley Road and Knights End Road and at Red Lion Public House on 22nd April 2022. An advert was also placed in the Harborough Mail on 21st April 2022.
- 4.3 A summary of the technical consultee and local community responses which have been received is set out below. If you wish to view comments in full, please search via: www.harborough.gov.uk/planning

a) Statutory & Non-Statutory Consultees

Consultee	Date	Summary
<u>National Bodies</u>		
Historic England	25.04.22	<p>Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.</p> <p>We suggest that you seek the views of your specialist conservation and archaeological advisers.</p>
Environment Agency	09.02.22	<p><i>"The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included:</i></p> <p><i>Condition</i> <i>The development shall be carried out in accordance with the submitted flood risk assessment (ref FW2153_FRA_001_V3, dated December 2021 and compiled by Farrow Walsh) and the following mitigation measures it details:</i></p> <ul style="list-style-type: none"> <i>• Finished floor levels shall be set no lower than 96.30 metres above Ordnance Datum (AOD), as detailed within paragraph 7.3.1 of the report.</i> <i>• There shall be no raising of ground levels for the proposed access road, service yard and retail car park, as detailed within paragraph 8.1.3 of the report.</i> <p><i>These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development."</i></p> <p><u>Case Officer Note:</u> No service yard/retail car park is proposed.</p>
Leicestershire Police Designing out Crime Officer	28.05.22	No formal objections in principle to the application, however a number of designing out crime recommendations are provided within the response.
Anglian Water	09.04.22	<p>The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.</p> <p>The applicant should check for any Anglian Water assets which cross or are within close proximity to the site. Any encroachment zones should be reflected in site layout. They can do this by accessing our infrastructure maps on Digdat. Please see our website for further information:</p> <p>https://www.anglianwater.co.uk/developers/development-services/locating-our-assets/</p> <p>Please note that if diverting or crossing over any of our assets permission will be required. Please see our website for further information:</p> <p>https://www.anglianwater.co.uk/developers/drainage-services/building-over-or-near-our-assets/</p>
<u>LCC</u>		
Archaeology	05.05.22	The site lies in an area of significant archaeological potential.

		<p>We welcome that some earthworks are being retained as advised in the previous application, we would like to see a protection plan for this area during construction to ensure no accidental damage is done in this area.</p> <p>We recommend that any planning permission be granted subject to a condition requesting a written scheme of investigation to ensure satisfactory archaeological investigation and recording.</p>
Ecology	Various	<p>The Preliminary Ecological Appraisal & Pond eDNA Analysis Report (Fauna Forest Ecology Ltd, October 2021) has confirmed the pond on the Dingley Road site supports Great crested newt (GCN) and therefore further surveys are required (see section 4 of the report).</p> <p>Please note the NPPF (section 180. d) states that 'opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'. DEFRA have released biodiversity net gain calculations (Metric 3.1 and a Small Site Metric), which can be used to confirm whether the requirements of the NPPF have been met.</p> <p>I will make further comments and recommendations when the above information is submitted.</p> <p>23.06.2023</p> <p>I have reviewed the PEA (2021) and updated PEA with GCN survey report (2022) and BNG metric by FPCR.</p> <p>No evidence of GCN was found in the pond in 2022, despite a positive eDNA being obtained the previous year. Overall impacts on protected species are likely to be negligible.</p> <p>I cannot see the pond (which did contain other amphibians) as being retained in the plans, and since it would be located within a residential garden it's future cannot be secured. Therefore a replacement water body, in the form of a deep enough area within the attenuation lagoon, to retain water for most of the year, should be included.</p> <p>The BNG metric demonstrates that net gain can be achieved by enhancing the retained grassland area by over-seeding with wild flower species to create a more diverse grassland.</p> <p>Therefore I recommend conditions are attached to any permission</p>
Highways	Various	<p>11.05.22</p> <p>Requested further information from the Applicant, this included:</p> <ul style="list-style-type: none"> • Stage 1 Road Safety Audit with Designer Response and amended drawing if required; • Car Parking Management Plan <p>13.10.22</p> <p>Requested further information from the Applicant, this included:</p> <ul style="list-style-type: none"> • Speed survey shown demonstrating 85th percentile speeds at the site access; • Confirmation whether pedestrian only access to the northwest of the site was included within the RSA; if not

		<ul style="list-style-type: none"> Revised RSA to include said access. <p>13.12.22</p> <p>The LHA have taken everything into consideration, including two previous schemes at the location under 16/00802/FUL and 17/00705/FUL to which the LHA advised approval with conditions. As such, on balance in these site specific circumstance the LHA would not seek to resist the application – conditions suggested</p>
Minerals & Waste	28.04.22	<p>The development sites are within a Mineral Safeguarding Area for Sand and Gravel, and as such policy M11 of the Minerals and Waste Local Plan is relevant.</p> <p>The Mineral Planning Authority notes the application sites are relatively constrained by surrounding development.</p> <p>Whilst the application does not address the presence or absence of mineral under the sites, the MPA considers it unlikely that mineral could be worked appropriately, should be it be present.</p> <p>As such the MPA has no concerns with the proposed development.</p>
LLFA	20.04.22	<p>Leicestershire County Council as Lead Local Flood Authority (LLFA) notes that the 1.44ha greenfield site is located within Flood Zone 1 being at low risk of fluvial flooding and a low to medium risk of surface water flooding. The proposals seek to discharge at 3.1 l/s via pervious paving and a detention basin to Gunn's Brook, an on-site ordinary watercourse.</p> <p>It is noted that the development proposes a controlled discharge rate of 3.1l/s, while this is an acceptable rate, it is recommended that the minimum discharge rate be raised to 5l/s in accordance to best practice guidance, to ensure that the flow control orifice is at a reduced risk of blocking. It is also noted that the FRA makes recommendations for the suitability of rainwater harvesting methods such as water butts etc, but it is not mentioned if such measures will be adopted.</p> <p><u>Note to LPA: The landscape masterplan shows the parking areas to the west to be grasscrete finish which is acceptable. However, the drainage strategy refers to this area as permeable paving which is a term typically used to refer to a pervious block paving. The LLFA support is based on this area being a grasscrete finish as shown in the masterplan.</u></p> <p>LCC as LLFA advises the LPA that the proposals are considered acceptable to the LLFA and advise conditions accordingly</p>
<u>HDC</u>		
Contaminated Land and Air Quality Officer	22.04.22	No comment regarding land contamination
Environmental Health Officer	Various	<p>27.05.22</p> <p>The noise assessment relates to the permanent quadrant courtyard located in the beer garden of the Red Lion, Great Bowden. The assessment undertaken by the consultants used replicated noise levels typical of a beer garden to make as assessment of the acoustic benefit of the structure in relation to noise transmission to neighbouring properties. The conclusions in the document detail that the structure will help to reduce noise transmission due to the barrier effect of the quadrant. Although there may be an increased use of this outdoor space in inclement weather, the structure will act to shield noise within the quadrant to nearby occupants. I therefore have no further objections to the proposals.</p>

		<p>22.06.22</p> <p>The properties to the side of the car park would completely overlook the proposed car park, even with acoustic fencing there would still be a serious loss of amenity in the property and also in the garden. The proposed car park would introduce uncontrolled car noise, including slamming doors, loud talking , car stereos, and other anti-social noise to what at present is a very quiet area. It is unlikely that the car park could be controlled to a level that would not cause potential harm to the nearby residential occupiers. I would therefore recommend that the application be refused. REASON : To protect the residential amenity of the area</p> <p>12/10/22</p> <p>The application has looked at reducing the impact of the car park to the residents of Dingley Road by providing an amenity impact assessment in particular for number 10 Dingley Road. My original concerns were based on properties either side of the proposed car park, numbers 10 and 44a.</p> <p>These properties are directly to the sides of the proposed car park, and will be directly affected by activities on the car park itself. The provision of a 2 metre acoustic fence will improve the noise transmission to a degree at ground floor level, what it doesn't address is the impact at first floor level.</p> <p>The property at 10 Dingley Road although having windows facing to the side of the car park, will still be strongly influenced by noise in the car park itself. Noise from vehicles, people, closing doors etc. are all noises that have a more immediate impact, they are the type of noises that would wake residents up or stop them from enjoying their property.</p> <p>The area at present is very quiet, and this low background noise, will mean that again noise in the car park will be much clearer than in a noisier environment. The car park design itself has also introduced the issue of the headlights of vehicles shining directly into properties.</p> <p>Due to the proximity of the properties to the side of the proposed car park, my recommendation would be that the application be refused, to protect the residential amenity of nearby occupiers.</p>
Neighbourhood & Green Spaces Officer	29.06.22	<p>Local Plan Policy HC3 - Clauses (a) and (b) might be considered relevant.</p> <p>A number of Neighbourhood Plan policies may be relevant to this application</p> <p>The Red Lion Site proposal appears to be supported by Policy CAF2 given certain conditions e.g. parking, fumes etc.</p> <p>The proposal appears to be in conflict with Policy H1 and H2 for both the community car park and the housing proposal as they lie outside the settlement boundary.</p> <p>The community car park element appears to be supported by Policy T2 which supports the provision of a community car park.</p> <p>The community car park proposal is outside the Area of Separation and therefore appears to meet the policy requirements for ENV1. The housing development is within the area of separation and may therefore be contrary to the policy ENV1.</p> <p>The community car park and housing development proposal is between two local green spaces (Churchyard (A) and Cemetery (B)). Consideration will</p>

		<p>need to be made of the affect that the proposals have on these designated assets. Whilst the development proposals are not directly connected to site A the housing site is adjacent to the cemetery (site B) although a separation area is contained in the site boundary</p> <p>Policy H6 and ENV6 will need to be considered.</p>
Regulatory Services Manager		<p>Whilst the Harborough District Council Car Parking Management Team support the provision of additional publicly accessible car parking for the village, we would not be in a position to take on the ownership of this resource. The proposed Car parking Management Plan is not conducive with the enforcement requirements of public car parks and there is concern that the introduction of any charging structure for the car park would displace vehicles on to neighbouring highways.</p>
<u>Parish Council / Cllrs / MP</u>		
Great Bowden Parish Council (in full)	13.05.22	<p>Policy H1, H2 & H3 The housing proposal is outside the 'limits to development' plan – GBNP Appendix A Fig2 page 75 and therefore contrary to policy H1 Housing provision, and H2 Limits to development. The development is outside the 'limits to development and therefore cannot be considered a 'Windfall site' as defined in Policy H3 Windfall sites, subsection A.</p> <p>Policy H4 Housing mix The housing proposal comprises 3 plots, one of which contains 3 bedrooms and would therefore be in accordance with Policy H4</p> <p>Policy H5 Affordable housing – It is unlikely that the housing proposal will fit with most people's definition of affordable housing</p> <p>Policy H6 – Design Standards The proposed housing development would appear to be in accordance with policy H6</p> <p>Policy ENV1 Areas of separation The housing proposal is within an 'area of separation' as defined in GBNP appendix A figure 4.1.</p> <p>Policy ENV2 Protection of local green space The housing development is close to the cemetery and church, both identified as local green space.</p> <p>Policy ENV4 – Protection of other site of historical environmental significance The housing proposal is within an area identified as Christchurch Paddock shown in GBNP appendix A figure 7 area 'W' Any development in this area must be carefully considered and the provisions <u>must</u> be enforced by the planning authority should the application wrongfully approved</p> <p>Policy ENV5 – ridge & furrow</p>

		<p>Appendix A fig 8 of the GBNP would appear to indicate that the housing development is with an area of ridge & furrow. Policy ENV 5 states that development in these areas should be avoided unless a demonstrable benefit of the development can be shown</p> <p>Policy CAF2 Provision of new or the extension of existing community amenities & facilities</p> <p>The development on the car park of the Red Lion public house has resulted in traffic problems as customers are forced the park on the roads adjacent to the pub. The proposal at the Red Lion is therefore not in accordance with CAF2 sections a, b & d. Traffic issues were identified by Leicestershire County Council as a reason for recommendation for refusal of the previous planning application for the courtyard development at the Red Lion.</p> <p>Policy T1 Parking provisions & new dwellings</p> <p>The houses proposed include their own off-street parking and therefore comply with Policy T1</p> <p>The Red Lion courtyard development has created its own car parking issues and therefore that part of the planning application is contrary to Policy T1 and cannot be supported.</p> <p>Policy T2 – Community car parks</p> <p>The proposal includes a community car park and therefore that part of the development proposal is in accordance with Policy T2 and can be supported</p> <p>The planning statement part of the application states that this car park will mitigate the parking problems created at the Red Lion by the courtyard development. In practice this is unlikely as customers will still use all the available on road parking first before resorting to the proposed community car park. It is considered that the community car park will not resolve the objections by LCC and the reason for the refusal of the original application</p> <p>The introduction of the Planning Statement para 1.2 states that the GBNP does not suggest a site for a communal car park. This statement is incorrect. The GBNP Policy T1 page 61 states that the most popular site would be the slip road adjacent to Memorial Green. The area proposed in the application is very close and would be an alternative.</p> <p>Comment on Planning Statement para. 1.4 – since the Red Lion courtyard development has contributed to at least some of the parking issues experienced in the village it cannot be considered complimentary elements of a single scheme due to the distance from the pub to the proposed community car park. It is not considered viable to effectively move the pub parking to another park of the village to allow a development that has already been refused planning permission. There are benefits to the village from the housing and car park but this should not be linked to the Red Lion proposals. For this reason the application cannot be supported</p> <p>Additionally at the previous appeal on a proposed development of this Dingley Road site reference APP/F2415/W/17/3192138 in September 2018 the Inspector in refusing the appeal stated in the conclusion - "The public benefits advanced in favour of the proposed development do not, either individually or cumulatively outweigh the great weight and importance I attach to its harm to the Conservation Area's significance. On a balanced judgement of the proposals, neither do those benefits and other material considerations outweigh the very considerable and enduring harm that the proposed development would cause to the significance of the cemetery. In these respects the proposed development would clearly conflict with the Framework in so far as it requires heritage assets to be conserved in a manner appropriate to their significance".</p> <p>This application would dramatically increase the traffic flow to and from the site onto Dingley Road because of the additional suggested provision of a 46 space car park. With reference to The Red Lion part of the application we refer you to the committee decision to refuse the quadrant at its meeting 13/03/2021 on and ask that they reaffirm their previous decision as it would remove the existing car park from an Asset of Community Value.</p> <p>The decision regarding the temporary permission of an converted storage container for serving outdoor food and drink, and repainting of the exterior of converted storage container should also be reaffirmed as temporary only as all covid restrictions have now been removed</p>
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b) Local Community

- 4.4 Consultation letters were distributed to properties abounding the application site.
- 4.5 General comments and objections have been received (52 total to date), including some from repeat addresses. Officers note that several of the representations are very detailed and whilst regard has been had to these in assessing this application, it is

impractical to copy these verbatim. Therefore, a summary of key points is provided below.

4.6 Full copies of all representations can be viewed at: www.harborough.gov.uk/planning.

<p>Issues of Principle raised through representations</p>	<ul style="list-style-type: none"> • Land should be reserved for the possible expansion of the present cemetery. • The area immediately adjacent to the cemetery has been designated an “Area of Separation”. The proposed properties would encroach on this area and narrow the physical and visible distance between the village and the town. • We object to the conflation of the housing development with the community car park and outdoor renovations. • We are a small village therefore a carpark with 48 spaces will just be out of context. • There has been much building work round the village so I would challenge the need for three more houses. The character of the village is constantly being eroded and this proposal would only exacerbate that. • This scheme lies outside the development line - Land outside the defined Settlement Boundary will be treated as open countryside, where development will be carefully controlled in line with local and national strategic planning policies. There are no mitigating factors that would allow this development in open countryside • The proposed development on the very edge of the village for executive, non-affordable housing, with provision of parking for a venue some walking distance away, does not represent any meaningful or practical benefit to the community at large in Great Bowden and provides no real offset measure for any associated development. • The application covers three totally independent requests, which have been conflated. This approach causes confusion and adds the risk that objections to each may not be given due consideration. It should initially be rejected, to be resubmitted as three separate applications. • A pay and display car park would not used when free street parking is available nearer the Red Lion. • The development of the Quadrangle in the Car Park of the Red Lion public house was done without any consideration for the parking issues that it would generate, it should be moved into the garden area and the original car park restored to its original purpose, as soon as possible. • The Dingley Road scheme of the application should be rejected as it is contrary to both the Great Bowden Neighbourhood Plan and Harborough District Core Strategy and Framework policies. • The removal of hedges and trees, and the building of the access road and its splays, plus signage for the car park will fundamentally change the nature of Dingley Road from Rural to Suburban, once it's gone, it's gone. • It fails to support the environmental objectives outlined within the GBNP
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	<ul style="list-style-type: none"> • The village does not need more houses (there has already been in excess of 200 new homes over the last few years) • The three different proposals (retrospective planning for the courtyard, erection of a car park and build of three new luxury houses) do not belong together on the same application. These are three completely separate concerns with completely different considerations and should be treated separately. Grouping these together feels like an underhand way of forcing through a decision without properly taking account of all the considerations.
Heritage issues raised through representations	<ul style="list-style-type: none"> • threatens the rural setting of the adjacent village Conservation Area • The proposed houses and car park off Dingley Road will severely compromise the setting of both the designated Conservation Area and the Cemetery. • the loss of a key green space in a conservation area, in a village that seeks to preserve its heritage and sense of identity. • The proposal is incompatible with the character and identity of the village. • Negative impact on the village cemetery – location for peace and quiet on the edge of the village • The land lies next to a graveyard which is an inherently peaceful space - the proposal will bring noise/disturbance to this environment • There has already been excessive house building in and around the village, and further housing is unnecessary and unwarranted. The character of the village must now be rigorously protected. The proposed development on the Dingley Road Site would cause irreversible damage to the character of this historic village and must be rejected
Drainage & Flood Risk issues raised through representations	<ul style="list-style-type: none"> • There are serious risks of flooding by the cemetery, therefore that part of the land shouldn't be touched. • The south side of the proposed housing development is a flood plain. Building on this land will put the cemetery at increased risk of flooding.
Highways issues raised through representations	<ul style="list-style-type: none"> • Traffic survey data is from 2016 - since then there has been a substantial increase of houses built therefore this data is extremely outdated. There are now significantly more houses and cars in this area and directing all this extra traffic to this extremely dangerous blind bend road, where lots of people/children walk, is a worry. • The car park at the Red Lion should never have been removed. • The new car park is only admittance to the problems caused by the Red Lion car park closure. • The Quadrant at the Red Lion has already been erected on what was the car park for the venue. It should be removed and the car park reinstated to make way for parking alleviating the burden on the surrounding residents. • Visitors to the Red Lion are not going to park in the proposed car park it is too far away.

	<ul style="list-style-type: none"> • On exiting the pedestrian access opposite the Church there is less than 10m of visibility looking east down Dingley Road into incoming traffic • Dingley Road is already a busy road (where a lot of drivers do not respect the speed limit) and because of its shape, it is a dangerous road with blind corners. Adding more traffic to this road, would only cause even more risks of accident for drivers and pedestrians. • Paid parking spaces will not alleviate this as people will fill all the free available spaces before using pay parking. A car park of that size is out of proportion with a small village, especially where facilities such as sports areas and parks are lacking. • A 48 vehicle car park is encouraging further traffic to the village, however if a charge is to be made to park visitors to the village will park on the road where ever possible, this may leave residents with no other option that to park in the car park and not outside their house. • The car park is specified as being a grass car park which in inclement weather will be an undesirable place to park and will result in mud being carried onto the main highway • On street parking is a self-policing traffic calming measure encouraging steadier, slower passage for vehicles through the village • The pedestrian exit on the corner opposite the church is very dangerous especially if crossing to the Church, a problem that will be exacerbated by near-silent electric vehicles. • There have been several traffic collisions and near misses on Main Street in the vicinity of the Red Lion since it has been open without its car park in use,
Residential Amenity issues raised through representations	<ul style="list-style-type: none"> • The secluded nature of the private car park could encourage illegal and anti-social behaviour especially after dark, particularly impactful on the residents of no.10 Dingley Road • A car park would bring unacceptable levels of noise and disturbance to neighbouring residential properties, as well as the neighbourhood in general, at any hour. • The proposal currently plans for car parking spaces to be placed unacceptably close to residential living spaces, bedrooms and gardens. • Pedestrian access to the main part of the village is proposed via the top gate next to the village hall. This would create a flow of use and associated noise along the length of the car park and therefore along the whole length of the existing residential properties and gardens. • Negative impact on our privacy, outlook and immediate views from the front of our home • The proposed car park surrounds residents houses with no means to control unwanted behaviour or vandalism to the Village Hall.

Design issues raised through representations	<ul style="list-style-type: none"> • The houses as depicted on the plans seem to be in contrast to the existing houses and structures that surround the site, rather than attempting to blend in. • The proposed new properties are not in keeping with the style of properties in the village.
Ecology issues raised through representations	<ul style="list-style-type: none"> • The environmental impact statement has disregarded the accepted fact that mature trees provide considerably greater benefit to wildlife than small or immature trees do in the way of shelter, food, habitat, and variety of wildlife drawn to such trees and able to occupy and use them. • There appears to be little detail with regard to proposed replacement of these trees, as to type or size and expected time to provide equivalent benefit to wildlife and the environment as a whole, with no reference to the existing pond and associated wildlife at the lower edge of the housing plot • Tawny owls not identified in Ecology survey but “I hear them most nights” • The fields are home to wildlife which must be protected, badgers, owl's deer to name but a few. • We believe that the development poses a real threat to the wildlife and nature habitats on the site. A variety of birds (including Red Kite and tawny owls). This valuable green space will be lost with the introduction of a noisy, lit car park as will the home for the smaller wildlife species with the loss of hedgerows and mature trees including the impressive ash tree on the road frontage. • Removal of hedgerow in order to gain required visibility splay.
Other issues raised through representations	<ul style="list-style-type: none"> • There were no notices on the posts around the village. This has not been communicated well I believe, and not every resident is aware of this application* • Combining the two applications is lacking in transparency and makes it difficult to assess the relative merits and concerns of each proposal and detracts from the fact that separate applications have been made historically for each of these independent sites and have been refused <p>*Officer Note: Site Notices were placed at on the listed pier gates; Dingley Road gate and at the Red Lion on 22nd April 2022. A notice was also placed in the Harborough Mail. All neighbours adjacent to the RL and DR Sites were directly notified.</p>

4.7 In addition the above comments, two additional objections have been received from:

Parochial Church Council

“...the Parochial Church Council wishes to object to this application on grounds of road safety...”

And

Dingley Road Management Limited

“We object to the planning application for the car park”

Case Officer Note: The reasons given for objecting to the application by both of these organisations reflect those expressed by the local community which have been summarised above.

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:
- **Harborough District Local Plan** 2011-2031 adopted April 2019 whilst read as a whole, of particular relevance are the following policies: SS1, GD1, GD2, GD3, GD4, GD6, GD8, H1, H2, H5, HC1, HC2, GI5, CC1, CC3, CC4, IN2, IN3, and IN4 and:
 - **Great Bowden Neighbourhood Plan** (Review, 2020) whilst read as a whole, of particular relevance are the following policies: H1; H2; H4; H6: ENV1; ENV2; ENV4; ENV5; EN6, ENV7; ENV9; T1 and T2

b) Statutory Duties and Material Planning Considerations

- 5.4 Planning (Listed Buildings and Conservation Areas) Act 1990
- 5.5 Environment Act 2021
- 5.6 The National Planning Policy Framework, July 2021

Whilst read as a whole, of particular relevance are:

- Chapter 2 - Achieving sustainable development
- Chapter 4 - Decision making
- Chapter 5 - Delivering a sufficient supply of homes
- Chapter 8 - Promoting healthy and safe communities
- Chapter 9 - Promoting sustainable transport
- Chapter 11 - Making effective use of land
- Chapter 12 - Achieving well-designed places
- Chapter 14 - Meeting the challenge of climate change, flooding and coastal change
- Chapter 15 - Conserving and enhancing the natural environment
- Chapter 16 - Conserving and enhancing the historic environment

5.7 National Design Guide

This guide (published in October 2019) illustrates how well-designed places that are beautiful, enduring and successful can be achieved in practice. The Design Guide states that the long-standing, fundamental principles for good design are that it is: fit for purpose; durable; and brings delight. It advocates that it is relatively straightforward to define and assess these qualities for a building.

5.8 Harborough District 5 Year Land Supply

The supply calculation (summarised in Table A below) covers the period from 01 April 2022 to 31 March 2027

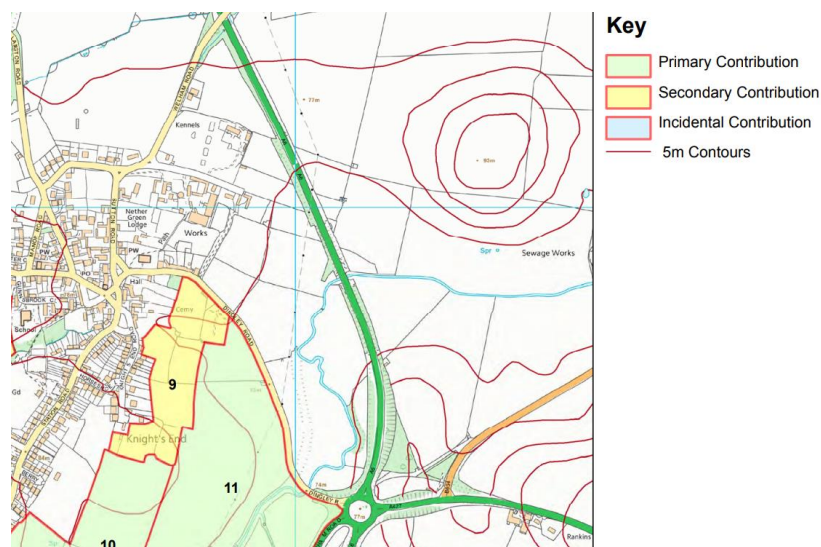
Annual Housing Requirement	557 dwellings per year
Annual Housing Requirement including shortfall and 5% buffer	585 dwellings per year
Total completions, 01 April 2021 to 31 March 2022	1,026 dwellings
Projected housing supply, 01 Apr 2022 to 31 Mar 2027	4,346 dwellings
5 Year Housing Land Supply, 01 Apr 2022 to 31 Mar 2027	7.43 years

Table A – 5 Year Supply Summary

5 Year Land Supply

5.9 Area of Separation Review, April 2017

Part of the site (where the housing development is proposed) falls within land Parcel 9 which was assessed as making a 'Supporting' contribution to the openness between Market Harborough and Great Bowden.

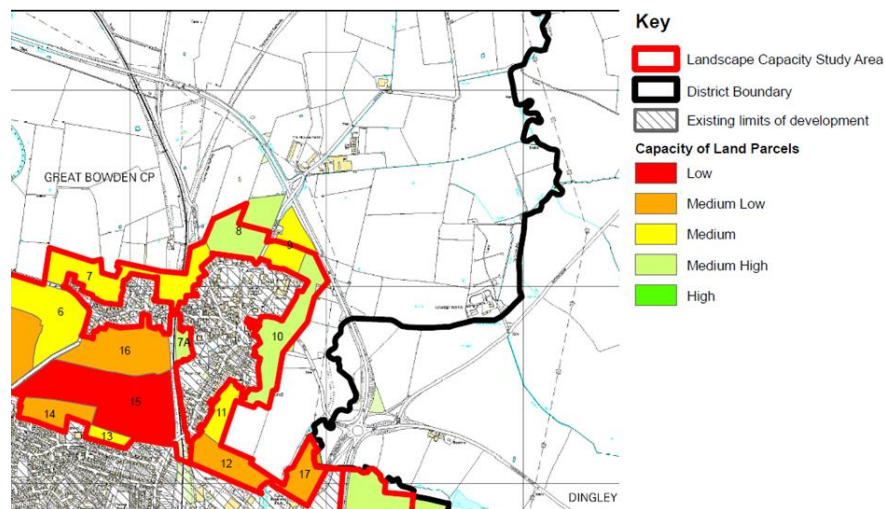


Land Units & Contribution to Separation

5.10 Market Harborough Landscape Capacity Study, March 2009

The site falls within the “*Foxton to Great Bowden Slopes Landscape Character Area*”

The site falls within landscape parcel 10 which is identified as having ‘Medium High’ landscape capacity to accommodate development in future.



Individual Land Parcels – Capacity

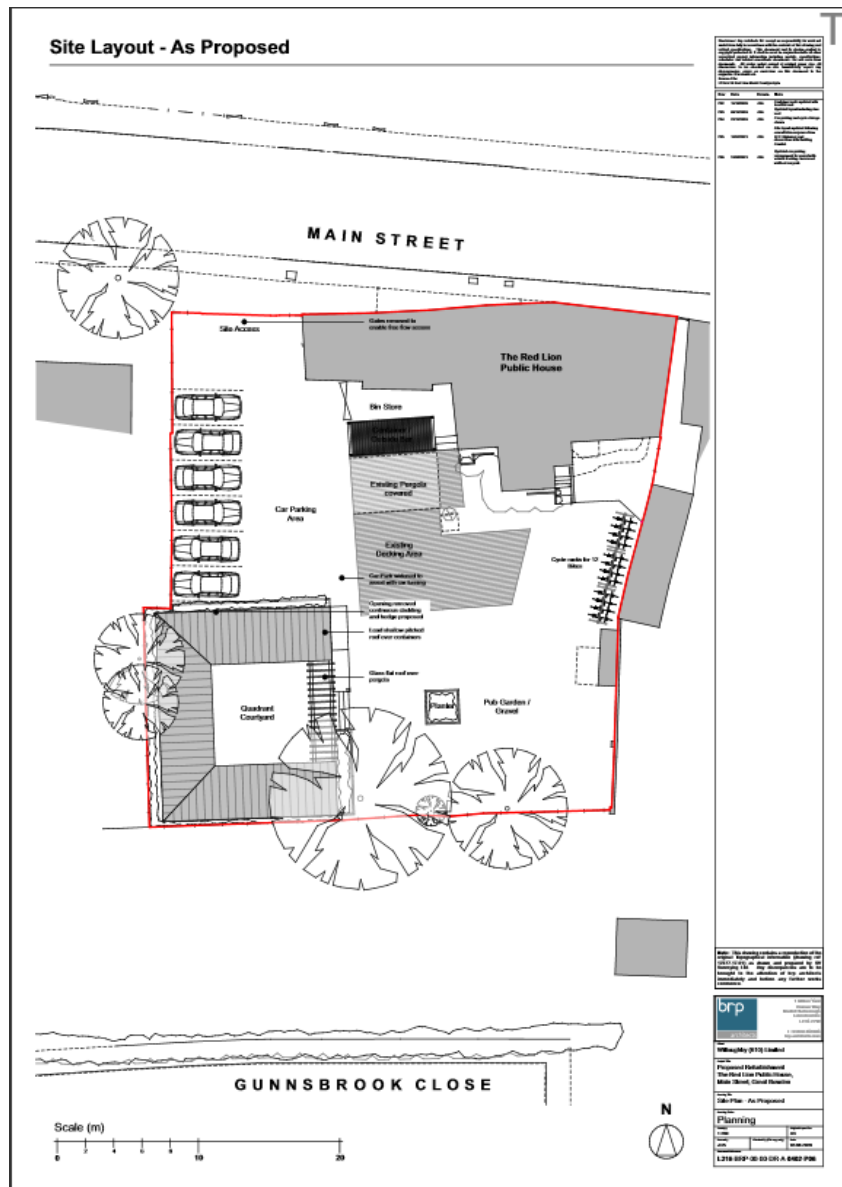
5.11 Appeal Decisions

Relevant to this application are two appeal decisions, both of which can be viewed in **Appendix A** and **Appendix B** of this report:

Appendix A - Red Lion

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).

Appeal against non-determination. Appeal allowed. (Ref: APP/F2415/C/21/3276444 & APP/F2415/W/21/3272912)



Proposed Site Plan - 20/01884/FUL

Appendix B – Dingley Road

17/00705/FUL - Erection of 10 dwellings with associated infrastructure, means of access and open space (revised scheme of 16/00802/FUL). Refused, Appeal Dismissed. (Ref:APP/F2415/W/17/3192138)



Proposed Site Plan – 17/00705/FUL (Refused and Dismissed at Appeal)

d) Other Relevant Documents

5.12 The following documents should also be noted

- Circular 11/95 Annex A - Use of Conditions in Planning Permission
- Circular 06/05: Biodiversity and Geological Conservation
- Leicestershire Planning Obligations Policy (July 2019)
- Leicestershire County Council 'Local Transport Plan 3' 2011-2026;
- Leicestershire County Council Highways Design Guide
- Development Management Supplementary Planning Document (Dec 2021)

6. Assessment

Principle of Development

RL Site

6.1 In light of the recent appeal decision (Ref: APP/F2415/C/21/3276444 & APP/F2415/W/21/3272912 – Appendix A & Appendix B; the principle of development on this site is accepted. As part of the non-determination appeal process whereby the impact of the scheme upon residential amenity (noise, fumes, smell; overbearing ; loss of light ; privacy etc) and heritage assets were duly considered and no adverse harm identified, it is not therefore intended to discuss these matters further as part of this current application. However, the impact of the proposal upon traffic and parking will be considered further in light of the Inspector's conditions where 6 car parking spaces at the Red Lion Site have been requested and the GBNP Policy CAF2 which supports the extension of existing community facilities subject to the criteria listed which include traffic impact and parking provision.

DR Site – Principle of Development

DR Site – Principle of Development

- 6.2 In terms of the Harborough Local Plan (HLP), Great Bowden is identified as a Selected Rural Village (SRV) in the settlement hierarchy, where the spatial strategy (HLP Policy SS1, part 8.) is to meet local needs while protecting the character and environment of local areas.
- 6.3 HLP Policy GD2 permits development within Selected Rural Villages (SRVs); such as Great Bowden where it satisfies criteria a, b or c and where it satisfies d to g. Great Bowden does not have a minimum residual housing requirement in HLP Policy H1, therefore only minor additional residential development will be supported as per Policy GD2 criterion 2a; the proposal for three dwellings is 'minor additional residential development' and therefore satisfies the policy in this respect. The proposal is also judged to satisfy criteria d. The remaining section of the report will assess whether criteria e-f are satisfied.
- 6.4 HLP Policy GD6 of the HLP identifies part of the site as within the Area of Separation designated between Great Bowden & Market Harborough (which is also reflected in ENV6 of the GBNP). Consideration of the impact of the proposed development on the effectiveness of the Area of Separation in protecting the identity / distinctiveness of Great Bowden will also be assessed later within this report.
- 6.5 The application site is partially within the Great Bowden Conservation Area and has the potential to affect designated and non-designated heritage assets and their setting, therefore HLP Policy HC1 applies as well as Section 16 of the Framework (NPPF) and the statutory duty of the Planning (Listed Buildings and Conservation Areas) Act 1990. The heritage impact of the proposals is discussed later within this report.
- 6.6 In terms of the Great Bowden Neighbourhood Plan (GBNP), Policy H1 (Housing Provision) limits new housing development to commitments, windfall sites within the Settlement Boundary, Rural Exceptions Sites and isolated homes in the countryside (NPPF (2019) Para 79) (now NPPF 2021, Para 80).
- 6.7 Policy H2 makes it clear that land outside the defined Settlement Boundary will be treated as countryside for planning purposes (which the site is). As open countryside the policy says that development will be carefully controlled in line with local and national strategic planning policies.
- 6.8 The relevant HLP countryside policies are therefore Policies GD3 and GD4. The car park would not satisfy the criteria listed in GD3 ("a" through to "l") and the 3 dwellings would not satisfy the criteria listed in GD4 ("a" through to "f"). Due to its location beyond the settlement boundary, the proposal conflicts with the spatial strategy for the area.
- 6.9 The size of the 3 proposed dwellings (1 each of 3, 4 and 5 bedroom) does not accord with the mix of housing types required by GBNP Policy H4, which specifically supports dwellings with 1, 2 and 3 bedrooms and homes for older people and those with restricted mobility.
- 6.10 Within the pre-ambles to Policy T2, the GBNP says: *"When asked what issues were most pressing for villagers in the future, the most popular response was the need for off road parking (89%)...The most popular site for a central car park (62% for) is on the*

slip road next to memorial green”, although it does not allocate this site (or any other site) specifically.

6.11 Policy T2 (Community Car Parks) says:

POLICY T2: COMMUNITY CAR PARKS

The provision of car parking in the village centre, with low visual impact, and improvements to the surface and capacity of the Community Pavilion car park for residents and visitors are supported.

6.12 The site put forward may be capable meeting an acknowledged general need for off road parking in the centre of the village and may address the more specific need to mitigate the parking demand generated by the Red Lion courtyard as identified by the the Local Highway Authority (LHA) as a statutory consultee in respect of planning application 20/01884/FUL).

6.13 The Planning Statement advises *“the main objective of the proposed car park is to provide a facility for the community of Great Bowden itself and visitors to the settlement, through the provision of a centrally situated parking space to alleviate both a general and long term issue of traffic and parking demand pressure acknowledged by LCC and Harborough District Council. ...The proposal is to provide a total of 48 spaces within the car parking area. Of this total 25 spaces are to be provided for the Red Lion Public House, number based upon LCC ‘Highway Requirements for Development Part 4 (HRfD). The remaining 23 spaces will be made available for other users”*

6.14 However, the Inspector for the 2023 appeal considered the *“development would not cause significant impact on the transport network in term so of displaced and additional parking demand within the vicinity of the appeal site”* subject to the provision of 6 on-site parking spaces. This therefore brings into question as to whether the car park is actually required to meet a ‘specific need’ as suggested by the Applicant.

Design, Visual Amenity, Landscape

6.15 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.

6.16 HLP Policy GD2 requires development to be 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.

6.17 HLP 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.

- 6.18 HLP 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. GBNP Policy H6 reflects the requirements of HLP Policy GD8.
- 6.19 The proposed site plan (see below) shows a new access off Dingley Road. The access would be designed to highway standards in terms of access width, surfacing and visibility splays. The formation of the new access road would require the felling of a mature Ash tree (T27) on the road frontage, together with a section of hedgerow. More clearance maybe needed to either side of the access resulting in more tree and hedgerow loss however referring to the tree survey the trees at risk from removal are all in category C1 or C2 (low quality) i.e. G28 (only the part to the front on Plot 1) and T6. T21 Walnut is vulnerable to the creation of the access road; although tree protection around the radius of the tree is proposed.
- 6.20 The proposed dwellings are to be concentrated on the western side of the eastern field away from the archaeological earthworks and adjacent cemetery to the east. There will be a 5m buffer around the earthworks. This buffer of grassland and trees continues along the entire eastern boundary with the adjacent cemetery. Included within the buffer zone is an attenuation pond as well as additional tree planting.
- 6.21 The community car park would be situated on the western field laid out in a linear arrangement, linking the site to Dingley Road/Sutton Road junuction via pedestrian access close to the village hall. It is proposed to use grass reinforcement for the parking and roadway serving the parking area.



Proposed Site Plan

6.22 The Design and Access Statement advises:

“The three buildings have been designed collectively as a cohesive scheme. The site is laid out with a principal dwelling on the site (Plot 3) which addresses Dingley Road and takes advantage of the pastoral setting and views across the surrounding farmland. Plot 2 is proposed as a relatively simple barn structure, which would have been an outbuilding to the principal dwelling, this building would have been since converted into a dwelling. Plot 1 is laid out as a former and smaller gateway property adjacent to Dingley Road”

6.23 **Plot 1** is closest to Dingley Road and the smallest of the three properties proposed. It has been designed to present as a gatehouse with detailing to reflect the Village Hall. The 3 bedroomed property is 1.5 storey (3.7m high to eaves; 8.33m to ridge) with a 1 storey double garage (2.32m eaves; 5.12m to ridge) will be constructed from red brick and slate roof. The property and associated parking area is to be set within a walled garden.



Plot 1 Floorplans & Elevations

- 6.24 **Plot 2** is located on the south side of the community car park road access. It has been designed to emulate the style of a traditional agricultural building. The design would incorporate an integral garage. The 4 bedroomed property is 2 storey (4.57m eaves; 8.15m to the ridge), which lowers to single storey towards Dingley Road. The dwelling is located approximately on a north south axis, with its rear garden positioned to the south west of the dwelling. The building will be constructed of traditional vernacular materials, including timber cladding to the walls, consistent with its agricultural styling.



Plot 2 Elevations

- 6.25 **Plot 3** is located to the south of Plot 2. It has been designed to present as the principal dwelling on the site, with its frontage facing Dingley Road across the eastern portion of the site and to emulate the form and style of a traditional farmhouse. The 5 bedroomed 2.5 storey property (5.96m eaves; 10.64m to the ridge) with 1.5 storey (3.58 eaves; 6.37m) will be constructed from high-quality vernacular materials, including local

ironstone ashlar under a slate roof. The property includes a 1.5 storey triple bay garage with “home office/games room” above.



Plot 3 Elevations

- 6.26 A street scene view has been provided to illustrate how the 3 dwellings will appear collectively:



Proposed Streetscene

- 6.27 The introduction of 3 large dwellings, together with the access road and 48 car park into this undeveloped site which provides part of the transitional character between the built form of the village and the wider countryside and which contributes positively to rural edge and setting of the village would result in urbanisation and encroachment into the countryside and significantly erode the rural character and contribution the site makes.
- 6.28 The Harborough District Landscape Character Assessment (HDLCA) identifies the site and wider setting of Great Bowden as being located within the Welland Valley landscape character area. The HDLCA assess the Welland Valley as having a medium capacity to accommodate change. The Market Harborough Landscape Character Assessment (MHLCA) identifies the site as being within the Foxton and Great Bowden Slopes LCA. The MHLCA identifies a number of distinctive features of the Foxton and Great Bowden LCA notably; the “Great Bowden Conservation Area” and the “village greens in Great Bowden”.
- 6.29 The MHLCA identifies the site as part of land parcel 10. The MHLCA assesses this land parcel as having medium to high capacity to accommodate development stating:

"This Land Parcel is considered to have a medium high capacity to accommodate development. Given the residential context of the parcel, and the nature of the roads in the surrounding area, commercial development would be much less suitable in this Land Parcel. Residential development is felt to be most appropriate in this location, subject to the following mitigation measures."

6.30 The following mitigation measures are specified:

- *"Mature trees within the Parcel should be retained as far as possible.*
- *Many of the properties adjacent to the Land Parcel fall within the Great Bowden Conservation Area. The setting of the Conservation Area, and Listed Buildings in the vicinity, will need to be carefully considered should the Land Parcel be developed.*
- *There are no current routes through the site, such as rights of way or roads, which would need to be retained.*
- *Ground modelling would not be necessary or appropriate in this location.*
- *Additional planting is likely to be necessary to reinforce hedgerows and soften the built edge of any development that should occur.*
- *Existing residential properties within the immediate vicinity of this Land Parcel are 2 storeys high. Any development within this Parcel should reflect these heights.*
- *The layout of any development within this parcel should reflect the traditional pattern of development within Great Bowden, with housing focussed around 'greens'. It should be small scale and organic in form.*
- *Materials should be appropriate to the village context of the Land Parcel. Housing development should reflect the vernacular style of houses within the historic core of Great Bowden.*
- *As mentioned above, 'greens' should be created within any development to act as open space as well as reflect the traditional settlement form in Great Bowden."*

6.31 The proposed development does not satisfy the majority of the above suggested mitigation measures:

- The plans shows the retention of mature trees, but the tree survey highlights the majority of trees fall within the low quality category with a limited life expectancy; are mostly Ash and are likely to have succumbed to Ash dieback which is present in the area or require crown/height reductions. In respect of Plot 3 and the trees to the south and west of it (G9 and T8) there is also concern that there will be pressure from future occupiers of this very large house for tree removals given there close proximity and because the principal rear windows face south.

- Ground modelling will be necessary to comply with the mitigation measures outline within the Flood Risk Assessment and Drainage Strategy
- Plot 3 is not considered 2 storey in height or reflective of existing residential properties within the immediate vicinity. Furthermore, the engineered highway, suburban linear layout and buffer zone is not reflective of the traditional historic settlement form.

6.32 Within the Landscape Strategy Report submitted in support of the application, a series of views taken from the public highway, rights of way, and accessible green space have been provided and these are shown below.

Views 1 and 2



View 1 - From Dingley Road at the boundary of the site looking south



View 2 - From Dingley Road approximately 20m from the site looking east

View 1 is taken from Dingley Road at the northern boundary of the site looking south. View 2 is taken from the gateway of the listed piers and wall to the north of the Village Hall. No.10 Dingley Road is visible in the foreground (Case Officer Note: Not No.12 as referred to within the report). Beyond the Hall is the boundary wall of and No.44a Dingley Road.

Views 3



View 3 - From The Green approximately 50m from the site looking east

View 3 is taken from The Green looking east towards the Village Hall and No.10 Dingley Road. The site is visible across the walled boundary of Dingley Road

View 4



View 4 - From the driveway to No.7 Knights End Road approximately 50m from the site looking north-east

View 4 is taken from the driveway to No.7 Knights End Road looking east across the immediate garden setting of the property towards the treed southern and western boundaries of the site.

View 5



View 5 - From the cemetery approximately 30m from the site looking west

View 5 is taken from the central access pathway within the cemetery looking west towards the site. The roofscape at the edge of the settlement is visible.

Views 6 & 7



View 6 - From Dingley Road approximately 90m from the site looking west



View 7 - From Dingley Road approximately 270m from the site looking north-west

Views 6 and 7 are taken from Dingley Road from the east of the site looking back towards Great Bowden. There are filtered views across the site towards the properties at the settlement edge.

View 8 is taken from public footpath A54 looking north-west across the open setting of the pastoral farmland towards the mature tree lined setting of the site and settlement.

[illegible]

Case Officer Note: The proposed planting proposals key (which is coloured) is not clear on the Masterplan itself as the planting is shown in black and white; notwithstanding this it is possible to see the majority of new planting is proposed within the buffer zone)

- 6.34 Whilst the proposed landscape masterplan would provide some screening of the proposed development, the development would still be perceptible from within the village; from Dingley Road on the approach to the village; from within the cemetery and from the public footpath (A54) during the short to medium term of tree establishment and in the longer term during leaf fall.
- 6.35 The Planning Statement says: *“The car park spaces are broken up by new trees and planting which forms part of the overall landscaping strategy.”* The Masterplan does not show this. In any event it would not be sufficient to overcome the harm of parking 48 vehicles on this undeveloped site which is considered to contribute to the rural setting of the village.
- 6.36 In summary the proposed development would cause harm to the character and appearance in conflict with the Development Plan and the aims of the Framework which seek to respect the natural environment including features which make it special and to recognize the intrinsic character and beauty of the countryside.

Area of Separation

- 6.37 As previously mentioned, the western field of the site is located within an Area of Separation. The Area of Separation Review (2017) identifies the field as forming part of Unit 9. The Review describes Unit 9 as *“occupying an area of land close to the existing settlement edge of Great Bowden being within c.100m of the settlement edge of Great Bowden...there is no public access into the land unit, but is visible from the adjacent public footpath, A54. The unit plays a moderate role in separating Great Bowden from Market Harborough and provides a rural edge to this area of Great Bowden.”*
- 6.38 Due to the physical separation of the site from Market Harborough and given that the site plays a “moderate” rather than a “primary” role in separation and in light of the appeal outcome at Berry Close, further to the south of the site (and closer to Market Harborough), the Case Officer does not consider developing the site would compromise the effectiveness of the Area of Separation, a view also reached when determining planning application 17/00705/FUL.

Ecology Impact

- 6.39 HLP 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.
- 6.40 BNG
- 6.41 A Preliminary Ecological Appraisal (PEA) & Pond eDNA Analysis Report has been submitted with the application. The PEA confirms that there are no SSSIs within 1km of the site, with the closest SSSI (Great Bowden Borrow pit SSSI) located approximately 1200m in a north westerly direction. There are two non-statutory designated Local Wildlife Sites which fall within or immediately adjacent to site boundary – “Churchyard Limes” and “Great Bowden, Dingley Road Ash Trees”.

6.42 The survey identified the long narrow field of the site is poor semi-improved neutral grassland; whilst the larger field is poor semi-improved with localised semi-improved neutral grassland. There are several hedges and mature trees on site, mainly Ash. There is also a watercourse/ditch located in a small area of woodland (dominated by ash, with some sycamore and crack willow) in southwest corner of the site.

6.43 In terms of protected species, the survey identified the following:

Bats

The hedgerows provide foraging and commuting habitat for bats and many trees concentrated throughout the site are of an age and maturity to support roosting bats.

Badger

No evidence of badger was discovered during the survey, however the site itself provides a valuable resource for foraging and commuting individuals. The grassland and hedgerows are also suitable for sett creation.

Hedgehog

No hedgehogs were seen during the survey. All habitats on site and surrounding the local area are suitable for use by hedgehog.

Water Vole

No evidence of water vole was discovered during the survey. The ditch onsite is however considered suitable for use by the species.

Common Nesting Birds

Disused bird nests of wren and blackbird were discovered in each of the three buildings (former stables and stores). Many trees, all hedgerows onsite, the ditch and unmanaged vegetation near the pond and watercourse, all provide a suitable nesting environment for birds. Evidence of nesting encountered during the site visit included an active blue tit nest in a dying ash, an active rookery with chicks in ash trees, an active jackdaw nest with chicks and an active great tit nest, both situated in mature ash trees. Birds seen during survey (in addition to those listed above) included gold crest, blackcap, chaffinch, greenfinch, goldfinch, wood pigeon, blackbird, house martin, house sparrow, long-tailed tits.

Reptiles

No reptiles were discovered during the survey. All hedgerows provide suitable habitat for common reptiles, as does unmanaged vegetation near the pond and also the ditch.

Amphibians

Although the Habitat Suitability Index score of P1 was calculated to be poor, the survey advises possible amphibian presence should not be disregarded, particularly taking into consideration the eDNA pond analysis results which were positive for presence of Great Crested Newts (GCN).

6.44 The PEA makes several recommendations in relation to habitats; the ditch and watercourse and to protected species including (amongst others) compensatory grassland and buffer zone creations between site margins; retention of hedgerows and trees; minimum 2m buffer zone of semi-natural vegetation adjacent the ditch/watercourse; level of lighting; hedgehog friendly fencing; bird nesting boxes and an aquatic survey to determine the presence or likely absence of GCNs. All of these recommendations apart from the last one could be suitably controlled by way of condition.

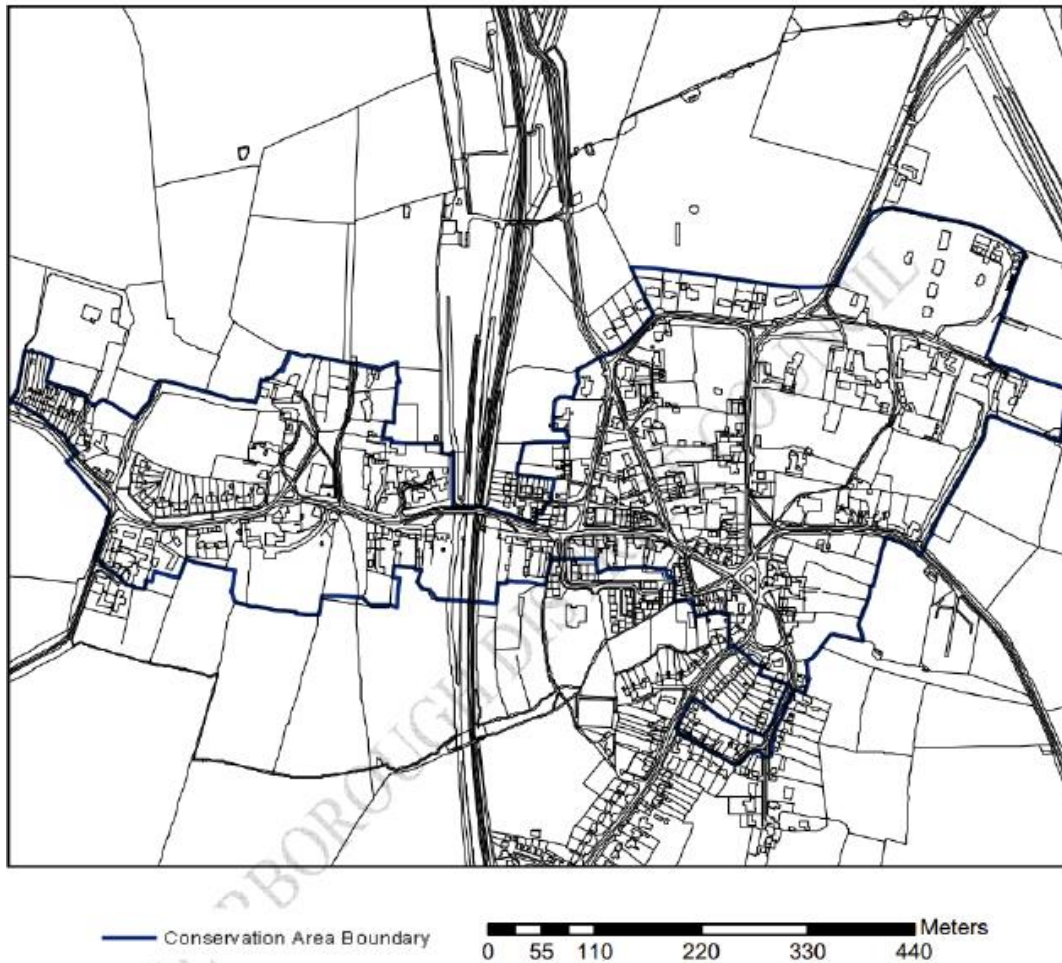
- 6.45 Following initial the comments from the County Ecologist, the Applicant submitted a Great Crested Newt Survey dated July 2022 and a BNG metric (November 2022). The County Ecologist has reviewed this information and informed the Case Officer that the “overall impacts on protected species are likely to be negligible and “the BNG metric demonstrates that net gain can be achieved by enhancing the retained grassland area by over-seeding with wild flower species to create a more diverse grassland.
- 6.46 The ecologist also advised that as the pond (which did contain other amphibians) was not being retained in the plans, and if it was it would be located within a residential garden where it’s future cannot be secured, a replacement water body, in the form of a deep enough area within the attenuation lagoon, to retain water for most of the year, should be included. This could be secured by way of condition if the development was approved. Two other conditions were also requested relating to a biodiversity management plan and landscape and ecological management plan.
- 6.47 In summary, protected species will be safeguard and biodiversity enhancements provided to achieve net gain.

Heritage Impact

- 6.48 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it a statutory duty for a local planning authority, in considering whether to grant planning permission for development which affects a listed building or its setting, to *“have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*.
- 6.49 Section 72 (1) of the same Act states that, in the exercise of planning functions, *“with respect to any buildings or other land in a conservation area...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.
- 6.50 The courts have held that *“preserving means doing no harm”* and have established that, where a proposal would cause some harm, the desirability of preserving listed buildings and their settings and the character and appearance of conservation areas, should not simply be given careful consideration, but should be given *“considerable importance and weight”* when the decision maker carries out the planning balance.
- 6.51 As well as having regard to the above legislation, the application proposal must be assessed in line with the policies in Section 16 of the NPPF (a material consideration) and the relevant parts of the development plan, in this case HLP Policy HC1. The Historic England Good Practice Advice in Planning defines setting as “the surroundings in which a heritage asset is experienced”
- 6.52 A Heritage Impact Assessment (HIA) has been submitted in support of the application.

Great Bowden Conservation Area

- 6.53 The western field of the site, which it is intended to be developed to provide a community car park falls within the Great Bowden Conservation Area. The eastern field where the housing and vehicular access is proposed lies adjacent to the Conservation Area.
- 6.54 The Great Bowden Conservation Area was first designated in 1974, and the boundary was revised in March 2005.



Conservation Area Boundary

6.55 The Great Bowden Conservation Area Character Statement explains that the conservation area covers most of the older buildings in the settlement and that it comprises two distinct parts, east and west on either side of the railway line.

6.56 It states:

'It consists of a network of greens and of open spaces crossed by roads with many older buildings set back from the roads and behind the greens or former edges of the greens. The large number of trees, in the churchyard and on the greens and along the roads, is a characteristic of the settlement'.

6.57 The part of the conservation area in which the site is partially situated is characterised by a combination of traditionally constructed buildings, with green spaces and mature trees / planting.

6.58 In terms of significance, the Inspector in relation to 17/00705/FUL said:

"Great Bowden Conservation Area derives a considerable degree of its significance from the relationship of its constituent vernacular buildings to its medieval street pattern and the multiple, roughly triangular green at its centre – a composition of a marked 'intactness'"

Listed Buildings

6.59 The HIA identifies the following listed buildings as possibly being affected by the proposed development:

The Vicarage

- lies immediately to the north of the application site.



Case Officer Note: Photos of the listed buildings have been taken direct from the Applicants HIA

"The Vicarage is also significant as part of a group of listed buildings that form a linked terrace of traditional buildings on the north side of the street. The property also draws some significance from its rural setting on the edge of the village. Along with other properties in the terrace, the Vicarage contributes to the townscape of this part of Great Bowden. Although partly screened by mature trees and hedgerow, the Vicarage lies directly opposite to the part of the Dingley Road Site that is proposed to be developed for housing, and consequently has a visual relationship with the land, but has no visual relationship with the area proposed for parking.

...The application proposals will inevitably have some visual impact on the setting of the Vicarage, resulting from the development of currently open land to the south, and the need to create a new access road and highway compliant junction off Dingley Road. However, the layout of the proposed development has been carefully conceived to ensure that any adverse visual impact on the setting of the listed Vicarage and other nearby listed buildings is minimised. To this end, the closest of the houses in the proposed development will be set back a considerable distance from the Dingley Road frontage, behind the retained row of mature trees and a new hedgerow, leaving an open green buffer at the site frontage. This, and the retention the archaeological earthworks at the north-east corner of the application site, will mean that the impact of the development on the setting and significance of the grade II listed Vicarage will be very minor. There will be no adverse effect on significance resulting from the proposed car parking. Overall, it is considered that the effect of the development on the significance of the Vicarage will lead to negligible harm."

6.60 The Case Officer disagrees with this conclusion. The proximity and visibility of the site, which is undeveloped and has a rural pastoral appearance, makes a positive contribution towards the setting of the property. The removal of the Ash tree and section of hedgerow and its replacement with an highway compliant access road and

built development would cause more than 'negligible' harm, there would be a much greater effect on the setting of The Vicarage.

- 6.61 The HIA does not assess the impact of the new proposed access in particular, which lies directly opposite the property. Furthermore, its assessment of harm relies heavily on the retention of the mature trees; however, these trees (G28 and T6) are category C1/C2 (low quality may) and therefore have a short life expectancy. No assessment has been made on the level of harm to The Vicarage if these trees are removed. Reliance on these trees to satisfactorily preserve the setting of this listed building is not considered sufficient. Furthermore, "negligible" harm is still harm. Great weight should be given to the assets conservation.

No. 11 Dingley Road

- lies immediately adjoins the Vicarage on its western side



"The architectural and historic significance of the house is reflected in its status as a grade II listed building. It is also significant as part of a group of listed buildings that form a linked terrace of traditional buildings on the north side of the street. The property also draws some significance from its rural setting close to the edge of the village. No. 11 Dingley Road lies opposite to the Dingley Road site. Intervisibility between the application site and the listed building is partly limited by mature trees and hedgerow. Therefore, whilst it has some visual relationship with the application site, this is less strong than in the case of the Vicarage.

..it is considered that the application proposals would have marginally less impact on the setting and significance of No. 11 Dingley Road than would be the case with the Vicarage. It is considered that the effect of the development on the significance of No. 11 Dingley Road will be negligible."

- 6.62 The Case Officer disagrees with this conclusion for the same reasons given in relation to The Vicarage.

Nos. 7 and 9 Dingley Road



The property at Nos. 7 and 9 Dingley Road is significant as a former pair of traditionally constructed local ironstone village houses. The architectural and historic significance of the property is reflected in its status as a grade II listed building.

Nos. 7 and 9 Dingley Road is also significant as part of a group of listed buildings that form a linked terrace of traditional buildings on the north side of Dingley Road. The property also draws some significance from its rural setting close to the edge of the village. Along with other properties in the terrace, Nos. 7 and 9 Dingley Road contributes to the townscape of this part of Great Bowden. Nos. 7 and 9 Dingley Road has a more limited visual relationship with the Dingley Road Site, due to greater physical separation and the presence of intervening dense mature trees and hedgerow.

...it is considered that the application proposals would have no adverse impact on the setting and significance of 7 and 9 Dingley Road.

6.63 The Case Officer agrees with this conclusion given the property is located further away from the site.

The School, Dingley Road

--The school sits to the west of the terrace of properties described above, on the north side of Dingley Road.



The School, Dingley Road, is historically and architectural significant as a purpose-designed 18th century village school, that is still in use for its original purpose as a school. The architectural and historic significance of the house is reflected in its status as a grade II listed building. Although physically separated from the terrace of listed buildings described above, the school forms part of a group of village buildings, including the parish church, which together address Dingley Road. The school also draws some significance from its rural setting close to the edge of the village. Along with other properties on Dingley Road, it contributes to the townscape of this part of Great Bowden. The School has a limited visual relationship with the Dingley Road Site due to physical separation and the presence of intervening dense mature trees and hedgerow planting.*

...As a consequence, it is considered that the application proposals would have a no material impact on the setting and significance of the grade II listed School.

*Case Officer Note – The school is not a ‘house’, should say ‘building’

6.64 The Case Officer agrees with this conclusion given the building is located further away from the site.

The Church of St Peter and St Paul



The Church of St Peter and St Paul is a medieval parish church. The very high *architectural and historic significance of the church is reflected in its status as a grade I listed building. The church lies in a mature churchyard setting at the junction of Dingley Road and Sutton Road. It is set well back from these road frontages behind a low stone churchyard wall, and*

partly screened by mature trees within the churchyard. Although physically separated from the school and terrace described above, the parish church forms part of a group of village buildings, that together address Dingley Road. As the oldest, largest and architecturally most important historic building in Great Bowden, the Church of St Peter and St Paul makes a major contribution to the townscape of this part of the village. The spire is a focal point within the village. Despite this scale and prominence, the church has an extremely limited visual relationship with the Dingley Road Site due to the substantial mature trees, both within the churchyard itself, and on the intervening land.

... Consequently, the key attributes that contribute to the heritage significance of the parish church would remain unharmed by the application proposals. There would, similarly be no impact on the significance of the separately listed churchyard wall and tombs.

6.65 The Case Officer concurs with this conclusion.

Wall and gatepiers to the north of the Village Hall



The red brick gatepiers and attached coursed ironstone wall is a 17th century feature. The gatepiers and wall form a distinctive feature within the centre of Great Bowden. These elements both draw significance from, and contribute to, the village setting amongst other historic features, including the parish church and its churchyard walls. They abut the long western projection of the application site, close to the Village Hall.

Standing between the gatepiers and looking directly eastwards it is possible to glimpse the part of the application site that falls outside the conservation area, and is proposed to be developed for housing. However, this part of the application site is not highly visible, being partially screened by mature trees along field boundaries, and does not contribute greatly to the setting of the listed gatepiers and walls. In this context it is worth noting that historic maps show that, in the past, views from the gatepiers through to the site currently proposed for development would have been obstructed by the presence of a substantial agricultural building. This is evidenced by the Ordnance Survey map of 1886. The area of the Dingley Road Site proposed for parking will be visible from the gatepiers, and glimpsed from some angles when viewing the gatepiers from within the Great Bowden Conservation Area.

...As previously highlighted, they abut the long western projection of the application site, which is proposed to contain up to 48 community car parking spaces. This part of the application site would be visible in views looking east from between the gatepiers. However,

the potential impact of the car parking area is reduced due to the use of grass reinforcement and additional planting between and around parking spaces. The part of the application site that is proposed to be developed for housing lies beyond the western projection. This part of the application site containing the proposed three houses would not be highly visible in tandem with the listed wall and gatepiers structure, as a result of separation distance and the presence of intervening mature trees along field boundaries, and the carefully conceived layout. Consequently, it is considered that the proposed dwellings would have no adverse impact on the significance of the listed wall and gatepiers. The proposed car parking would be visible in views looking east from between the gatepiers and as a result, there would be a minor overall impact on the setting of the listed wall and gatepiers, causing minor harm to its significance through impact on its setting.

- 6.66 The Case Officer strongly disagrees with the above conclusions. Plot 2 will be highly visible and whilst Plot 3 will be partially screened; will still be visible and may even become more visible if the works proposed to the trees as identified within the tree survey are undertaken. Furthermore, regardless of the proposed surfacing materials and any proposed planting, parking of up to 48 vehicles (together with associated paraphernalia) will have an significant adverse impact on both the setting and significance of the listed wall and gate piers.



View from listed gate piers looking east (Case Officer own)

- 6.67 In addition to the listed buildings mentioned above, there are a number of other listed buildings in the vicinity of the DR Site whose settings could be affected by the proposals and include:
- The closely-clustered group of six listed buildings on the east side of The Green lie to the south of the unlisted village Hall (Nos. 43, 44, 45 The Green and Nos. 1, 5 and 7 Knights End Road).
 - On the west side of The Green is a cluster of listed buildings (30,31,32,33 and 36 The Green).

- 6.68 The Case Officer concurs with the HIA that due to the combination of physical separation and the presence of intervening trees the proposals would cause no material harm to the significance of these listed buildings.

Non-designated heritage assets

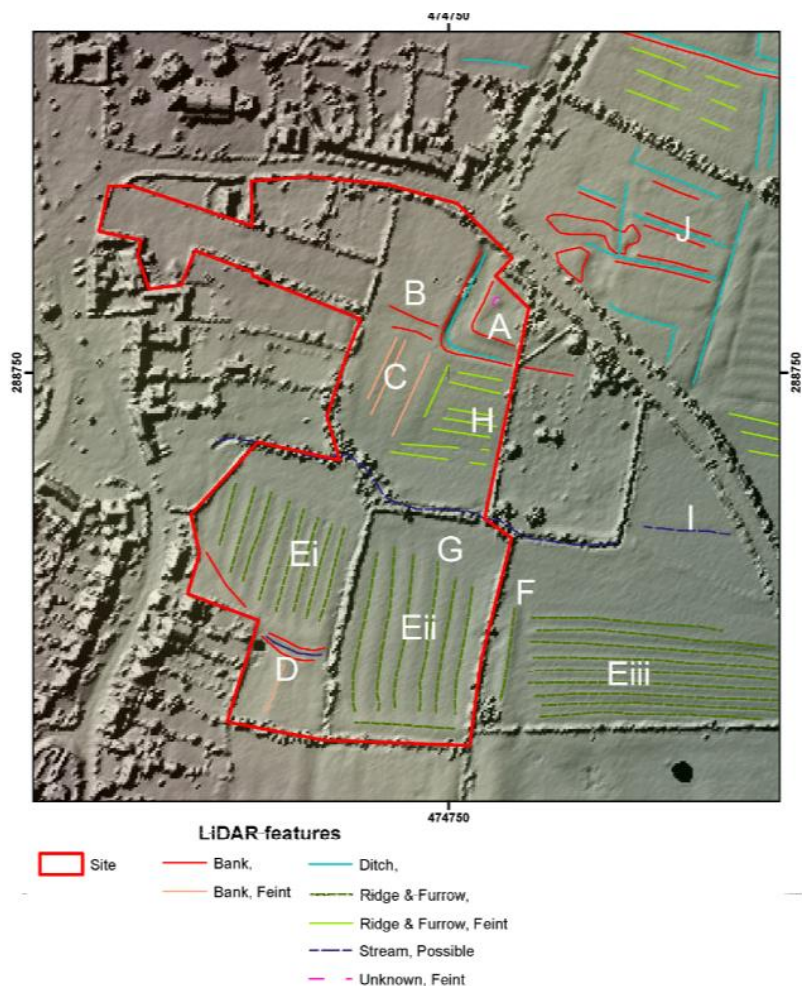
- 6.69 GBNP Policy ENV 6 states: *“non designated heritage assets and their features and settings will be protected wherever possible. Any harm arising from a development proposal, or a change of land use requiring planning approval, will need to be balanced against their significance as heritage assets”*
- 6.70 The village cemetery of Great Bowden lies on the south side of Dingley Road, a short distance to the east of the Village. The cemetery dates from 1879 and follows the pattern of such land uses of the Victorian-era in its separation from the settlement, principally for health reasons. The western boundary adjacent to the application site is defined by tall brick wall of approximately 1800mm in height. The cemetery has been identified within the GBNP as a non-designated heritage asset. The cemetery has a degree of significance by virtue of its age and its role in the social development of the village.
- 6.71 Within the Planning Statement is a table countering the Inspectors decision, which mostly seems to concentrate on overcoming the harm to the cemetery rather than the harm to the Conservation Area. Whilst it is accepted the housing scheme has been reduced from 10 to 3 units; the terrace block adjacent to the cemetery walls removed and additional landscaping proposed; the use of the access road to serve not only the houses but the 48 car park and potential use by the public of the landscaped buffer zone would still in the Case Officers opinion compromise the general tranquil nature of the cemetery. Furthermore, the proposed landscaping would take a significant time to establish and view towards the housing and views from the housing would still be possible.
- 6.72 The Village Hall is also identified as a non-designated heritage asset within the GBNP. The HIA does not assess the significance of this heritage asset. In the Case Officers opinion the significance of the Village Hall is in its historic (built in 1903 to commemorate Edward V11's coronation) and architectural interest. Due to the location of the car park; there would harm to the significance of the Village Hall through impact on its setting.
- 6.73 The Case Officer strongly disagrees with the HIA and Planning Statement that the application proposals will 'preserve' and "serve to enhance" the character and appearance of Conservation Area.
- 6.74 The site provides a rural transition between the village and the wider rural area and reinforces the organic nature of the historical pattern of development within the core of the village. As identified by the 2017 Inspector the sites *“open and agricultural character contributes considerably both functionally and visually to the setting of the Conservation Area”*
- 6.75 Much is made within the supporting documentation about the presence and retention of mature trees and hedging within and along the edge of the site and the proposed landscape masterplan to *“help protect setting, softening and filtering of views”*. However, when reviewing the submitted tree survey; it is clear the majority of the trees are within the 'low quality' category; a significant number of the trees are Ash are highly susceptible to Ash Dieback and recommends several of the trees have crown reductions. There is also a concern that there will be future pressure to remove the

trees north of Plot 1 and the south of Plot 3. Whilst new planting will mitigate some of the loss of the trees, it is not sufficient enough to mitigate the potential loss of mature trees and would in any event take a significantly long time to replicate the screening/filtering effect heavily relied on by the Applicant in relation to the housing development.

- 6.76 The design, scale and layout of the dwellings is not judged to reflect the vernacular of the village. The permanent impact of 3 large detached dwellings (2 with detached garages) together with the proliferation of domestic paraphernalia such as outdoor furniture, play equipment and washing lines which would not be subject to planning control and highway complaint access would in the Case Officer's opinion would displace the pastoral undeveloped nature of the site and it replace it with an urban character that would harm the rural setting and significance of the Conservation Area, on both the approach to the village along Dingley Road and from the Green and listed pier gates.
- 6.77 Contrary to the view of the Applicant's consultants, developing the site with a car park would also have an adverse impact on the character and appearance of the Conservation Area. Whilst the surfacing material for the car park is judged to be appropriate, the use of the land to park up to 48 vehicles; together with the associated signage, CCTV, ANPR, lighting and 2m high acoustic fence adjacent to No.10 Dingley Road, would bring about a significant change to the character and appearance of the site. It will impinge on the existing significant rural views between the listed gate posts and when viewed from The Green and thus cause harm to the rural setting and significance of the Conservation Area. It should also be noted that the appeal scheme had no development proposed in the area now proposed for the car park.
- 6.78 Given the above, in the Case Officer's opinion, the development is judged to cause less than substantial harm to the rural setting and significance of the Conservation Area; it would significantly change the character and functionality of this undeveloped site on the edge of the village and significantly alter the view and visual amenity it currently offers.
- 6.79 The development is also judged to lead to less than substantial harm to the significance and setting of The Vicarage, No.11 Dingley Road and the listed walls and gate piers (all Grade II listed) and the Village Hall and cemetery, both identified as non-designated heritage assets.
- 6.80 "Less than substantial" harm is not the same thing as no harm. The LPA as decision maker has a statutory duty to "*have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses*" and to pay "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*".
- 6.81 Para 200 of The Framework states "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification". Para 202 states: 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". Public benefits are considered at the end of this report.

Impact on Earthwork and Archaeological remains

- 6.82 GBNP Policy ENV 4 identifies the eastern field as a site of historical environmental significance (W. Christchurch paddock) and requires proposals that affect them to be appraised in line with local and national policy. It also states: *“The demonstrable benefits of development proposals must be balanced against the significance of the local historic asset.”* GBNP Policy ENV5 identifies ridge and furrow earthworks within the site as non-designated heritage assets and states: *Any loss or damage arising from a development proposal (or a change of land use requiring planning permission) is to be avoided; the demonstrable benefits of such development must be balanced against the significance of the ridge and furrow features as heritage assets.*
- 6.83 An Archaeological Evaluation Report (AER) undertaken at the site in 2016 has been submitted in support of the application. The Lidar imagery contained within the AER identifies an earthwork (identified as ‘A’) and Ridge and Furrow (‘H’) within the site; where the proposed attenuation pond although this is faint. Ridge and Furrow (Eiii) is more pronounced directly to the south and south east of the site.



LIDAR Features (AER, 2016)

- 6.84 The trial trench evaluation located archaeological finds and deposits in 12 of 17 trenches. Most of the archaeological remains consist of late Saxon – early medieval (AD 850 - 1250) former field boundaries, along with associated activity.
- 6.85 The majority of the ridge and furrow within the site would be lost as a result of the proposed attenuation pond. However, the ridge and furrow to be lost is a relatively

small area in comparison to the remaining ridge and furrow within the parish and is not as pronounced as the ridge and furrow directly to the south and is no more than local importance.

- 6.86 LCC Archaeology welcome that some earthworks are being retained as advised in the previous application, and have requested a protection plan for this area during construction to ensure no accidental damage is done in this area. They have also recommended an appropriate programme of archaeological investigation, including protection and conservation of the earthworks and archaeological excavation of affected below ground remains. They have recommended this can be secured by planning condition should planning permission be granted.

Highway Impact

- 6.84 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 H6 and Policy CAF2 of the GBNP reflect the HLP policies.

RL Site

- 6.85 There were up to 8 car parking spaces previously available at the Red Lion site. The construction of the Courtyard removed 2 of those spaces and the remaining space has since become pedestrian access only.



View of the area previously used for car parking. Now used for pedestrian access and the courtyard building

- 6.86 The Highway Authority as part of 20/01884/FUL advised refusal. This was based on the quadrant courtyard being built on the part of the car parking that was available at the time of the application, reducing the number of available off street parking spaces available 8 to 6 (although there is a dispute between the Applicant and LHA as to whether the number of previous spaces was 8 or 6).
- 6.87 Based upon 'Highway Requirements for Development Part 4 (HRfD)', which defines the level of parking to be one customer car space per 4 square metres of public area, plus one staff car space per 10 tables or 40 sq. metres, a further 15 customer off street car parking spaces and 2 staff parking spaces were required (in addition to the spaces lost). This was based on approximately 57.65 square metres of covered floor space. As such, due to the shortfall in off-street car parking spaces to be provided for the site and current levels of on street parking in the vicinity, the LHA considered the application to be contrary to Highway Requirements for Development Part 4, National Planning Policy Framework (NPPF) 110 and 111.
- 6.87 The proposed car park would provide 25 spaces for the Public House, with an additional 23 spaces for other users. The car park is therefore capable of fully mitigating the parking demand (and the consequent highway safety issue) which the LHA believes the Courtyard gives rise to.
- 6.88 The walking distance between the Red Lion PH to the proposed community car park is approximately 230m via the pedestrian access point provided on to Dingley Road/Sutton Road junction. There is a concern that the car park will be under utilised by customers of the Red Lion given there are limited parking restrictions within the village and the car park will be chargeable after the maximum stay of 2 hour stay. Customers will want to park as close as possible, especially during inclement weather and in the evenings.
- 6.89 Furthermore, as previously mentioned the Inspector for the 2023 appeal considered the *“development would not cause significant impact on the transport network in term so of displaced and additional parking demand within the vicinity of the appeal site”* subject to the provision of 6 on-site parking spaces.
- 6.90 The proposal for the Red Lion includes no onsite parking provision. Including a refusal on parking / highway grounds to this application is judged to be unnecessary; given that the enforcement notice appeal requires parking to be provided. If the application was to be recommended for approval a condition requiring 6 on-site parking spaces would be requested to align with the Inspector’s decision.

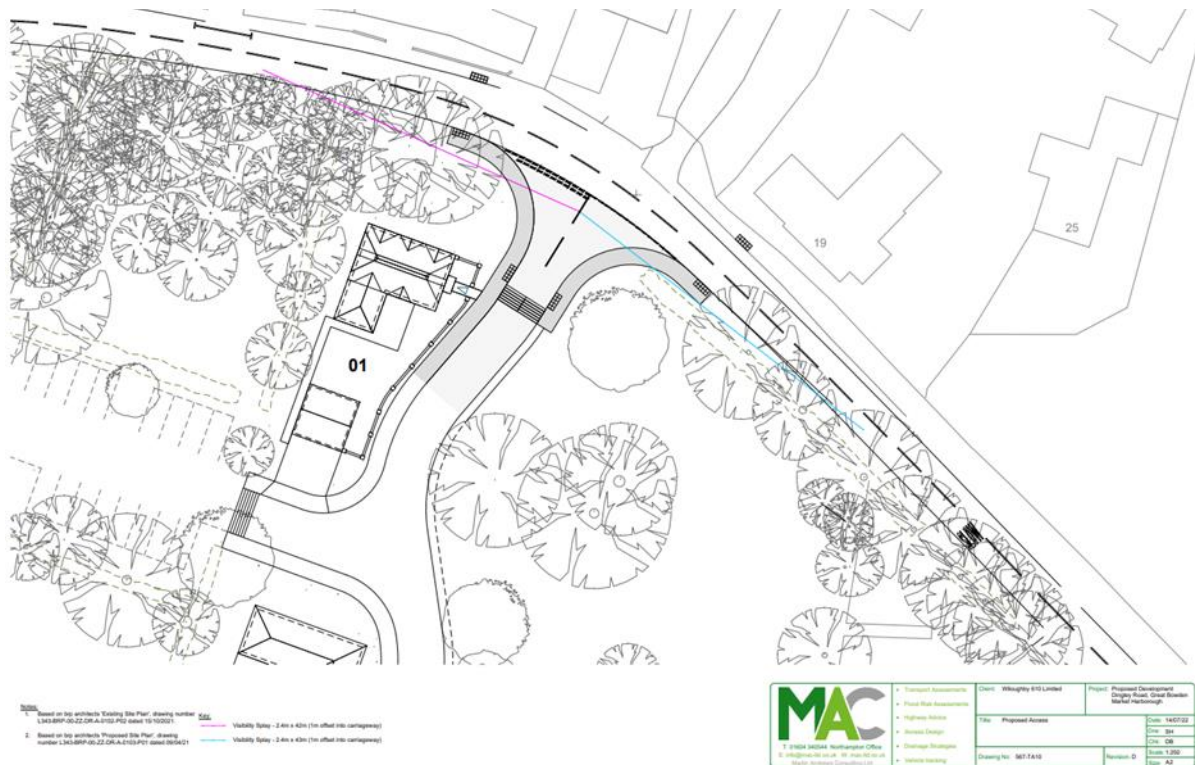
DL Site

- 6.91 The LHA have reviewed the application and supporting documentation and advised the following:

Site Access

The Applicant has confirmed the speed survey location and the LHA find this to be acceptable. As such, the LHA have now assessed the previously submitted 'Proposed Access', drawing number 567 TA10 Rev D in order to consider visibility splays. As previously stated within LHA observation, the Applicant provided speed survey data that demonstrated 85th percentile speeds of 28.2mph westbound and 27mph eastbound. Table DG4 of Part 3 of the Leicestershire Highway Design Guide (LHDG) states that measured 85th percentile speeds of between 26mph to 30mph should provide visibility splays of 2.4m by 43m. Having reviewed 'Proposed Access', drawing number 567-TA10 Rev D, this states that 2.4m by 42m

would be provided to the west of the access and 2.4m by 43m provided to the east of the access. As such there is a shortfall of 1m to the west of the access. However, given that the Applicant has previously demonstrated 2.4m by 63.7m could be achieved to the west, the LHA believe the Applicant could achieve the required visibility splays in accordance with LHDG standards within their or highway land. This can be secured via condition and no revised scaled drawing is necessary in this instance.



Proposed Site Access

Off-Site Considerations

The Road Safety Audit initially raised 3 problems, which were addressed in the Designer Response.

Problem 1

Restricted side road visibility and forward visibility may lead to vehicle to vehicle collisions

Designer's Response: The existing vegetation located either within the maintainable highway boundary or within land under the control of the applicant will be trimmed and maintained in perpetuity to ensure that the required visibility splays are provided.

LHA Response: The methodology is considered sound and can be secured via condition.

Problem 2

Poor pedestrian to driver inter-visibility may lead to pedestrian to vehicle collisions leading to pedestrian injury.

Designers Response: Problem 2 Designer's Response: The existing vegetation located either within the maintainable highway boundary or within land under the control of the applicant will be trimmed and maintained in perpetuity to ensure that the required visibility splays are provided. The straight alignment of Dingley Road provides sufficient

inter-visibility for pedestrians at the proposed crossing points.

LHA Response: It is acknowledged that whilst there is some evidence of on-street car parking, this is considered a temporary obstruction. The LHA acknowledge slightly lower than posted speeds at this location and also agree the straight alignment of the road would provide sufficient inter-visibility in these site specific circumstances.

Problem 3

Problem 3 - Potential pedestrian trip hazard at crossing point within the site.

Designer's Response: Drawing 567-TA10 Rev D provided within Appendix B shows the location of a dropped kerb crossing point with tactile paving on the internal footway on the site access.

LHA Response - The LHA welcome the amendments.

Case Officer Note: Concerns have been expressed by local residents about pedestrian users safely exiting the site from the listed pier gates as visibility is restricted looking east. The Case Officer discussed this concern with the LHA Officer and the Applicant was asked to consider this point further, which led to the submission of a revised RSA:

Problem 4

Potential pedestrian to vehicle collisions at likely location of crossing movements.

Designer's Response: From the car park, we consider there to be two main desire lines from users of the car park. Into the centre of the village and its main facilities and to the church. To access the village core including the village hall users of the car park will be able to access the facilities by heading south from the access using the existing footways and crossing points within the village. There would be no need to immediately cross the road as a more appropriate crossing point could be used. To access the church users of the car park should route via the vehicular access and use the uncontrolled crossing provided by the new access to cross Dingley Road. Signage will be provided within the site to advise on the most appropriate walking route to the church. Therefore, there would be no requirement to cross on the corner by the proposed western pedestrian access point.

LHA Response: The LHA have considered both RSA comments and the Designer Response. The LHA accept the designer comments and consider the methodology sound. Signage is to be provided within the site directing church users to use the main access. It is also accepted the main desire lines are to the southwest of the pedestrian access towards the village centre and amenities.

Highway Safety

The LHA has checked its Personal Injury Collisions database and there have been no recorded PICs along the length of Dingley Road within the last 5 years

Case Officer Note: Several members of the local community alerted the Case Officer to a collision / accident involving a cyclist and a car on Dingley Road (with photos provided). The LHA advised the Case Officer:

Whilst all collisions are regrettable, the Local Highway Authority (LHA) only consider Personal Injury Collisions (PIC's) that are reported to the LHA by the Police, as such the full facts of this PIC are not known. However, from the pictures supplied it would appear that the PIC did not involve turning manoeuvres.

The LHA have re-checked their PIC's data, this shows there have been no recorded PIC's along the entire length of Dingley Road in the last 5 years.

The speed data supplied by the applicant indicated speeds of 32mph in a westbound direction, and 36mph in an eastbound direction. The 'Proposed Access', drawing number 567-TA10 Rev A demonstrates visibility splays of 64m to the west of the proposed site access and 55m to the east of the proposed access.

This demonstrates a shortfall of 1m to the west of the proposed access when considered against table DG4 of Part 3 of the Leicestershire Highway Design Guide (LHDG). However, the LHA do not believe they could sustain this as a reason for refusal should there be an appeal on the grounds the proposals are unlikely to have a severe impact on the highway, contrary to paragraph 110 and 111 of the National Planning Policy Framework (NPPF) 2021.

Internal Layout

The proposed garages for Plots 1 and 3 do not meet the dimensions given in Part 3 of the LHDG. However, given that the site is to remain private, the distance from the public highway and there is adequate space to the front of the garages to park vehicles, the LHA would not seek any amendments.

The car park is in accordance with the LHDG standards in terms of dimensions and turning. The LHA have concerns with the proposed surface of the car park during the winter months and concerns that not marking out spaces could lead to inconsiderate parking. However, the LHA have advised as the car park is to remain in private ownership (i.e. not to be adopted by the LHA) and its distance from the public highway, their concerns over the surfacing material would not warrant a reason to refuse the application.

The LHA have reviewed the 'Framework Car Park Management Plan' document and made the following comments:

Paragraph 1.6.2 This states that 25 car parking spaces would be allocated for the 'Red Lion' Public house, this is consistent with 'Highway Requirements for Development Part 4 (HRfD)' and welcomed by the LHA. The further 23 car parking spaces would be for use by members of the public.

Paragraphs 2.1.1 to 2.1.3 These state that Automatic Number Plate Recognition (ANPR) will be used along with on-site signage would be used to ensure separation between 'Red Lion' customers and staff parking and other visitors to the car park. This information is accepted and welcomed by the LHA.

Paragraph 3.2.1 This states the car park allocation numbers may be amended based on feedback and usage to ensure the most effective use of the car park. The LHA would request this point be conditioned to ensure that any amendments are evidence based. It is noted that within the 'Framework Car Park Management Plan', drawing 'Proposed Car Parking Plan', drawing number L343-BRP-00-ZZ DR-A-0107-P02 has been provided. The LHA can confirm that all car parking spaces and turning are in accordance with paragraph 3.165 (dimensions) and DG13 (turning) of Part 3 of the Leicestershire Highway Design Guide (LHDG)

6.92 In summary, the proposed development at the Dingley Road site will not have an adverse impact on highway safety.

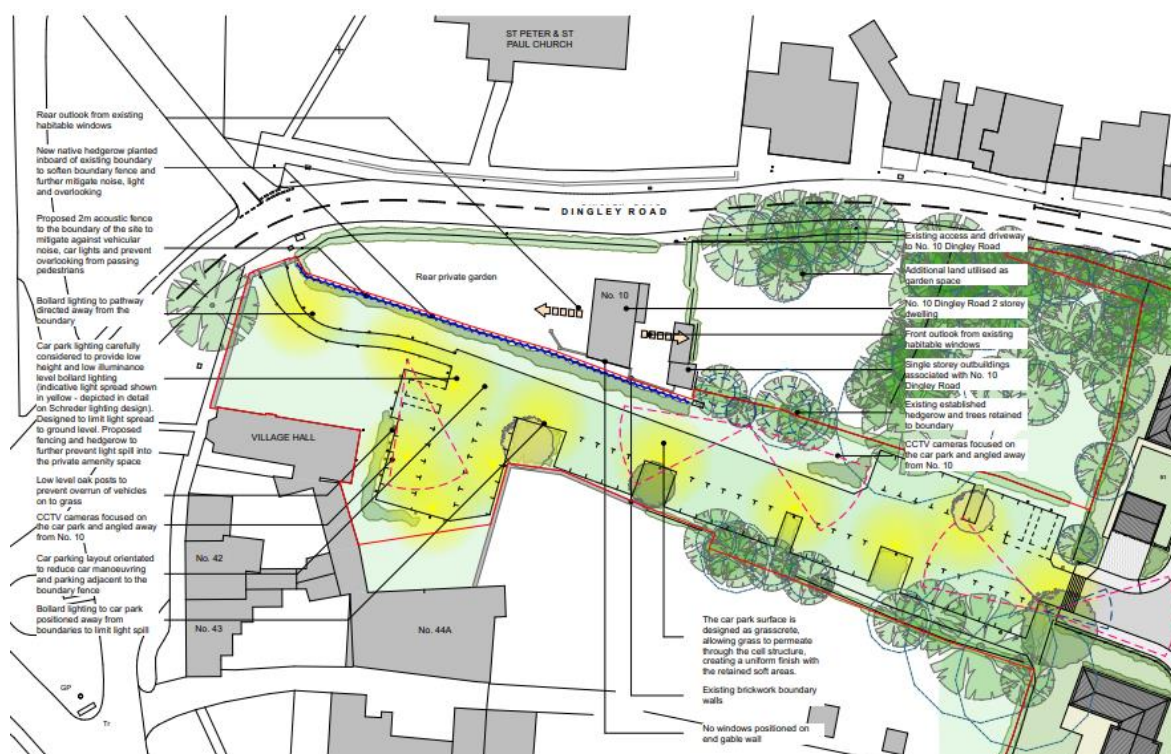
Residential Amenity Impact

- 6.93 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 of unpleasant odour emission which cannot be mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions. GBNP Policy H6 reflects the HLP policy. 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.

DR Site

No.10 Dingley Road

- 6.94 No.10 consists of a two storey cottage. The front elevation of the cottage faces east and the rear elevation and rear garden faces west. The car park will be south of No.10. Due to the separation distance and intervening vegetation between No.10 and the three dwellings, no harm has been identified as a result of the proposed housing development. However, harm has been identified as a result of the proposed community car park.
- 6.95 The Applicant has looked at reducing the impact of the car park to the residents of 10 Dingley Road by submitting an "Amenity Impact Mitigation Plan" which proposes:
- Proposed 2m acoustic fence to the boundary of the site to mitigate against vehicular noise, car lights and prevent overlooking from passing pedestrians. New native hedgerow planted inboard of existing boundary to soften boundary fence and further mitigate noise, light and overlooking;
 - Lighting and CCTV directed away the boundary



No. 10 Dingley Road Amenity Impact Mitigation Plan

6.96 Although the mitigation proposed will go some way in reducing the impact upon No.10 in terms of noise the use of the car park will still cause harm to the amenity of this property - a view shared by the Council's EHO:

The provision of a 2 metre acoustic fence will improve the noise transmission to a degree at ground floor level, what it doesn't address is the impact at first floor level and in the garden. The property at 10 Dingley Road although having windows facing to the side of the car park, will still be strongly influenced by noise in the car park itself. Noise from vehicles, people, closing doors etc. are all noises that have a more immediate impact, they are the type of noises that would wake residents up or stop them from enjoying their property. The area at present is very quiet, and this low background noise, will mean that again noise in the car park will be much clearer and noisier.

6.97 In addition there is concern that the 2m acoustic fence will create an oppressive feature when viewed from rear ground floor windows and the rear garden itself given the very open nature of the current and historic arrangement.

No.44a The Green

6.98 No.44a consists of a two storey property. The property is accessed via a private drive off The Green. The side elevation of the property and rear garden faces east. The car park will be north of No.44a.

6.99 Plot 2 at its closest will be more than 80m from the side elevation of No.44a whilst it is acknowledged the outlook from the windows within this elevation and garden will alter as result of the proposed housing development; this separation is significantly in excess of the Council's separation guidelines such that Plot 2 will not cause harm to the amenity of No.44a.

- 6.100 Plot 3 will be located more than 90m from the rear elevations of No.s 44 and 45 The Green and No.s 1-7 Knights End Road. Again, like with No. 44a, it is acknowledged the outlook from the rear windows and gardens of these properties will alter as result of the proposed housing development; this separation is significantly in excess of the Council's separation guidelines such that Plot 3 will not cause harm to the amenity of these existing residents.
- 6.101 Like, No. 10, there is a concern that the car park will cause harm to the amenity of this property in particular the use of their garden, given that their principal amenity space is immediately adjacent to the proposed car park.

Impact of proposed plots on future residential amenity

- 6.102 There is sufficient separation between the 3 proposed Plots such that the amenity of future residents will be safeguarded. However, there is a concern that there will be considerable future pressure to prune/remove the trees adjacent to the south and west of Plot 3 as they are likely to cause overshadowing and leaf fall as the rear elevation and garden face south. There is a similar concern with the proximity of Plot 1 and the tree spinney to the west and trees to the north.

Impact during construction

- 6.103 It is acknowledged, during construction there would be some adverse impacts on residential amenity. However, a planning condition requiring a Construction Environmental Management Plan to be approved and implemented could be imposed on any grant of planning consent to limit the disturbance and inconvenience that may arise when building works are undertaken.
- 6.104 In summary, the proposed development is judged to cause harm to the amenity of No. 10 Dingley Road and No. 44a The Green, contrary to the Development Plan and the Framework.

Flooding/Drainage

- 6.105 A Flood Risk Assessment and Drainage Strategy has been submitted in support of the application.
- 6.106 The EA flood zone maps show that the site lies within Flood Zone 1 and therefore is at low risk of fluvial flooding. In accordance with Table 3 of the NPPG the development is therefore sequentially acceptable.
- 6.107 The EA mapping demonstrates that the majority of the site has a very low risk of pluvial (surface water) flooding, however towards southern areas adjacent Gunn's Brook there is a low to high risk approaching the watercourse. There is also an additional minor strip of land in a north-eastern region of the site which possess a low risk of pluvial flooding.



Surface water flood risk to the site (taken from Applicant's FRA)

- 6.108 The surface water drainage strategy will mitigate the risk as well as the general design considerations such as the raising of floor levels above existing ground levels and the arrangement of external levels to divert any exceedance flows away from building thresholds.
- 6.109 The proposed development shall discharge surface water runoff into Gunn's Brook at a restricted rate. Attenuation is proposed via the use of a detention basin which will be sited towards the south eastern corner of the development. The basin has been designed to attenuate surface water runoff for all storm events including the 1 in 100 year plus 40% climate change storm event.
- 6.1010 Foul effluent shall be conveyed via a gravity sewer network that will discharge via a new connection into the existing foul sewers to the north of the site within Dingley Road
- 6.111 The SuDs proposed for the site will include the following components:
- Wet pond/detention basin
 - Rainwater harvesting – individual water butts
 - Permeable parking – via a grasscrete product
- 6.112 The LLFA have reviewed the Flood Risk Assessment and Drainage Strategy and advised the LPA that the proposals are considered acceptable subject to conditions if planning permission is granted.

Agricultural Land Quality

- 6.13 The Framework says that LPAs should take into account the economic and other benefits of the best and most versatile agricultural land, (best and most versatile being defined as land in Grade 1, 2 and 3a).
- 6.14 The site is presently used as pastureland. Soils are heavy textured and show signs of

impeded drainage. Fieldwork undertaken on adjacent application sites (for example Berry Close) finds fields comprise Agricultural Land Classification Subgrade 3b. The development would not therefore result in the loss of BMVL.

7. Heritage and Planning Balance

- 7.1 The Framework paragraphs 199, 200, 202, 203 and 207 are engaged due to the less than substantial harm to the significance and rural setting of Great Bowden Conservation Area, listed buildings The Vicarage and No.11 Dingley Road and non-designated heritage assets The Village Hall and cemetery. This requires balancing the harm against any benefits.
- 7.2 The undeveloped character of the DR Site provides a rural transition between the village and wider rural area and reinforces the organic nature of the historical pattern of development within the core of the village. Developing the site with 3 large detached dwellings, access road and 48 space car park together with associated residential paraphernalia would significantly change the character, functionality and tranquillity of this undeveloped site and significantly alter the view and visual amenity it currently offers from both within the village and on the approach into the village.
- 7.3 While trees and hedgerows exist to the site boundaries offering some screening and additional planting would be proposed, filtered views are, and will continue to be, possible. Furthermore, any new planting would take time to establish and notwithstanding this, during autumn and winter such screening would also be reduced due to leaf fall. There are also concerns that the mature trees relied upon either have limited life expectancy, require reductions to their height or may come under future pressure to be removed/ further reduced in height due to the positioning of the dwellings in relation to the trees.
- 7.4 The proposal would result in the loss of identified ridge and furrow; however this is of local importance and there are more pronounced areas elsewhere within the Parish, including on land directly to the south and south east of the site.
- 7.5 The proposal would provide 3 dwellings within a Selected Rural Village within a reasonable walking/cycling distance to a range of amenities and services. There would be economic benefits arising from the construction of the site as well as the longer term activity of spending in the local shop/café/pubs and supporting other local services for example the local bus service and primary school. The development will also enhance the existing soft landscaping on site and provide biodiversity net gain. However, given the scale of the scheme (3 dwellings) these benefits only carry limited weight.
- 7.6 The proposal would provide a car park, a general need for which has been identified within the GBNP to reduce on-street parking in the centre of the village. The car park would also be capable of addressing the more specific need to mitigate the parking demand generated by the Red Lion courtyard (as identified by the (the LHA as a statutory consultee in respect of planning application 20/01884/FUL). However, the Inspector agreed with the Applicant's parking data that the extra parking demand could be accommodated on street as the Applicant's data confirmed "street parking is not saturated". Furthermore, the plans for Appeal B showed that a parking area for 6 cars could be provided on site. It is unlikely that the proposed car park is therefore "needed" to mitigate the parking demand generated by the Red Lion. Further, given the limited parking restrictions within the village, customers are likely to choose to park as close as possible to the Red Lion. The benefit of providing a car park therefore only carries limited weight.

- 7.7 Nevertheless, heritage assets are an irreplaceable resource. Overall, the public benefits identified are not sufficient to outweigh the great weight and less than substantial harm caused to the heritage assets identified.
- 7.8 Although the Dingley Road Site would safeguard identified protected species; would not increase flood risk, would not result in the loss of BMVL and would not adversely affect highway safety. Furthermore, it would not harm the effectiveness of the Area of Separation between Great Bowden and Market Harborough, it would be harmful to the rural character and appearance of the area by virtue of scale, layout and design. This harm would not be sufficiently mitigated through the proposed landscape masterplan.
- 7.9 Furthermore, the proposed development at the Dingley Road Site also does not align with the spatial strategy in relation to location and would introduce inappropriate development within the countryside and does not meet the identified local needs in Great Bowden in terms of housing mix.
- 7.10 In addition, the provision of the proposed car park in close proximity to residential properties is judged to harm the amenities of both No.10 Dingley Road and No.44a The Green by virtue of the noise created by the use of the facility. The harm would not be mitigated to an acceptable standard through the measures proposed.
- 7.11 The Case Officer therefore concludes, the development does NOT represent sustainable development. The development conflicts with the Development Plan, Framework and Planning (Listed Building and Conservation Areas) Act 1990.
- 7.12 The application should therefore be **REFUSED**

Appendix A

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Appeal Decisions

Hearing held on 16 November 2022

Site visit made on 17 November 2022

by E Griffin LLB Hons

An Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal A Ref: APP/F2415/C/21/3276444

**Land at Red Lion Public House, 5 Main Street, Great Bowden,
Leicestershire LE16 7HB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Willoughby (610) Limited against an enforcement notice issued by Harborough District Council.
- The notice was issued on 6 May 2021.
- The breach of planning control as alleged in the notice is "without the benefit of planning permission, the erection of a series of containers and associated structures forming an outdoor covered quadrant seating and bar area, to the rear and side of the Red Lion Public House. The location of the quadrant courtyard area is shown in figure 1 attached to this notice."
- The requirement of the notice is:
Remove the containers and any associated structures forming the quadrant courtyard covered area from the Land.
- The period for compliance with the requirement is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/F2415/W/21/3272912

The Red Lion, 5 Main Street, Great Bowden, Leicestershire, LE16 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Willoughby (610) Limited against Harborough District Council.
- The application Ref 20/01884/FUL, is dated 23 November 2020.
- The development proposed is the "erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) retrospective".

Formal Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by deleting the words "and associated structures" from the allegation.
2. Subject to the correction, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under Section 177(5) of the 1990 Act as amended for the

<https://www.gov.uk/planning-inspectorate>

development already carried out namely the erection of a series of containers forming an outdoor covered quadrant seating and bar area, to the rear and side of the Red Lion Public House. The location of the quadrant courtyard area is shown in figure 1 attached to the notice on land at the Red Lion Public House 5 Main Street, Great Bowden Leicestershire LE16 7HB subject to the following conditions:

- 1) a. The containers hereby permitted shall be demolished to ground level or be removed and all materials resulting from the demolition shall be removed within five months of the date of failure to meet any one of the requirements set out in (i) to (ii) below:
 - (i) Within 4 months of the date of this decision the car parking area shown on Plan No L316-BRP-00-00-DR-A-0402-P06 has been laid out in accordance with that Plan for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.
 - ii) Within 4 months of the date of this decision the cycle storage area shown on Plan No L316-BRP-00-00-DR-A-0402-P06 has been laid out in accordance with that Plan for 12 bicycles.
 - b. Upon implementation of the schemes specified in (i) and (ii) of this condition, those schemes shall thereafter be retained and kept available for the parking of vehicles and cycles.
 - c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, fence, wall, or other means of enclosure shall be erected on the vehicular access and turning area.
 - 3) The quadrant courtyard (as shown on figure 1) shall not be used for the playing of amplified recorded or live music.
 - 4) The quadrant courtyard (as shown on figure 1) shall not be used for cooking.
 - 5) Customers shall only be permitted to use or occupy the quadrant courtyard (as shown on figure 1) between the following hours :11.00 and 23.00 on any day.

Appeal B

3. The appeal is allowed and planning permission is granted for the "erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) retrospective" in accordance with the terms of the application Ref/20/01884/FUL dated 23 November 2020 and subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with drawing Nos L316 – BRP -00-00 – DR-A- 0402 – P06, L316 – BRP-00-00 – DR-A- 0413 – P01 and L316 – BRP -00-00 – DR-A- 0403 – P08.
- 2) The containers hereby permitted shall be demolished to ground level or be removed and all materials resulting from the demolition shall be removed within five months of the date of failure to meet any one of the requirements set out in (i) to (ii) below:
 - (i) Within 4 months of the date of this decision the car parking area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 shall have been laid out in accordance with that Plan for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear
 - (ii) Within 4 months of the date of this decision the cycle storage area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 shall have been laid out in accordance with that Plan for 12 bicycles.
- b. Upon implementation of the schemes specified in (i) and (ii) of this condition, those schemes shall thereafter be retained and kept available for the parking of vehicles and cycles.
- c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 3) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, fence, wall, or other means of enclosure shall be erected on the vehicular access and turning area.
- 4) The quadrant courtyard (as shown on figure 1) shall not be used for the playing of amplified recorded or live music.
- 5) The quadrant courtyard (as shown on figure 1) shall not be used for cooking.
- 6) Customers shall only be permitted to use or occupy the quadrant courtyard (as shown on figure 1) between the following hours: 11.00 and 23.00 on any day.

Applications for Costs

4. An application for costs was made by Willoughby (610) Limited against Harborough District Council. A second application for costs was made by Harborough District Council against Willoughby (610) Limited. These applications are the subject of separate decisions.

Procedural Matters

5. The National Planning Policy Framework (the Framework) was revised on 27 July 2021 and I will determine the appeals in accordance with that revised document.
6. Whilst the application the subject of Appeal B was initially made on the basis of seeking temporary planning permission for the retention of the containers, the application was subsequently changed to request permanent permission. The description of the proposal in the banner heading for Appeal B was agreed by the parties on 3 February 2021 when the Council indicated that a new consultation period was required in view of the change and I will determine the appeal on that basis.

The Notice – Appeal A

7. The enforcement notice alleges “the erection of a series of containers and associated structures forming an outdoor covered quadrant seating and bar area, to the rear and side of the Red Lion Public House. The location of the quadrant courtyard area is shown in figure 1 attached to this notice”. The appellant queried whether the associated structures referred to include the oak pergola which forms the fourth side of the square marked as the “Quadrant Courtyard” on figure 1.
8. The Council clarified at the hearing that the “associated structures” within the allegation referred to the tables with attached benches which are within the booths created out of the containers. As such, the requirement to remove the containers would result in the removal of the tables and booths which are simply fixtures and fittings. In the interests of clarity, I will therefore correct the allegation by deleting the words “and associated structures.” This would cause no injustice or prejudice to either party.

Background

9. Appeal B relates to the failure of the Council to make a decision on the planning application within the prescribed time limits. The appellant lodged an appeal against non-determination on 1 April 2021. The application was due to be considered by the Council’s Planning Committee on 13 April 2021. The Council has confirmed that if an appeal had not been lodged then it would have refused the application for the reason set out in the Committee report. The Council’s putative reason for refusing the application the subject of Appeal B is the same as the reason for issuing the enforcement notice, which is the subject of Appeal A.

Appeal A on ground (a) and Appeal B**The Main Issue for Both Appeals**

10. The Council’s concern for both appeals relates to the effect of the development on the demand for on street parking in the vicinity of the appeal site.
11. The main issue for both Appeal A and Appeal B is whether the development results in significant highway safety issues within the transport network as a result of displaced and additional parking demand within the vicinity of the appeal site.

Reasons

12. The Red Lion Public House (the PH) dates back to the 18th century. It is one of two public houses in the village of Great Bowden. There are also schools, a post office and a convenience store close by. The PH is within the Great Bowden Conservation Area. It is also registered as an Asset of Community Value and that designation was recently extended to include the garden area to the rear. There are listed buildings in the vicinity of the appeal site including No 11 Main Street which is adjacent to the PH to the west.
13. The PH fronts onto Main Street which connects the centre of the village with the B6047 Harborough Road. There is a 30 mph speed limit on Main Street and pavements to either side of the street. The surrounding area is largely residential, with some dwellings having off street parking. Where off street parking is available the vehicular access has road markings to prevent on street parking blocking the accesses.
14. The PH was closed from the 31 January 2017, with a short reopening of the outdoor space to the rear of the PH in August and September 2020. This short opening was during Covid restrictions and food and drink was served to customers. The PH re-opened in May 2021.
15. There is currently no parking provision at the appeal site following the closure of the on-site car park. Photographs provided show the entrance to the car park closed off on 12 April 2021. Whilst the Council made an Emergency Traffic Regulation Order due to immediate road safety concerns in May for 21 days at the time of the closure, no formal changes to the parking in the vicinity of the Red Lion have occurred since then.
16. The development the subject of Appeal B is partially retrospective. The 'quadrant' has been constructed in the southwest corner of the site and is made up of storage containers to three sides and an oak pergola forming the fourth side. There is a decked area and seating in the uncovered central area of the quadrant. The submitted plans show a glass roof is proposed for the pergola. The pergola allows access to and from the rest of the appeal site. The existing beer garden which has tables and benches within it is adjacent to the quadrant, and behind the public house itself. The containers have timber cladding and a lead roof covering. Two of the containers are divided into seating booths and the third provides disabled toilets and storage. There is a ramped access to the quadrant area.
17. The plans for Appeal B show the removal of part of an existing hedge together with a section of decking to provide a parking area for 6 cars. The proposed car park would be located to the side of the PH and in front of the quadrant. A cycle rack for 12 bicycles along the western boundary, behind the public house, is also proposed. The appellant has indicated his willingness to provide parking and cycle parking in accordance with the plans submitted for Appeal B.
18. Whilst there are specific development plan policies which refer to parking and highway use, the Council also refers to the relevant paragraphs in the Framework which seeks the provision of safe and suitable access for all users of any development and advises that development should only be refused on highway grounds if there is either unacceptable impact on highway safety or if the residual impact on the road network would be severe.

19. The Local Highway Authority (LHA) considers that based upon 1 customer parking space per 4 square metres of floor space, plus one staff parking space per 10 tables or 40 square metres, the quadrant area alone would require 15 customer spaces plus two staff car parking spaces making a shortfall of 17. The LHA was of the view that demand for parking for the quadrant would coincide with demand for parking in evenings and weekends for local residents. Complaints made at that time were also a factor in the LHA's conclusion that the development could result in an unacceptable increase in on street parking and a subsequent displacement of resident parking. The Council also had an issue with a proposed reduction of parking spaces from 8 to 6 although spaces had never been marked out and it was not agreed between the parties that 8 cars could be accommodated historically and could enter and leave the site in forward gear.
20. The parties agree that there were no personal injury accidents within the vicinity of the appeal site between June 2016 and May 2021. The LHA indicate that no traffic assessment was carried out due to the Covid 19 pandemic.
21. The appellant has provided a Transport Assessment which includes traffic surveys with analysis of surrounding parking provision. Surveys were undertaken to include areas of both a 500 metre and 200 metre radius of the PH. A traffic survey was conducted on Friday 17 September 2021 at 12.00 hours and on Saturday 18 September 2021 at 16.00 hours which included a walking distance of up to 500 metres from the appeal site. That survey concluded that 33% of the available spaces in the local area were occupied leaving 67% availability at 12 pm on Friday and on Saturday afternoon there was 59% availability. The second survey covering a smaller area of 200 metres from the appeal site was conducted on the same days but at different times. At 19.00 hours on the 17 September and 18 September at 17.00 hours there were occupation figures of 48% and 54% respectively leaving around 50% on street parking availability. The PH car park had been closed for some time when the surveys were undertaken.
22. The survey concludes that even if the Council's figure of 17 spaces was accepted that extra demand could be accommodated on street, because on street parking is not at capacity or under stress on the evidence available. The parking data does indicate that on street parking is not saturated and thus there would be availability of on street parking.
23. The Council has not produced any assessments to contradict the appellant's evidence. The view of the LHA is that the PH should be providing its own off-street parking. The PH is a valued community asset which has operated in previous years with capacity in excess of 200 customers with limited parking on site. The provision of 6 car parking spaces by condition would provide allocated parking spaces which with the addition of cycle storage spaces, will provide some off street facilities. However, if on street parking capacity is available, those spaces can be used by the PH customers in the absence of any Traffic Orders in force to restrict usage and would not cause a highway safety issue on the evidence available.
24. There are both supporters and objectors to the development including objectors who live close to the appeal site and the Parish Council. Whilst, the PH may have been a gastro pub in the past which operated largely indoors, the way in which public houses operate generally has changed with more focus on

use of outdoor space particularly since the Covid- 19 pandemic. Parking issues for residents due to the proximity of schools are unlikely to coincide with the opening hours of the PH.

25. The general operation of the PH in relation to deliveries, use of the beer garden and customers within the main building remains as it has historically been. Options that would have left the car park in its original place were not pursued by the appellant and I can only consider the development that is before me.
26. Whilst it is frustrating for local residents to not be able to always park close to their property, there is no evidence before me that there is a direct link between the opening of the quadrant and a lack of availability of parking. The roads are not particularly wide in the vicinity of the site and there may be instances where there are cars parked on both sides of the road. However, the Transport Assessment provided by the appellant indicates that there is ample capacity on nearby roads. Moreover, there is no substantiated evidence to contradict that assessment.
27. The appellant has provided details of bus services which are accessible close to the site. In addition, Appeal B contains proposals for the provision of 6 on site car parking spaces and 12 cycle parking spaces. I am satisfied that suitable conditions can be imposed to require the provision and retention of the car parking and cycle parking facilities.
28. The appellant's trip generation assessment states that there would be a maximum of 2-3 two way movements between the likely peak period hours of 1300-1400 and 1900-2000. However, the quadrant courtyard is providing additional seating within an existing public house site. The appeal site which includes the public house itself and the outside areas to the side and rear including the quadrant make up a single planning unit. Whilst providing additional facilities for customers, I am not satisfied on the evidence before me that the development has intensified the public house use in a material way such as to generate a significant increase in parking demand or trip generation.

Other Matters

29. The location of the appeal site within the CA and the presence of nearby listed buildings gives rise to statutory duties. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The part of the CA where the appeal site is located is characterised by a combination of traditionally constructed buildings which together with mature trees gives spatial definition to the village streets.
30. The PH itself is not listed, but it is a traditional building of architectural quality which forms part of the streetscene close to the centre of the CA. The containers have the appearance of timber outbuildings as a result of cladding and are screened by planting, in addition to being located to the rear of the appeal site. The visual impact of the development which is to the rear of the appeal site is therefore very limited.
31. Similar provisions apply to listed buildings under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure that the setting of any nearby listed buildings are preserved. No 11 Main Street is a substantial building with a thatched roof which dates back to the 18th century and is a

grade II listed building which shares a side boundary with the PH. To the rear along that boundary, the containers with the timber cladding are lower in height than the garden shed of No 11.

32. Although No 1 Main Street is referred to by the parties as it is also listed, it is located to the east of the PH and the development does not form part of the setting of No 1 Main Street. On the evidence before me, I share the views of the parties that the development does preserve the character and appearance of the CA and the setting of No 11 Main Street.

Conditions

Appeal A

33. Conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Conditions relating to the car parking and the cycle storage are imposed to ensure that those facilities are provided and make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the implementation of these matters before the development takes place.
34. It would not be appropriate to suspend the use until the conditions are met as suggested by the appellant as that would be open ended and could leave structures in place with no use. The appropriate sanction is therefore for the container structures to be demolished if the car parking and cycle storage are not provided.
35. The restrictions on live music and cooking will ensure that the courtyard use remains part of the use of the PH and are required in the interests of the amenity of nearby occupiers. The removal of permitted development rights should only be exercised in exceptional circumstances. However, free flow to and from the car park is essential in order to ensure that the car park is available for use. I do consider that the removal of permitted development rights for means of enclosure is therefore appropriate and I have used the wording contained in the relevant legislation.
36. Whilst a condition restricting any future lighting was proposed, any lighting that falls within the definition of development would require planning permission. A condition to control lighting is therefore not necessary. The appellant had proposed a condition limiting numbers of customers to the appeal site to overcome the Council's highway concerns. The Council does not consider that such a condition meets the statutory tests for various reasons including enforceability. However, I have found that the development does not result in an unacceptable impact on highway safety. In view of my findings, a condition restricting numbers is simply not necessary and does not therefore meet the relevant test.

Appeal B

37. The conditions for Appeal B are the same as for Appeal A other than the addition of a plans condition which is necessary as not all of the development is retrospective.

Unilateral Undertaking

38. The appellant also provided a signed Unilateral Undertaking (the UU) as an alternative means to control customer numbers to a condition. However, the same reasoning applies to the proposed control of numbers by way of UU as applies to the proposed condition. The UU is not necessary to make the development acceptable in planning terms. I have therefore not attached any weight to the UU in reaching my decision to grant planning permission in both appeals.

Conclusion

39. I conclude that subject to the conditions set out above, the development would not cause significant impact on the transport network in terms of displaced and additional parking demand within the vicinity of the appeal site. There is no conflict with Policy GD8 of the Harborough Local Plan 2011-2031 (the Local Plan) and Policy IN2 of the Local Plan which collectively states that development will be permitted where it meets the relevant criteria including ensuring safe access, adequate parking and ensuring safe efficient and convenient movement of all highway users. I also find no conflict with Policy CAF2 of the Great Bowden's Neighbourhood Plan (2016-2031) (NP) which supports extensions to existing community facilities provided that the development will not generate a need for parking that cannot be adequately catered for. I therefore find no conflict with Paragraph 110 of the Framework which refers to development providing safe and suitable access for all users or Paragraph 111 of the Framework which states that development should only be prevented or refused on highway grounds if there would be unacceptable impact on highway safety, or the residual impact on the road network would be severe.

Appeal A

40. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeals on ground (f) and (g) do not therefore fall to be considered.

Appeal B

41. For the reasons give above, I conclude that Appeal B should succeed.

E Griffin

INSPECTOR

APPEARANCES**FOR THE APPELLANT:**

William Darby
Rajan Uppal
Robert Waite

Willoughby (610) Limited
Willoughby (610) Limited
Gately Legal (Partner and Solicitor)

Jason Davenport
Jonathan Arksey
Philip Grover
Martin Andrews

BSP Consulting Limited
BRP Architects Limited
Grover Lewis Associates Limited
Martin Andrews Consulting Limited

FOR THE LOCAL PLANNING AUTHORITY:

Harborough District Council

Adrian Eastwood
Michaela Barton
Christine Zacharia

Development Manager
Planning Enforcement Officer
Planning Enforcement Team
Leader
Highway Officer(Leicester County
Council)

David Hunt

INTERESTED PARTIES:

Paul Claxton

Local Resident and Parish
Representative
Local Resident

Jacqueline Endersby

Documents handed in at the hearing

Handwritten statement of Jacqueline Endersby

Document handed in after the hearing

Certified Copy of the Unilateral Undertaking
Updated Conditions

APPENDIX B

T



The Planning Inspectorate

Appeal Decision

Site visit made on 5 September 2018

by **G J Fort BA PGDip LLM MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 October 2018

Appeal Ref: APP/F2415/W/17/3192138

Land South of Dingley Road, Great Bowden, Market Harborough

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Langton Developments Limited against the decision of Harborough District Council.
 - The application Ref 17/00705/FUL, dated 28 April 2017, was refused by notice dated 5 October 2017.
 - The development proposed is the erection of 10 dwellings with associated infrastructure, means of access and open space.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. In the banner heading above, I have used the description of development from the Decision Notice, rather than the one that appears on the application form¹ to reflect amendments to the number of houses proposed that occurred during the course of the determination of the application that led to this appeal.
3. The Ministry of Housing Communities and Local Government issued the new National Planning Policy Framework (the Framework) on 24 July 2018, which supplants the previous version which was relevant at the time of the Council's decision on the application. The Framework establishes² that it is a material consideration in planning decisions from the date of its publication. Consequently, the parties' comments were sought on the bearing of the Framework to the appeal. Accordingly, I consider that no prejudice would occur to the interests of any parties as a result of me taking the Framework into account in my assessment of the appeal's planning merits.
4. Further to the request for comments on the Framework, the Council supplied a copy of the Great Bowden Neighbourhood Plan (the Neighbourhood Plan), which was subject to a referendum on 21 June 2018, and formally made by the District Council following the referendum outcome. These actions post-dated the decision on the application. However, the appellant made comments on the Neighbourhood Plan in their response to the Council's Framework comments, and on this basis, I consider that no prejudice would occur to any interests as a result of me taking its contents into account as I am required to

¹ Which is: "erection of 11 dwellings with associated infrastructure, means of access and open space"

² At paragraphs 2 and 212

do in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.

5. The Council submitted its latest 5 Year Housing Land Supply 1 April 2018 to 31 March 2023 update (the Housing Supply Paper), published on 17 August 2018 to the Planning Inspectorate on 3 September 2018. I gave the appellant the opportunity to respond to its contents and will take those comments and the Housing Supply Paper into account in my consideration of the appeal.

Main Issue

6. I consider the main issue in this appeal to be the proposed development's effects on the setting and significance of adjacent heritage assets.

Reasons

Site, surroundings and proposed development

7. The appeal site comprises gently undulating open field, in use for grazing at the time of my visit, of an irregular shape bordered in the main by hedgerows and mature trees but with some fencing and brick walls on its border with the cemetery, more or less to its east. This portion of the site identified as Christchurch paddock in the Neighbourhood Plan, is allocated within that document as a site of Historical Environmental Significance, containing evidence of archaeological potential, part of the pattern of ridge and furrow agricultural fields surrounding the centre of Great Bowden, and apparently of medieval to early-modern origin.
8. A long narrow and open portion of the site spurs from this field towards the centre of Great Bowden and skirts the rear of the Village Hall, containing at its junction with Dingley Road stone boundary walls and brick gate piers listed at Grade II. Bordered to the north by Dingley Road, the immediate surroundings of the bulk of the appeal site are predominantly open in character, with the exception of a ribbon of mainly two-storey terraced buildings, some of them listed, and of considerable architectural variety situated across the road, and the more consolidated development towards the centre of Great Bowden adjacent to the Village Hall. However, at the time of my visit, I saw that construction pursuant to the planning permission³ for 5 dwellings was ongoing on the site immediately adjacent to the ribbon of buildings on the opposite side of Dingley Road to the appeal site. In contrast, development on the side of Dingley Road on which the appeal site is located is considerably more dispersed. The whole of the appeal site is identified as an Area of Separation for the purposes of the Neighbourhood Plan.
9. The appeal scheme would entail the construction of 10 dwellings with access taken from Dingley Road, more or less across from the edge of the ribbon of buildings opposite. A row of detached and semi-detached houses would address the gentle curve of the access road which would have a roughly perpendicular relationship to Dingley Road and would terminate in a turning head fringed by a terrace of four dwellings, the gable end of which would face toward the adjacent cemetery. Landscaping would be retained at the north-eastern end of the appeal site with a buffer to enable the conservation of the historic earthworks present there. The narrower element of land close to the

³ Council reference 16/00997/OUT

Village Hall, and the area of open land to the north of this would remain free from development and are annotated as 'paddock' on the proposed site plan.

The Conservation Area and Cemetery

10. Great Bowden Conservation Area derives a considerable degree of its significance from the relationship of its constituent vernacular buildings to its medieval street pattern and the multiple, roughly triangular greens at its centre- a composition of a marked 'intactness', as identified in the Council's Conservation Area Character Statement (September 2001) and referenced in the appellant's submitted Conservation Area Appraisal⁴. The spaciousness of these greens, and the surrounding open fields contrast with the close plotting of the predominantly residential buildings that line the principal routes. The part of the appeal site that would remain free from built development is within the boundary of the Conservation Area, and the field that would contain the proposed dwellings is immediately adjacent to that boundary; however, its open and agricultural character contributes considerably both functionally and visually to the setting of the Conservation Area.
11. The Officer Report on the application that led to this appeal identifies the cemetery as a non-designated heritage asset, and I note that the appellant accepts this view⁵. Moreover, the Neighbourhood Plan explicitly identifies the cemetery as a non-designated heritage asset, subject to the provisions of its Policy ENV 6. These considerations, taken together, lead me to the view that the cemetery clearly comprises a non-designated heritage asset for the purposes of the Framework.
12. I note from the appellant's submitted material and the responses of the Council and of other interested parties that the cemetery dates from the late 19th Century and follows the pattern of such land uses of the Victorian-era in its separation from the settlement, principally for health reasons. Consequently, a degree of the significance of the cemetery resides in this functional separation. However, due to its location away from residential and other uses at the village core, and their related activities and noise, the cemetery also has considerable value as a place of 'rest and reflection', as per the accurate description of this aspect of its qualities given in the appellant's Heritage Impact Assessment⁶. In this respect I note also the responses by local residents that highlight these qualities of the cemetery, alongside its solemnity and dignity, which its separation from the developed core of the settlement imparts. These reflective qualities of the cemetery imparted by its physical separation may have occurred fortuitously, or as some responses have suggested, as a result of deliberate design. Be that as it may, these qualities add materially to the cemetery's significance as a heritage asset.
13. The proposed development would be at a relatively low density, and would leave portions of the site towards Dingley Road and at its top and bottom corners adjoining the cemetery open and landscaped. Nevertheless it would introduce a considerable amount of development, not only the proposed houses, but also their related garages, accesses, and the estate road itself onto the site. These would be at a much greater depth beyond the built frontage of

⁴ Issue 3, produced by Purcell August 2016

⁵ At paragraph 4.50 of the Statement of Case (Heritage) – dated December 2017 produced by Grover Lewis Associates

⁶ Land off Dingley Road, Great Bowden Heritage Impact Assessment Issue 1- Produced by Purcell, April 2017

Dingley Road than the existing sporadic buildings on that side of the road, or the extant or mooted dwellings across the road. Consequently, the proposed development would erode the rural setting of the Conservation Area. Whilst I readily accept that the visual implications of this would be restricted, in the main, to views glimpsed through mature vegetation, the proposed development would nevertheless diminish considerably the functional separation between the core of the settlement and the cemetery to the detriment of the significance of both of these heritage assets. In reaching this view, I am cognisant that the Council's landscape consultee considered the effects of the scheme would be neutral in landscape terms- this does not overcome, however, the proposed development's impact to the significance of these adjoining heritage assets.

14. The proposed terraced dwellings would be offset from the boundary with the cemetery by a landscaped area that the appellant considers would have a width something in the order of 10m; nevertheless, due to their scale, massing and proximity they would be visually prominent in views of the appeal site from the cemetery. Their presence would be particularly intrusive due to the orientation of the cemetery's gravestones, with their inscriptions on the side facing away from the appeal site, meaning that visitors to them would be facing towards the proposed dwellings and oblique views of the terrace's long front and rear elevations and fenestration would be eye catching, and would considerably undermine the cemetery's qualities of rest and reflection.
15. As the Framework makes clear⁷, "setting" comprises "the surroundings in which a heritage asset is experienced". Consequently, the contribution of setting goes beyond purely visual relationships to take in other aspects of a site's use. At the time of my early morning site visit, whilst the hum of traffic on the A6 in the middle distance formed a background, the cemetery had a relatively quiet noise environment, within which the odd vehicle travelling along Dingley Road was its most noticeable feature. Moreover, due to the immediately surrounding uses of land the level of activity is limited.
16. These aspects of the cemetery and the setting offered by the appeal site add materially to its qualities of rest and reflection, and therefore to the overall experience of the heritage asset- and in arriving at this view I have taken into account the comments of local residents highlighting these aspects of the cemetery as being strong contributory factors to its commemorative and communal qualities. The proposed development would bring more intensive domestic activity materially closer to the cemetery, both in terms of comings and goings along the estate road of residents' cars and the use of the turning head for delivery and refuse vehicles; and the use of the gardens of the dwellings particularly in the summer months. Taken together, these activities would cause a cumulative detrimental impact to the dignity, solemnity and reflectiveness of the cemetery. In combination with the proposed development's visual implications these aspects would clearly and considerably diminish the cemetery's significance.
17. I am mindful of the statutory duty imposed by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) and as the proposals would avoid construction in the portion of the appeal site within the Conservation Area I consider that its character and appearance would be

⁷ In Annex 2: Glossary

preserved. Nevertheless in substantially eroding an important element of the settlement's historic rural surroundings, and the visual and functional gap between the developed part of the settlement and the cemetery, the appeal scheme would constitute development within the Conservation Area's setting which would have a clear and adverse impact on its significance, and the proposed development's harmful effects in these regards would not be addressed adequately by its proposed materials palette, or architectural styles.

Listed Buildings

18. Whilst I acknowledge the functional relationship between the cemetery and the Church of St Peter and St Paul, the denseness and maturity of the trees of the appeal site's boundary with Dingley Road, and its gentle curve mean that inter-visibility between the church and cemetery is limited. In retaining the mature trees and setting development back from Dingley Road, the appeal scheme would not therefore impinge materially on the setting of St Peter and St Paul's, or the settings of the listed dwellings across the road, and thus would not cause harm to their significance.
19. Although the proposed dwellings would be inter-visible with the listed gate piers and wall on the appeal site- they would be separated considerably from these features and not compete with or undermine them in views from Dingley Road. As consequence, I consider that the proposed development would not cause any material harm to their setting or special interest.
20. Consequently, mindful of the duty arising from Section 66(1) of the Act, I conclude that the proposed development would preserve the setting of these adjacent listed buildings.

Conclusion on setting and significance

21. I have found that the proposed development would preserve the setting of adjacent listed buildings- however, the lack of harm it would cause in this respect does not overcome the clear harm that it would cause to the significance of both the Conservation Area and the Cemetery. For these reasons, the proposed development would conflict with Policies CS11 and CS17 of Harborough's Core Strategy (adopted November 2011); and Policies ENV1 and ENV6 of the Neighbourhood Plan. Taken together, and amongst other things, these policies seek to ensure that the significance, features and settings of heritage assets are protected, conserved and enhanced; that development respects the context in which it is taking place, responding to the unique characteristics of the site, reflecting the character of the village, and occurs away from undeveloped areas of land which are important to the form and character of a settlement; and does not compromise the effectiveness of the Areas of Separation in protecting the identity and distinctiveness of Great Bowden. In arriving at this view, I am mindful that Historic England did not object to the application that led to this appeal, but did consider that the proposed development would "have an impact" on the Conservation Area, causing a degree of harm.

Other Matters

22. At the date of the decision notice on the application that led to this appeal the Council could not demonstrate a five year supply of deliverable housing land. However, the recent update produced by the Council identifies just under 7

years' worth of deliverable housing sites within the Borough. Whilst I note the appellant's views on the weight to be attached to this document, and that it is as yet to be fully tested, not least in the context of the new Framework, and updated housing projections, I have been supplied with no alternative figures sufficient to challenge substantially its assumptions. On this basis, it has not been conclusively established that the Council cannot currently meet its housing requirements. Moreover, I note the appellant's view that the 'tilted balance' set out in the Framework should not apply in this case.

23. Nevertheless, the appeal scheme's provision of dwellings- two of which would be affordable- would deliver obvious social benefits, including the contribution of its occupants to the viability of local services and the community, an aspect of the development which would attract support from the Framework⁸. Economic benefits would also flow both during the construction process including direct employment and the supply of materials amongst other things, and once completed from the use of local businesses by the occupants of the proposed dwellings. These benefits would weigh in favour of the proposed development to a material degree.
24. The appeal is accompanied by a unilateral planning obligation. I acknowledge that the open space and community facility contributions as sought by the Council, which would be provided as a result of the submitted obligation are based on development plan policies, supported by the Council's Planning Obligations Supplementary Planning Document (adopted January 2017)- and I have also taken note of the view expressed by Council representatives and the appellant that the contributions sought would be compliant with the relevant requirements of the Community Infrastructure Regulations 2010 (as amended) (the Regulations). Indeed on the basis of the material before me I consider that the contributions sought are necessary to make the development acceptable in planning terms; directly related to the development and fairly and reasonably related in scale and kind to it, and thus would meet the relevant tests provided in Regulation 122(2) of the Regulations, and the Framework⁹. The requirements that the obligation would meet in these regards are proportional to the proposed development's scale- nevertheless they would have the potential to be of wider benefit to the local community, and I am mindful of the Framework's support for positive planning for the provision and use of community facilities¹⁰. Accordingly, these aspects of the appeal scheme carry moderate weight in its favour.
25. Amongst other things the obligation includes a provision offering the transfer to the Council of a site adjoining the cemetery, and benefitting from planning permission¹¹ for a change of use from agricultural land to a cemetery (the cemetery expansion land). The transfer could be in lieu of, or in addition to a public open space contribution, depending on the difference between the market value of the cemetery expansion land and the required public open space contribution. The market value of the cemetery expansion land is not clear at this stage- were it to exceed the required open space contribution, the obligation makes provision for the Council to purchase the site at the difference between the mooted open space contribution and market value.

⁸ At paragraph 78

⁹ At paragraph 56

¹⁰ At paragraph 92

¹¹ Council reference 17/0074/FUL

26. In a similar vein, the obligation makes provision for the transfer of land within the appeal site adjacent to the Village Hall to the Council in lieu of a policy-compliant contribution to community facilities. Again, if the open market value of the land adjacent to the Village Hall were to exceed the required community facilities contribution, the Council could purchase it at the value of that difference.
27. I am mindful that the ownership of the cemetery expansion land and the appeal site mean that such arrangements may not be available in relation to any other planning proposals; however, due to the deed's construction, any benefits over and above the policy-compliant requirement for open space and community facilities that might flow from the obligation would be at the expense of the Council. Furthermore, as the obligation is a unilateral undertaking, to which the Council is not a signatory, it does not compel the Council to take ownership of either of the parcels of land in lieu of the proportionate financial contributions which the obligation would provide. Consequently, the obligation's provisions related to the cemetery expansion land and the land adjacent to the Village Hall weigh in favour of the proposed development to only a very limited degree. In arriving at this view, I have taken into account the counsel opinion¹² on this matter provided by the appellant, and the extracts from the relevant Court Judgements referred to within that opinion¹³.
28. Other contributions provided by the obligation including for education and monitoring relate to requirements which would arise from the appeal scheme and thus have a neutral effect on the planning balance.
29. I note that the proposed development's drainage arrangements could alleviate wider problems including flood risk to the existing cemetery- and I am mindful particularly of the findings of the submitted Flood Risk Assessment¹⁴ in this regard, which states that the appeal scheme would "offer positive benefits over the existing greenfield site as all storm-water flow will be dealt with onsite before discharge into the existing watercourse". This would be a benefit of the appeal scheme that attracts moderate weight in its favour.
30. The submitted Extended Phase 1 Habitat Survey¹⁵ identified opportunities to enhance the biodiversity of the site, including through garden and landscape planting, improvements to existing ponds, hedgerow management, installation of bird and bat boxes, and the design of boundaries to facilitate access for small mammals. Due to the relatively limited extent of the site the potential for the proposed development to deliver these measures weighs in its favour to a modest degree.
31. I acknowledge that the appeal scheme could entail the repair of the listed gateposts and wall present on the site. However, as it has not been demonstrated that the repair of these features is dependent on the delivery of the appeal scheme, this potential benefit is one that weighs in its favour to only a very limited degree.

¹² Supplied by Richard Ground QC, dated 10 July 2017

¹³ *Tesco Stores Limited v Secretary of State for the Environment* [1995] 1WLR 759 (HL) 780; *R v South Northamptonshire DC Ex p Crest Homes Plc* [1994] 3 PLR 47

¹⁴ Report Reference: 21468/04-17/4852 Produced by MEC, dated April 2017

¹⁵ Reference 60533P1R1 produced by Resource & Environmental Consultants Limited dated August 2015

32. The appeal scheme would lead to what the appellant describes as traffic calming measures around the proposed access to the site, including the relocation of the 30 mile per hour road signs further outside of the village. However, it has not been established that these measures are materially more than what would be required to address the highways implications of the proposed development within its immediate surroundings- as a result they only carry limited weight in its favour.
33. The appellant made reference to other approved applications¹⁶ for residential development in and around Great Bowden where the Council and Inspectors have found that public benefits outweighed policy conflicts and in some cases heritage harms. These previous permissions vary in their development quanta including proposals for 70, 50 and 5 dwellings. However, the limited information that has been supplied in respect of the examples that have been referenced does not allow me to draw definitive conclusions regarding the material considerations that may have informed decisions on them, and any similarities or differences between them and the proposed development- aside from their lack of an obligation with provisions that could secure Village Hall and cemetery expansion land. In any event, each planning proposal needs to be considered on its own merits. Consequently, it has not been demonstrated that these other approvals provide a precedent for the proposed development, sufficient to weigh in its favour to any material degree.
34. The proposed development could be progressed in a way that avoids harm to the archaeological features present at the site. However, this is merely evidence of an absence of harm in these regards rather than a positive benefit of the scheme and accordingly has only a neutral effect on the overall balance.

Planning Balance and Conclusion

35. The Framework anticipates once harm has been found to the significance of a designated heritage asset that the magnitude of that harm should be assessed. In the current case, although the harm to the Conservation Area is clearly less than substantial, the Framework makes it clear 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, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm¹⁷. Moreover, such harm should be weighed against the public benefits of a proposal¹⁸.
36. For the reasons set out above, the public benefits advanced in favour of the proposed development do not, either individually or cumulatively outweigh the great weight and importance that I attach to its harm to the Conservation Area's significance. On a balanced judgement of the proposals, neither do those benefits and other material considerations outweigh the very considerable and enduring harm that the proposed development would cause to the significance of the cemetery. In these respects the proposed development would clearly conflict with the Framework insofar as it requires heritage assets to be conserved in a manner appropriate to their significance.

¹⁶ Council references 15/01801/OUT; 15/01425/OUT; 16/00997/OUT; un referenced proposal for 50 dwellings on Land North of Leicester Lane.

¹⁷ At paragraph 193

¹⁸ At paragraph 196

37. Furthermore, no material considerations have been advanced of a sufficient weight to justify a decision other than in accordance with the development plan, with which, in terms of the above-cited policies, the appeal scheme would clearly conflict. Accordingly, for the reasons set out above, and taking fully into account all other matters raised, I conclude that the appeal should be dismissed.

G J Fort

INSPECTOR

Planning Committee Report

Applicant: Willoughby (610) Ltd

Application Ref: 23/00815/VAC & 23/00816/VAC

Location: The Red Lion Public House, Main Street, Great Bowden

Parish / Ward: Great Bowden / Great Bowden & Arden

Proposal:

23/00815/VAC

Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective) (Variation of condition 1 (car parking area and cycle storage timescales) of Planning Enforcement Notice appeal reference APP/F2415/C/21/3276444 to retain the Quadrant Courtyard without compliance with the requirement to lay out the 6 Parking Spaces within four months).

23/00816/VAC

Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective) (Variation of Condition 2 (car parking area and cycle storage timescales) of 20/01884/FUL to retain the Quadrant Courtyard without compliance with the requirement to lay out the 6 Parking Spaces within four months).

Application Validated: 07.06.2023

Target Date: 02.08.2023

Overall Consultation Expiry Date: 20.07.2023 (Harborough Mail)

Committee Decision: At the discretion of the Development Management Manager in the public interest

Recommendation

REFUSE both 23/00815/VAC & 23/00816/FUL for the following reason (subject to no new material considerations being submitted before 20.07.2023):

- 1) There is no justification to vary either Condition 1 of Planning Enforcement Notice appeal reference APP/F2415/C/21/3276444 or Condition 2 of 20/01884/FUL. The Inspector having considered all the evidence before her, decided it was reasonable to request the 6 Parking Spaces be laid out within four months of the decision notice.

1. Site & Surroundings

- 1.1 The Red Lion is located within the centre of Great Bowden, fronting onto Main Street to the north (shown edged red on the location plan and aerial photograph below). To the east lies 3 Main Street (a residential property). To the south lies a strip of private greenspace, beyond which lies Gunnsbrook Close. To the west lies a 11 Main Street (a residential property).
- 1.2 The Red Lion Pub comprises the pub and its garden to the rear as well as the courtyard development to which this application relates.

1.3 The site is located within the Great Bowden Conservation Area (GBCA) and is designated as an Asset of Community Value (ACV).



Site Location and Aerial Photograph

2. Site History

2.1 The site has the following relevant planning history:

Red Lion

Application Ref	Description	Status	Decision Date
20/01194/FUL	Temporary siting of a converted storage container for serving outdoor food and drink and renovation to existing pergola (retrospective)	Application Permitted	04.11.2020
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)	Application Withdrawn	06.11.2020
20/01884/FUL	Erection of a quadrant courtyard for the purposes of	Appeal against non-determination.	15.05.2023

	providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective)	<p>NOTE1: A copy of the decision letter is attached at Appendix A.</p> <p>The decision letter relates to two appeals:</p> <p>“Appeal A” Appeal against an enforcement notice issued on 6 May 2021.</p> <p>“Appeal B” Appeal against non-determination</p> <p>The enforcement notice was quashed and the appeal allowed.</p> <p>NOTE 2: The Appellant has applied for statutory review in the High Court</p>	
22/01738/FUL	Permanent retention of converted storage container for serving outdoor food and drink	Application Permitted	19.01.2023
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	Pending Decision	

	the exterior of converted storage container.		
	Dingley Road Site – Creation of a vehicular access from Dingley Road and creation of community carparking spaces, erection of three dwellings with associated landscaping and environmental enhancement		

3. The Application Submission

a) Summary of Proposals

3.1 This application is seeking planning permission to retain the Quadrant Courtyard granted on appeal (see appeal decision letter dated 15th May at Appendix A) without compliance with the requirement to lay out the 6 Parking Spaces within four months.

3.2 The appeal decision authorised the Quadrant Courtyard for the purposes of a conjoined appeal against : the non-determination of planning application 20/01884/FUL (APP/F2415/W/21/3272912) (Appeal B) ; and an appeal against an enforcement notice requiring its demolition and removal (APP/F2415/C/21/3276444) (Appeal A).

3.3 The grant of the Planning permission in respect of Appeal A contained a planning condition numbered 1 (CA1) in the following terms :

“1) a. The containers hereby permitted shall be demolished to ground level or be removed and all materials resulting from the demolition shall be removed within five months of the date of failure to meet any one of the requirements set out in (i) to (ii) below:

(i) Within 4 months of the date of this decision the car parking area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 has been laid out in accordance with that Plan for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.

ii) Within 4 months of the date of this decision the cycle storage area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 has been laid out in accordance with that Plan for 12 bicycles.

b. Upon implementation of the schemes specified in (i) and (ii) of this condition, those schemes shall thereafter be retained and kept available for the parking of vehicles and cycles...”.

3.4 The grant of the Planning Permission in respect of Appeal B contained a planning condition numbered 2 (CB2) in similar terms :

“2) The containers hereby permitted shall be demolished to ground level or be removed and all materials resulting from the demolition shall be removed within five months of the date of failure to meet any one of the requirements set out in (i) to (ii) below:

- (i) Within 4 months of the date of this decision the car parking area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 shall have been laid out in accordance with that Plan for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear
- (ii) Within 4 months of the date of this decision the cycle storage area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 shall have been laid out in accordance with that Plan for 12 bicycles.

b. Upon implementation of the schemes specified in (i) and (ii) of this condition, those schemes shall thereafter be retained and kept available for the parking of vehicles and cycles...”.

3.5 The Applicant proposes that the Quadrant Courtyard is retained subject to the planning conditions set out in the Decision Letter save that in sub-section 1 a) (i) in both CA1 and CB2 the expression “Within 4 months of the date of this decision...” shall be deleted and replaced with the expression “**On or before 15th May 2025...**”.

3.6 The Applicant has explained the rationale for this extension of time is “that there is a current undetermined application before the local planning authority (LPA) bearing reference 22/00787/FUL whereby planning permission has been sought for a development which includes the retention of the built structure of the quadrant courtyard but without the 6 Parking Spaces, and also includes a car park at a nearby site accessed from Dingley Road, for up to 48 spaces(the Dual Site Application)”

3.7 The Applicant has been advised by the Case Officer that 22/00787/FUL is to be recommended for refusal.

3.8 “The Applicant would therefore face the prospect of a further planning appeal – this time in order to determine whether or not the Dual Site Application would also be approved by a Planning Inspector – in order to find out amongst other things whether the 6 Parking Spaces need to be provided at all if there is a new car park at the Dingley Road Site. The proposed timeframe of 24 months in this Application is intended to allow for such an appeal process to be carried through to a decision by a Planning Inspector in respect of the Dual Site Application accordingly.”

3.9 The Applicant also suggests within the planning supporting statement “There is no planning justification for the requirement to provide the 6 Parking Spaces within the timeframe currently stated in CA1 and CB2 and further goes on to say that the requirement for the 6 Parking Spaces “does not reflect any planning judgment on the part of the Inspector that the 6 Parking Spaces were on the evidence before her actually required in order to serve customers (or staff or other visitors) using the built structure of the courtyard. On the contrary, the Inspector made an express finding that the development did not generate a significant increase in parking demand at all.”

4. Consultations and Representations

- 4.1 Consultations with technical consultees and the local community have been undertaken (including re-consultation where necessary)
- 4.2 A site notice was placed at Red Lion Pubic House on 19.06.2023. An advert in the Harborborough Mail was published on
- 4.3 A summary of the technical consultee and local community responses which have been received is set out below. If you wish to view comments in full, please request sight or search via: www.harborborough.gov.uk/planning

At the time of writing this report (23.06.2023), no comments have been received

b) Local Community

- 4.4 Consultation letters were distributed to properties abounding the application site. To date no comments have been received

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.
- 1.4 The DP for Harborborough comprises:
- **Harborborough District Local Plan** 2011-2031 adopted April 2019
 - **Great Bowden Neighbourhood Plan** (Review, 2020)

b) Statutory Duties and Material Planning Considerations

- 5.4 Planning (Listed Buildings and Conservation Areas) Act 1990
- 5.5 Environment Act 2021
- 5.6 The National Planning Policy Framework, July 2021
- 5.7 Appeal Decisions - **Appendix A – The Red Lion**

Appeal A Ref: APP/F2415/C/21/3276444 & Appeal B Ref: APP/F2415/W/21/3272912

c) Other Relevant Documents

5.7 The following documents should also be noted:

- Circular 11/95 Annex A - Use of Conditions in Planning Permission
- Leicestershire Planning Obligations Policy (July 2019)
- Leicestershire County Council 'Local Transport Plan 3' 2011-2026;
- Leicestershire County Council Highways Design Guide

6. Assessment

- 6.1 The rationale for these applications has been outlined in Section 3.
- 6.2 The LPA disagree with the Applicant for the need to extend the timeframe for compliance and further disagree that the condition was not justified.
- 6.3 Suggested conditions were discussed at the Appeal Hearing and the Inspector provided advance notice of conditions prior to issuing her decision. The LPA are not aware that the Applicant disputed the conditions suggested. If they were not happy with the wording of the condition they had an opportunity to say so at both the Hearing itself and the follow-up correspondence from the Inspector. Furthermore, the plans supplied by the Applicant as part of Appeal B included plans indicating the 6 car parking spaces and confirmed to the Inspector his willingness to provide them if the appeal succeeded.
- 6.4 Under section 70 TCPA90 a local planning authority or an Inspector : "... (a) may grant planning permission either unconditionally, or subject to such conditions as they think fit..." The Inspector considered all the evidence in the round and despite identifying that she was "not satisfied on the evidence before" her "that the development has intensified the public house use in a material way such as to generate a significant increase in parking demand or trip generation", she did consider it necessary to require 6 car parking spaces by condition.
- 6.5 The Inspector would have imposed the condition with the foresight of the 6 policy tests for planning conditions; namely:
- Necessary
 - Relevant to planning
 - Relevant to the development to be permitted
 - Enforceable
 - Precise
 - Reasonable in all other respects
- 6.6 The Red Lion previously provided parking spaces (there is a dispute between the Applicant and LPA/LHA as to whether this was 6 or 8) but these spaces were later removed as a result of the Quadrant Courtyard development. So, although the development was not judged to intensify the use of the pub it did result in the loss of previously provided car parking spaces, albeit 'limited' off street parking provision.
- 6.7 The LPA agree with the conditions imposed by the Inspector. An extension of compliance for a further two years to await the outcome of an appeal to 22/00787/FUL is not justified.

- 6.8 For the reasons given above, the S73 applications to extend the timeframe for compliance with the conditions laid down by the Inspector should be REFUSED.



Appeal Decisions

Hearing held on 16 November 2022

Site visit made on 17 November 2022

by E Griffin LLB Hons

An Inspector appointed by the Secretary of State

Decision date: 15 May 2023

Appeal A Ref: APP/F2415/C/21/3276444

**Land at Red Lion Public House, 5 Main Street, Great Bowden,
Leicestershire LE16 7HB**

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Willoughby (610) Limited against an enforcement notice issued by Harborough District Council.
- The notice was issued on 6 May 2021.
- The breach of planning control as alleged in the notice is "without the benefit of planning permission, the erection of a series of containers and associated structures forming an outdoor covered quadrant seating and bar area, to the rear and side of the Red Lion Public House. The location of the quadrant courtyard area is shown in figure 1 attached to this notice."
- The requirement of the notice is:
Remove the containers and any associated structures forming the quadrant courtyard covered area from the Land.
- The period for compliance with the requirement is 3 months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Appeal B Ref: APP/F2415/W/21/3272912

The Red Lion, 5 Main Street, Great Bowden, Leicestershire, LE16 7HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Willoughby (610) Limited against Harborough District Council.
- The application Ref 20/01884/FUL, is dated 23 November 2020.
- The development proposed is the "erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) retrospective".

Formal Decisions

Appeal A

1. It is directed that the enforcement notice is corrected by deleting the words "and associated structures" from the allegation.
2. Subject to the correction, the appeal is allowed and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under Section 177(5) of the 1990 Act as amended for the

<https://www.gov.uk/planning-inspectorate>

development already carried out namely the erection of a series of containers forming an outdoor covered quadrant seating and bar area, to the rear and side of the Red Lion Public House. The location of the quadrant courtyard area is shown in figure 1 attached to the notice on land at the Red Lion Public House 5 Main Street, Great Bowden Leicestershire LE16 7HB subject to the following conditions:

- 1) a. The containers hereby permitted shall be demolished to ground level or be removed and all materials resulting from the demolition shall be removed within five months of the date of failure to meet any one of the requirements set out in (i) to (ii) below:
 - (i) Within 4 months of the date of this decision the car parking area shown on Plan No L316-BRP-00-00-DR-A-0402-P06 has been laid out in accordance with that Plan for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear.
 - ii) Within 4 months of the date of this decision the cycle storage area shown on Plan No L316-BRP-00-00-DR-A-0402-P06 has been laid out in accordance with that Plan for 12 bicycles.
- b. Upon implementation of the schemes specified in (i) and (ii) of this condition, those schemes shall thereafter be retained and kept available for the parking of vehicles and cycles.
- c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 2) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, fence, wall, or other means of enclosure shall be erected on the vehicular access and turning area.
- 3) The quadrant courtyard (as shown on figure 1) shall not be used for the playing of amplified recorded or live music.
- 4) The quadrant courtyard (as shown on figure 1) shall not be used for cooking.
- 5) Customers shall only be permitted to use or occupy the quadrant courtyard (as shown on figure 1) between the following hours :11.00 and 23.00 on any day.

Appeal B

3. The appeal is allowed and planning permission is granted for the "erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) retrospective" in accordance with the terms of the application Ref/20/01884/FUL dated 23 November 2020 and subject to the following conditions:

- 1) The development hereby permitted shall be carried out in accordance with drawing Nos L316 – BRP -00-00 – DR-A- 0402 – P06, L316 – BRP-00-00 – DR-A- 0413 – P01 and L316 – BRP -00-00 – DR-A- 0403 – P08.
- 2) The containers hereby permitted shall be demolished to ground level or be removed and all materials resulting from the demolition shall be removed within five months of the date of failure to meet any one of the requirements set out in (i) to (ii) below:
 - (i) Within 4 months of the date of this decision the car parking area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 shall have been laid out in accordance with that Plan for 6 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear
 - (ii) Within 4 months of the date of this decision the cycle storage area shown on Plan No L316-BRP-00-00-DR-A- 0402-P06 shall have been laid out in accordance with that Plan for 12 bicycles.
- b. Upon implementation of the schemes specified in (i) and (ii) of this condition, those schemes shall thereafter be retained and kept available for the parking of vehicles and cycles.
- c. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.
- 3) Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, fence, wall, or other means of enclosure shall be erected on the vehicular access and turning area.
- 4) The quadrant courtyard (as shown on figure 1) shall not be used for the playing of amplified recorded or live music.
- 5) The quadrant courtyard (as shown on figure 1) shall not be used for cooking.
- 6) Customers shall only be permitted to use or occupy the quadrant courtyard (as shown on figure 1) between the following hours: 11.00 and 23.00 on any day.

Applications for Costs

4. An application for costs was made by Willoughby (610) Limited against Harborough District Council. A second application for costs was made by Harborough District Council against Willoughby (610) Limited. These applications are the subject of separate decisions.

Procedural Matters

5. The National Planning Policy Framework (the Framework) was revised on 27 July 2021 and I will determine the appeals in accordance with that revised document.
6. Whilst the application the subject of Appeal B was initially made on the basis of seeking temporary planning permission for the retention of the containers, the application was subsequently changed to request permanent permission. The description of the proposal in the banner heading for Appeal B was agreed by the parties on 3 February 2021 when the Council indicated that a new consultation period was required in view of the change and I will determine the appeal on that basis.

The Notice – Appeal A

7. The enforcement notice alleges “the erection of a series of containers and associated structures forming an outdoor covered quadrant seating and bar area, to the rear and side of the Red Lion Public House. The location of the quadrant courtyard area is shown in figure 1 attached to this notice”. The appellant queried whether the associated structures referred to include the oak pergola which forms the fourth side of the square marked as the “Quadrant Courtyard” on figure 1.
8. The Council clarified at the hearing that the “associated structures” within the allegation referred to the tables with attached benches which are within the booths created out of the containers. As such, the requirement to remove the containers would result in the removal of the tables and booths which are simply fixtures and fittings. In the interests of clarity, I will therefore correct the allegation by deleting the words “and associated structures.” This would cause no injustice or prejudice to either party.

Background

9. Appeal B relates to the failure of the Council to make a decision on the planning application within the prescribed time limits. The appellant lodged an appeal against non-determination on 1 April 2021. The application was due to be considered by the Council’s Planning Committee on 13 April 2021. The Council has confirmed that if an appeal had not been lodged then it would have refused the application for the reason set out in the Committee report. The Council’s putative reason for refusing the application the subject of Appeal B is the same as the reason for issuing the enforcement notice, which is the subject of Appeal A.

Appeal A on ground (a) and Appeal B

The Main Issue for Both Appeals

10. The Council’s concern for both appeals relates to the effect of the development on the demand for on street parking in the vicinity of the appeal site.
11. The main issue for both Appeal A and Appeal B is whether the development results in significant highway safety issues within the transport network as a result of displaced and additional parking demand within the vicinity of the appeal site.

Reasons

12. The Red Lion Public House (the PH) dates back to the 18th century. It is one of two public houses in the village of Great Bowden. There are also schools, a post office and a convenience store close by. The PH is within the Great Bowden Conservation Area. It is also registered as an Asset of Community Value and that designation was recently extended to include the garden area to the rear. There are listed buildings in the vicinity of the appeal site including No 11 Main Street which is adjacent to the PH to the west.
13. The PH fronts onto Main Street which connects the centre of the village with the B6047 Harborough Road. There is a 30 mph speed limit on Main Street and pavements to either side of the street. The surrounding area is largely residential, with some dwellings having off street parking. Where off street parking is available the vehicular access has road markings to prevent on street parking blocking the accesses.
14. The PH was closed from the 31 January 2017, with a short reopening of the outdoor space to the rear of the PH in August and September 2020. This short opening was during Covid restrictions and food and drink was served to customers. The PH re-opened in May 2021.
15. There is currently no parking provision at the appeal site following the closure of the on-site car park. Photographs provided show the entrance to the car park closed off on 12 April 2021. Whilst the Council made an Emergency Traffic Regulation Order due to immediate road safety concerns in May for 21 days at the time of the closure, no formal changes to the parking in the vicinity of the Red Lion have occurred since then.
16. The development the subject of Appeal B is partially retrospective. The 'quadrant' has been constructed in the southwest corner of the site and is made up of storage containers to three sides and an oak pergola forming the fourth side. There is a decked area and seating in the uncovered central area of the quadrant. The submitted plans show a glass roof is proposed for the pergola. The pergola allows access to and from the rest of the appeal site. The existing beer garden which has tables and benches within it is adjacent to the quadrant, and behind the public house itself. The containers have timber cladding and a lead roof covering. Two of the containers are divided into seating booths and the third provides disabled toilets and storage. There is a ramped access to the quadrant area.
17. The plans for Appeal B show the removal of part of an existing hedge together with a section of decking to provide a parking area for 6 cars. The proposed car park would be located to the side of the PH and in front of the quadrant. A cycle rack for 12 bicycles along the western boundary, behind the public house, is also proposed. The appellant has indicated his willingness to provide parking and cycle parking in accordance with the plans submitted for Appeal B.
18. Whilst there are specific development plan policies which refer to parking and highway use, the Council also refers to the relevant paragraphs in the Framework which seeks the provision of safe and suitable access for all users of any development and advises that development should only be refused on highway grounds if there is either unacceptable impact on highway safety or if the residual impact on the road network would be severe.

19. The Local Highway Authority (LHA) considers that based upon 1 customer parking space per 4 square metres of floor space, plus one staff parking space per 10 tables or 40 square metres, the quadrant area alone would require 15 customer spaces plus two staff car parking spaces making a shortfall of 17. The LHA was of the view that demand for parking for the quadrant would coincide with demand for parking in evenings and weekends for local residents. Complaints made at that time were also a factor in the LHA's conclusion that the development could result in an unacceptable increase in on street parking and a subsequent displacement of resident parking. The Council also had an issue with a proposed reduction of parking spaces from 8 to 6 although spaces had never been marked out and it was not agreed between the parties that 8 cars could be accommodated historically and could enter and leave the site in forward gear.
20. The parties agree that there were no personal injury accidents within the vicinity of the appeal site between June 2016 and May 2021. The LHA indicate that no traffic assessment was carried out due to the Covid 19 pandemic.
21. The appellant has provided a Transport Assessment which includes traffic surveys with analysis of surrounding parking provision. Surveys were undertaken to include areas of both a 500 metre and 200 metre radius of the PH. A traffic survey was conducted on Friday 17 September 2021 at 12.00 hours and on Saturday 18 September 2021 at 16.00 hours which included a walking distance of up to 500 metres from the appeal site. That survey concluded that 33% of the available spaces in the local area were occupied leaving 67% availability at 12 pm on Friday and on Saturday afternoon there was 59% availability. The second survey covering a smaller area of 200 metres from the appeal site was conducted on the same days but at different times. At 19.00 hours on the 17 September and 18 September at 17.00 hours there were occupation figures of 48% and 54% respectively leaving around 50% on street parking availability. The PH car park had been closed for some time when the surveys were undertaken.
22. The survey concludes that even if the Council's figure of 17 spaces was accepted that extra demand could be accommodated on street, because on street parking is not at capacity or under stress on the evidence available. The parking data does indicate that on street parking is not saturated and thus there would be availability of on street parking.
23. The Council has not produced any assessments to contradict the appellant's evidence. The view of the LHA is that the PH should be providing its own off-street parking. The PH is a valued community asset which has operated in previous years with capacity in excess of 200 customers with limited parking on site. The provision of 6 car parking spaces by condition would provide allocated parking spaces which with the addition of cycle storage spaces, will provide some off street facilities. However, if on street parking capacity is available, those spaces can be used by the PH customers in the absence of any Traffic Orders in force to restrict usage and would not cause a highway safety issue on the evidence available.
24. There are both supporters and objectors to the development including objectors who live close to the appeal site and the Parish Council. Whilst, the PH may have been a gastro pub in the past which operated largely indoors, the way in which public houses operate generally has changed with more focus on

use of outdoor space particularly since the Covid- 19 pandemic. Parking issues for residents due to the proximity of schools are unlikely to coincide with the opening hours of the PH.

25. The general operation of the PH in relation to deliveries, use of the beer garden and customers within the main building remains as it has historically been. Options that would have left the car park in its original place were not pursued by the appellant and I can only consider the development that is before me.
26. Whilst it is frustrating for local residents to not be able to always park close to their property, there is no evidence before me that there is a direct link between the opening of the quadrant and a lack of availability of parking. The roads are not particularly wide in the vicinity of the site and there may be instances where there are cars parked on both sides of the road. However, the Transport Assessment provided by the appellant indicates that there is ample capacity on nearby roads. Moreover, there is no substantiated evidence to contradict that assessment.
27. The appellant has provided details of bus services which are accessible close to the site. In addition, Appeal B contains proposals for the provision of 6 on site car parking spaces and 12 cycle parking spaces. I am satisfied that suitable conditions can be imposed to require the provision and retention of the car parking and cycle parking facilities.
28. The appellant's trip generation assessment states that there would be a maximum of 2-3 two way movements between the likely peak period hours of 1300-1400 and 1900-2000. However, the quadrant courtyard is providing additional seating within an existing public house site. The appeal site which includes the public house itself and the outside areas to the side and rear including the quadrant make up a single planning unit. Whilst providing additional facilities for customers, I am not satisfied on the evidence before me that the development has intensified the public house use in a material way such as to generate a significant increase in parking demand or trip generation.

Other Matters

29. The location of the appeal site within the CA and the presence of nearby listed buildings gives rise to statutory duties. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. The part of the CA where the appeal site is located is characterised by a combination of traditionally constructed buildings which together with mature trees gives spatial definition to the village streets.
30. The PH itself is not listed, but it is a traditional building of architectural quality which forms part of the streetscene close to the centre of the CA. The containers have the appearance of timber outbuildings as a result of cladding and are screened by planting, in addition to being located to the rear of the appeal site. The visual impact of the development which is to the rear of the appeal site is therefore very limited.
31. Similar provisions apply to listed buildings under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to ensure that the setting of any nearby listed buildings are preserved. No 11 Main Street is a substantial building with a thatched roof which dates back to the 18th century and is a

grade II listed building which shares a side boundary with the PH. To the rear along that boundary, the containers with the timber cladding are lower in height than the garden shed of No 11.

32. Although No 1 Main Street is referred to by the parties as it is also listed, it is located to the east of the PH and the development does not form part of the setting of No 1 Main Street. On the evidence before me, I share the views of the parties that the development does preserve the character and appearance of the CA and the setting of No 11 Main Street.

Conditions

Appeal A

33. Conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Conditions relating to the car parking and the cycle storage are imposed to ensure that those facilities are provided and make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and so it is not possible to use a negatively worded condition to secure the implementation of these matters before the development takes place.
34. It would not be appropriate to suspend the use until the conditions are met as suggested by the appellant as that would be open ended and could leave structures in place with no use. The appropriate sanction is therefore for the container structures to be demolished if the car parking and cycle storage are not provided.
35. The restrictions on live music and cooking will ensure that the courtyard use remains part of the use of the PH and are required in the interests of the amenity of nearby occupiers. The removal of permitted development rights should only be exercised in exceptional circumstances. However, free flow to and from the car park is essential in order to ensure that the car park is available for use. I do consider that the removal of permitted development rights for means of enclosure is therefore appropriate and I have used the wording contained in the relevant legislation.
36. Whilst a condition restricting any future lighting was proposed, any lighting that falls within the definition of development would require planning permission. A condition to control lighting is therefore not necessary. The appellant had proposed a condition limiting numbers of customers to the appeal site to overcome the Council's highway concerns. The Council does not consider that such a condition meets the statutory tests for various reasons including enforceability. However, I have found that the development does not result in an unacceptable impact on highway safety. In view of my findings, a condition restricting numbers is simply not necessary and does not therefore meet the relevant test.

Appeal B

37. The conditions for Appeal B are the same as for Appeal A other than the addition of a plans condition which is necessary as not all of the development is retrospective.

Unilateral Undertaking

38. The appellant also provided a signed Unilateral Undertaking (the UU) as an alternative means to control customer numbers to a condition. However, the same reasoning applies to the proposed control of numbers by way of UU as applies to the proposed condition. The UU is not necessary to make the development acceptable in planning terms. I have therefore not attached any weight to the UU in reaching my decision to grant planning permission in both appeals.

Conclusion

39. I conclude that subject to the conditions set out above, the development would not cause significant impact on the transport network in terms of displaced and additional parking demand within the vicinity of the appeal site. There is no conflict with Policy GD8 of the Harborough Local Plan 2011-2031 (the Local Plan) and Policy IN2 of the Local Plan which collectively states that development will be permitted where it meets the relevant criteria including ensuring safe access, adequate parking and ensuring safe efficient and convenient movement of all highway users. I also find no conflict with Policy CAF2 of the Great Bowden's Neighbourhood Plan (2016-2031) (NP) which supports extensions to existing community facilities provided that the development will not generate a need for parking that cannot be adequately catered for. I therefore find no conflict with Paragraph 110 of the Framework which refers to development providing safe and suitable access for all users or Paragraph 111 of the Framework which states that development should only be prevented or refused on highway grounds if there would be unacceptable impact on highway safety, or the residual impact on the road network would be severe.

Appeal A

40. For the reasons given above, I conclude that Appeal A succeeds on ground (a). I shall grant planning permission for the development as described in the notice as corrected. The appeals on ground (f) and (g) do not therefore fall to be considered.

Appeal B

41. For the reasons give above, I conclude that Appeal B should succeed.

E Griffin

INSPECTOR

APPEARANCES**FOR THE APPELLANT:**

William Darby
Rajan Uppal
Robert Waite

Willoughby (610) Limited
Willoughby (610) Limited
Gately Legal (Partner and Solicitor)

Jason Davenport
Jonathan Arksey
Philip Grover
Martin Andrews

BSP Consulting Limited
BRP Architects Limited
Grover Lewis Associates Limited
Martin Andrews Consulting Limited

FOR THE LOCAL PLANNING AUTHORITY:

Harborough District Council

Adrian Eastwood
Michaela Barton
Christine Zacharia

Development Manager
Planning Enforcement Officer
Planning Enforcement Team
Leader
Highway Officer(Leicester County
Council)

David Hunt

INTERESTED PARTIES:

Paul Claxton

Local Resident and Parish
Representative
Local Resident

Jacqueline Endersby

Documents handed in at the hearing

Handwritten statement of Jacqueline Endersby

Document handed in after the hearing

Certified Copy of the Unilateral Undertaking
Updated Conditions

Committee Report

Applicant: Levi Junior Walker

Application Ref: 21/01848/FUL

Location: Land adjacent to Walkers Stables, Hungarton Lane, Keyham, Leicestershire

Proposal: Change of use of agricultural/grazing land to a single traveller pitch for the siting of a static caravan, touring caravan, and installation of hardstanding, and the erection of a day room (retrospective)

Application Validated: 19.10.2021

Target Date: 14.12.2021 (extension of time agreed)

Consultation Expiry Date: 22.11.2021

Site Visit Date: 01.11.2021

Reason for Committee Decision: To ensure an open and transparent process to accommodate the number of community concerns received by the Council concerning this application, and in the public interest.

Parish & Ward: Keyham/Thurnby and Houghton

Recommendation

Planning permission is **APPROVED** for the reasons set out in this report and subject to conditions at Appendix A

1. Introduction (including Site & Surroundings)

- 1.1 The application site (hereafter referred to as the 'site') lies in the open countryside outside of the built up part of the nearest settlement of Keyham which is approximately 450m away. Beyond Keyham is Scraftoft, which is classed as a sustainable settlement, and is around 3.3 kilometres from the site, providing a greater range of services. The site is accessed from the Classified Hungarton Lane using a former agricultural field access which has been upgraded by the Applicant.
- 1.2 The site does not lie within a Conservation Area, does not affect the setting of a Conservation Area and is not within visual proximity to Listed buildings, protected monuments and parkland, or heritage assets.
- 1.3 The site is raised slightly above Hungarton Lane and is relatively flat, and lies adjacent to the land known as Walkers Stables which has a lawful use, granted by planning permission 16/00120/FUL (as varied by 18/00356/VAC), for the change of use of land for the provision of two Gypsy/Traveller pitches (to include the siting of caravans, the provision of hardstanding and ancillary accommodation).



Figure 1: Application Site Location

2. Site History

2.1 Mainly relates to adjoining land known as Walkers Stables

- 16/00120/FUL - Change of use of land for the provision of two Gypsy / Traveller pitches (to include the siting of caravans, the provision of hardstanding and ancillary accommodation) (retrospective). Approved 30.09.2016
- 17/01040/FUL - Proposed enlargement of hard standing area to accommodate 'Day' Rooms and re-location of caravans and enhanced turning provision. Approved 29.09.2017
- 18/00356/VAC - Removal of Condition 8 (temporary consent) and Variation of Conditions 9 (amended plan) and 10 (day room materials) of 17/01040/FUL. Approved 01.05.2018
- 18/01235/VAC - Variation of Condition 9 (amended plan) of 17/01040/FUL to increase roof pitch of day room Approved 14.09.2018

3. The Application Submission

a) Summary of Proposals

3.1 The proposal seeks retrospective planning permission to provide a single Gypsy/Traveller pitch, the applicant being the son of the owner of the adjacent site (Walkers Stables) housing two existing plots. The proposed pitch, which has already been implemented, houses a dayroom, a static and a tourer. The applicants propose to plant a mature hedge close to the plot entrance with a gate and fence at approximately 2m in height (gate and fence already erected and some planting completed).



Figure 2: Photograph of entrance – fence and gate



Figure 3: View of buildings used as dog kennels



Figure 4: Proposed Site Layout

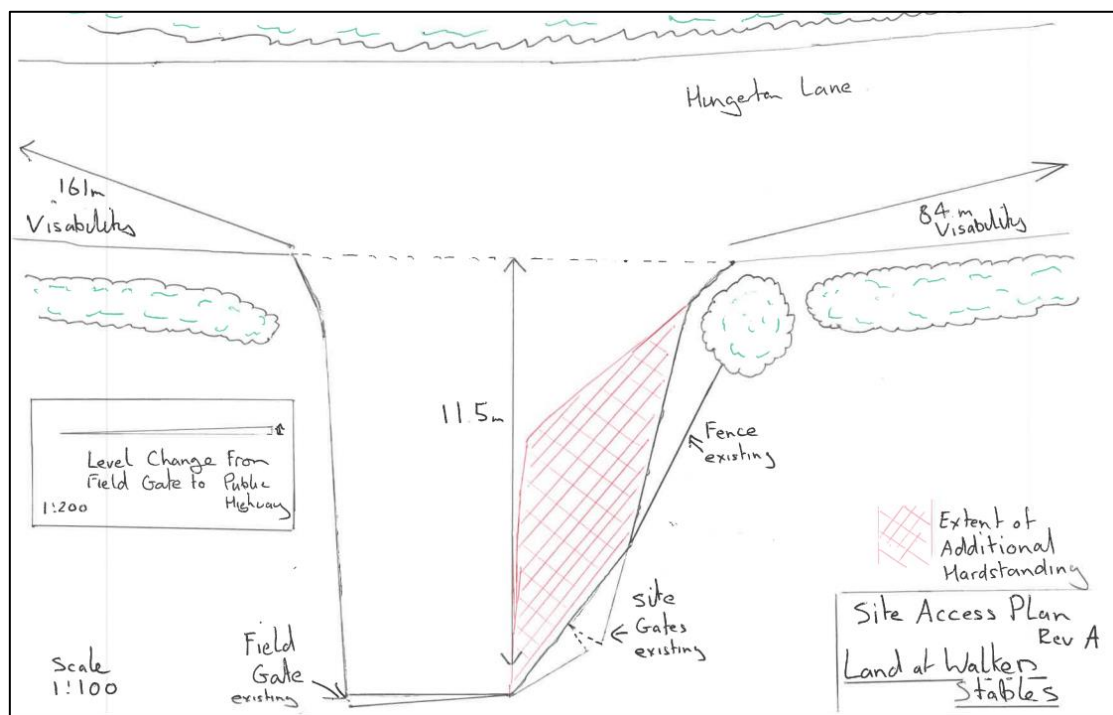


Figure 5: Site Access Plan

b) Documents submitted

3.2 The application has been accompanied by the following plans/documents:

- Planning Statement
- Site Layout plan (Figure 3 above)
- Day room – elevations and floor plan

- Proposed landscaping details

c) Pre-application Engagement

- 3.3 No pre-application advice was sought or given for this application

4. Consultations and Representations

- 4.1 Consultations with technical consultees and the local community were carried out on the application. This occurred on 18 November 2021, and included a site notice posted on site on the 1 November 2021. The consultation period expired on the 22 November 2021.

- 4.2 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.

a) Statutory & Non-Statutory Consultees

- 4.3 *Leicestershire Police Designing out Crime Officer (no formal objection)*

General recommendations include:

- Foliage recommended to be a height of 1m and trees are recommended to be trimmed to have no foliage lower than 2m from ground, to provide a 1m clear field vision.
- Bin and cycle storage to be within perimeter of site.
- Perimeter enclosure to be a height of 1.8m in materials in keeping with development.
- Adequate street lighting columns

- 4.4 *Cllr Galton – Ward Member (objection)*

The Councillor advises that ward members have received a number of comments, concerns and objections which in summary state they object to the further expansion of the site for the following reasons:

1. Residents are concerned the proposal is contrary to Council's policy on the need to 'promote peaceful and integrated co-existence between the site and local community'.
2. The Council has a supply of pitches to meet its identified need and therefore does not meet the requirements of Policy H6(1) of the Local Plan
3. The site is not in a sustainable location.

The Councillor concludes that for the above reasons and having regard to the representations received, the application should be refused.

- 4.5 *LCC Travellers Sites and Liaison Officer (no objections)*

General information

In 2018, planning permission was granted on a permanent basis for a two pitch Travellers site on Hungarton Lane, Keyham. This site is owned by the parents of the current applicant who has lived there since the site was established in 2016. Mr Walker Jnr (Applicant), a young man in his mid-twenties now has need of a site of his own as he, together with his long-term partner, now wish to marry and start a family of their own. Mr Walker Jnr has strong local ties with the area and in accordance with Gypsy Tradition, it is beneficial to both families that they live adjacent to each other as they are easily able to offer support when required. It was for these reasons that the land was purchased, and this application submitted.

The families that will live on this site are Romany Gypsy/Travellers by birth, culture and descent, having been born and brought up in the traditional Gypsy way of life and satisfy the definition of a Gypsy and Traveller for the purpose of Annex 1 Planning Policy for Traveller Sites (2015).

4.6 *Leicestershire County Council – Ecology (No objection)*

If most of the work has been carried out already then, any impacts on ecology will have already occurred so there would be nothing to gain by requesting ecology surveys if they were necessary. Recommend the planting of hedgerows and trees of locally native species and species rich grassland etc; how BNG will be achieved on the site should be provided on a landscape plan (a hand drawn sketch would be acceptable).

4.7 *Leicestershire County Council – Highways*

Currently there is insufficient information submitted to determine if a proposed site access can be delivered in accordance with the Leicestershire Highway Design Guide (LHDG). Initial concern would be visibility splays at the site access.

Hungarton Lane is a classified C road subject to a 60mph speed limit, and would require vehicular visibility splays of 2.4m x 215m. Given the alignment of the road it's clear these splays are not achievable, and we would require speed survey data to determine the required visibility splays based on 85th percentile speeds.

Whilst speeds could be lower, without speed survey data we would be unable to determine if visibility splays which commensurate with 85th percentile speeds are achievable. Furthermore in the absence of detailed site access drawings (scaled), I'm unable to review the geometry of the site access.

Should the applicant be forthcoming with information, advise the following is submitted

- Site access details in accordance with the Leicestershire Highway Design Guide (LHDG), considering vehicular visibility splays, radii, gradient, width, drainage and surfacing.
- A Stage 1 Road Safety Audit, and designers response.

4.8 *HDC Environmental Health - Contaminated Land and Air Quality Officer (no objection)*
No comments regarding land contamination

4.9 *HDC Community Safety (no objection)*
No comments

4.10 *Keyham Parish and Keyham Conservation Committee (objections)*

Object to the proposal for following reasons:

1. No effort has been made to ensure that the new development fits in with the surrounding countryside. It is unsightly and has clearly been implemented in haste with no consideration given to its aesthetic appearance.
2. No justification for additional pitch. Ample room on adjoining site
3. Concerned that if HDC approve application it would be setting a precedent for further Gypsy caravans to be moved into the same field by other travellers.

b) Local Community

4.11 This application has generated 18 objections from the local community. A summary of key points/concerns are listed below:

- Dangerous driving witnessed from occupants of the site – risk of accident
- Frequent debris on the road generated from the site
- No effort has been made to ensure that the new development fits in with the surrounding countryside. It is unsightly and has clearly been implemented in haste with no consideration given to its aesthetic appearance.
- No justification for a caravan to be placed here – ample room on adjoining site

- Concerned that an agreement by HDC to approve this request would be setting a precedent for further Gypsy caravans to be moved into the same field by other travellers.
- The applicant has already demonstrated his blatant disregard for planning policy by setting up his site without planning consent. If this site is allowed to remain, there is every chance that more unauthorised traveller sites will appear
- This site is unsustainable and appears to not even offer the slightest gesture towards modern environment protection opportunities, and totally alien to this type of location. It is contrary to all known planning policies and is inappropriate by design.
- The site plan does not indicate how the site will be enclosed. Clear boundaries are required to prevent further encroachment onto agricultural land.
- There has been no factual consideration of access or egress onto a busy road
- A new access to the site has already been constructed, yet there is no known approval for the creation of this access nor evidence of the Highways Agency having been consulted on the location or design of this new access
- Already a lot of traveller sites in this area
- This development is contrary to the principles set out by the National Planning Policy Framework. This framework is against new dwellings in the Open Countryside
- With rural crime being extremely high in the locality, making this site a permanent feature will only add to the existing issues some of the neighbouring farms are currently experiencing

5. Planning Policy Considerations

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

a) Development Plan

- o *Harborough Local Plan*
- 5.2 Policy GD1 'Achieving Sustainable Development' of the Local Plan states that when considering proposals for development the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF).
- 5.3 Policy GD5 'Landscape Character' of the Local Plan states that development should be located and designed to be sensitive to its landscape setting and character. The explanation to GD5 ensures that development proposals do not result in unacceptable harm to the landscape.
- 5.4 Policy GD8 'Good Design in Development' also needs to be considered. This states that development needs to achieve a high standard of design and is subject to certain criteria being met. Policy GD8d specifically states that development should respect 'the context and characteristics of the individual site, street scene and the wider local environment to ensure that it is integrated as far as possible into the existing built form'.
- 5.5 Policy H6 'Gypsy, Traveller and Travelling Showpeople accommodation' is referred to in detail in section 4.12. of this report. Importantly policy H6 states that the identified need is a **minimum (not maximum number)** [author emphasis] and that the adopted Local Plan allocations will meet all the identified need over the whole plan period (to 2031).
- 5.6 Criterion 5a – 5g sets out the criteria by which any application for a new (unallocated site) or extension to an existing site should be assessed and is therefore the section of the policy relevant to this application.

b) Material Planning Considerations

- o *National Planning Policy Framework (NPPF) and National Planning Policy for Traveller Sites (PPTS) 2015*
- 5.7 National planning policy for traveller sites is set out in PPTS (2015) which should be read in conjunction with the NPPF. The Government's overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers, while respecting the interests of the settled community. PPTS paragraph 24 states that local planning authorities should consider the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for applicants and the personal circumstances of the applicant.
 - o *Section 149 of the Equality Act 2010 (EA 2010) created the public sector equality duty.*
- 5.8 Section 149 of the EA 2010 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."*

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.

6. Assessment

a) Principle of Development

- 6.1 The principle of this development is assessed through Policy GD1, GD5, GD8 and H6 of the Harborough Local Plan together with the NPPF and PPTS (2015).
- 6.2 The NPPF indicates that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing development proposals planning authorities should apply the presumption in favour of sustainable development (Local Plan Policy GD1). PPTS sets out a number of "relevant matters" which planning authorities should consider in assessing applications for traveller sites which include; the existing level of local provision and need for sites, the availability (or lack) of alternative accommodation for applicants, **the personal circumstances of the applicant** [author emphasis], that the locally specific criteria used to guide the allocation of sites in plans should be used to assess applications that may come forward on unallocated sites, and that applications should be determined from any travellers, not just those with local connections (Accords with Local Plan Policy H6).
- 6.3 Planning permission on the adjacent land for the permanent provision of two pitches was granted in 2018. This current application, which is retrospective, is to provide an additional pitch on the site for a member of the family (the son). The works have already been completed, involving hardstanding laid to house a static caravan, tourer, adequate parking provision and a day room. The proposed fencing and gates have

also been erected. The access to the site is served from an existing access off the highway (Hungarton Lane), albeit improved for the new pitch.

- 6.4 The LCC Travellers sites and liaison officer confirms that the families that will live on this site are Romany Gypsy/Travellers by birth, culture and descent, having been born and brought up in the traditional Gypsy way of life and therefore satisfy the definition of a Gypsy and Traveller for the purpose of Annex 1 of the PPTS. As referred to previously, the applicant and his family have resided on the adjoining site for a few years.

b) Scale, appearance, and landscaping

- 6.5 The site is largely screened from the public highway by existing trees and a well-established hedgerow and close boarded fence. A traditional hedgerow also screens the site from the public footpath to the west and in addition there is also separation created by grazing land which is within the ownership of the family. Taking on board the Leicestershire County Council Ecology officer's comments, the applicant subsequently submitted a proposed landscaping plan which show the existing hedgerow/planting to the east of the application site retained and new native hedge planting to screen the close board fencing. The scale of the dayroom (already erected) is considered proportionate to the size of the pitch and adjoining Walkers Stables land. The application site does not have any formal landscape designation and is not located within a green wedge or area of separation.
- 6.6 Policy GD8 states that development needs to achieve a high standard of design and is subject to certain criteria being met. Policy GD8d specifically states that development should respect 'the context and characteristics of the individual site, street scene and the wider local environment to ensure that it is integrated as far as possible into the existing built form'. As referred to above, the proposed development sits along side a lawful two pitch development and integrates with this and the land beyond.
- 6.7 As such the proposals are not considered to be contrary to national and local plan policy, and therefore the proposed development is considered acceptable.

c) Highways

- 6.8 The proposal will use an existing access from Hungarton Lane that also serves the adjoining agricultural holding. At the request of the LCC Highways officer, the applicant has submitted a site access plan (see Figure 5), which illustrates the existing access prior to the proposed pitch, and additional level of hardstanding created. Whilst the plan does not show the visibility splay to the level as referred to in the LCC comments, it is important to note that there has been an existing access from the public highway for a number of years. The addition of the second gate serving the new pitch could have been erected under permitted development as it is not adjacent to the public highway and does not exceed two metres in height. Additionally, both access gates, serving the agricultural holding and the new pitch are set back sufficiently to allow vehicles to safely enter/leave the highway without causing an obstruction (see Figure 2).
- 6.9 The applicant has declined to complete a Stage 1 Road Safety Audit, and designers response, as requested by the LCC Highway officer, as they consider it not necessary on the basis that they have not created a new access from the highway, and as such this element of the development does not require planning permission.

d) Residential Amenity

- 6.10 The application site is well screened from existing residential uses which are some distance away. Of close proximity are the two adjoining pitches but these are well spaced from the application site. The application is therefore considered acceptable to residential amenity in this regard.

e) Ecology, Biodiversity, trees and soil

- 6.11 There has been no ecology objections

f) Flooding, Drainage and water

- 6.12 A suitable drainage gully is proposed to be installed across the existing access to allow for surface water from the site to drain into the existing ditch which runs parallel to the highway.

g) Heritage

- 6.13 The site is not sited within a conservation area, and there are no heritage assets in close proximity to the application site.

7. The Planning Balance / Conclusion

- 7.1 Overall it is considered that the proposed pitch, by virtue of the siting, appearance, and scale would be acceptable development, would not adversely affect local highway safety or give rise to a road safety hazard or have a detrimental effect upon, neighbouring amenities, green infrastructure, or ecological interests. The proposal would allow for an existing established Gypsy/Traveller family to provide sufficient accommodation for the extended family.
- 7.2 The proposal is therefore considered to accord with the Harborough Local Plan Policies GD1, GD5, GD8 and H6 and no other material considerations indicate that the policies of the development plan should not prevail, furthermore the decision has been reached taking into account the PPTS (2015) read in conjunction with the NPPF.

Appendix A – conditions

1) Planning Permission Commencement

The development hereby permitted shall be begun before the expiration of three years from the date of permission.

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

2) Permitted plans

3) Pitch Provision

There shall be no more than 1 pitch on the site, with no more than 1 static caravan stationed at any time.

REASON: To ensure that the use remains compatible with, and does not result in any undue detrimental harm to, the surrounding countryside and highway network and to ensure compliance with Local Plan Policies GD5 and GD8.

4) Commercial Activity

No commercial activities shall take place on the land, including the storage of materials.

REASON: To ensure that the use remains compatible with and does not result in any undue detrimental harm to, the surrounding countryside and highway network and to ensure compliance with Local Plan Policies GD5 and GD8.

5) Gypsy and Traveller Restriction

The site shall not be occupied by any persons other than gypsies and travellers as defined in Annex 1: Glossary of Planning Policy for Traveller Sites (or its equivalent in replacement national policy).

REASON: The site lies in an area within which the District Planning Authority would not normally grant permission for residential development.

Notes to applicant:

1. All caravan and mobile home sites are required to obtain a Site Licence under the provisions of the Caravan Sites and Control of Development Act 1960. For further information, please refer to the council's website <https://www.harborough.gov.uk/caravan-site> or alternatively please contact the Environment Team environmentteam@harborough.gov.uk

Committee Report

Applicant: Mr M Odedra

Application Ref: 23/00505/FUL

Location: Great Glen Post Office, 11 Stretton Road, Great Glen

Proposal: First floor extensions to side and rear to create a new (additional) first floor apartment, and relocation of external staircase

Parish/Ward: Great Glen

Application Validated: 09.05.23

Application Target date: 04.07.23

Reason for Committee Consideration: Neighbourhood Plan – conflict with policy GG21 (parking)

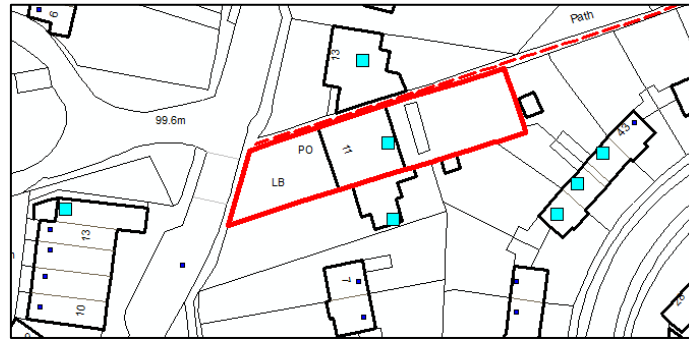
Parish / Ward: Glen

Recommendation

Planning Permission is **APPROVED**, for the reasons set out in the report, subject to the conditions at Appendix A.

1. Introduction (including Site & Surroundings)

- 1.1 The application relates to the Great Glen Post Office and Village Store, which is a detached former-dwelling in the centre of the village. The building is set back from the road behind a frontage customer parking area which provides for 5-6 cars. The building currently has a single storey flat roof element to the sides, rear and front.
- 1.2 There is an existing, self-contained flat at first floor, accessed from an existing external staircase and raised walkway that leads from the private rear service area of the building. The service area is shared with the ground floor post office / retail use and accommodates refuse and general storage for the commercial use as well as for the existing flat. Single storey detached outbuildings associated with the post office and store use currently exist to the rear of the building.
- 1.3 Residential uses surround the site to the immediate north, east and south, with commercial / business and residential uses to the west on the opposite side of Stretton Road. The site is not in a Conservation Area and there are no other known heritage assets or designated sites nearby. A public right of way (footpath) runs up a fenced alleyway to the side (north) of the site between the building and its neighbour no.13.



Location Plan



Application site

2. Site History

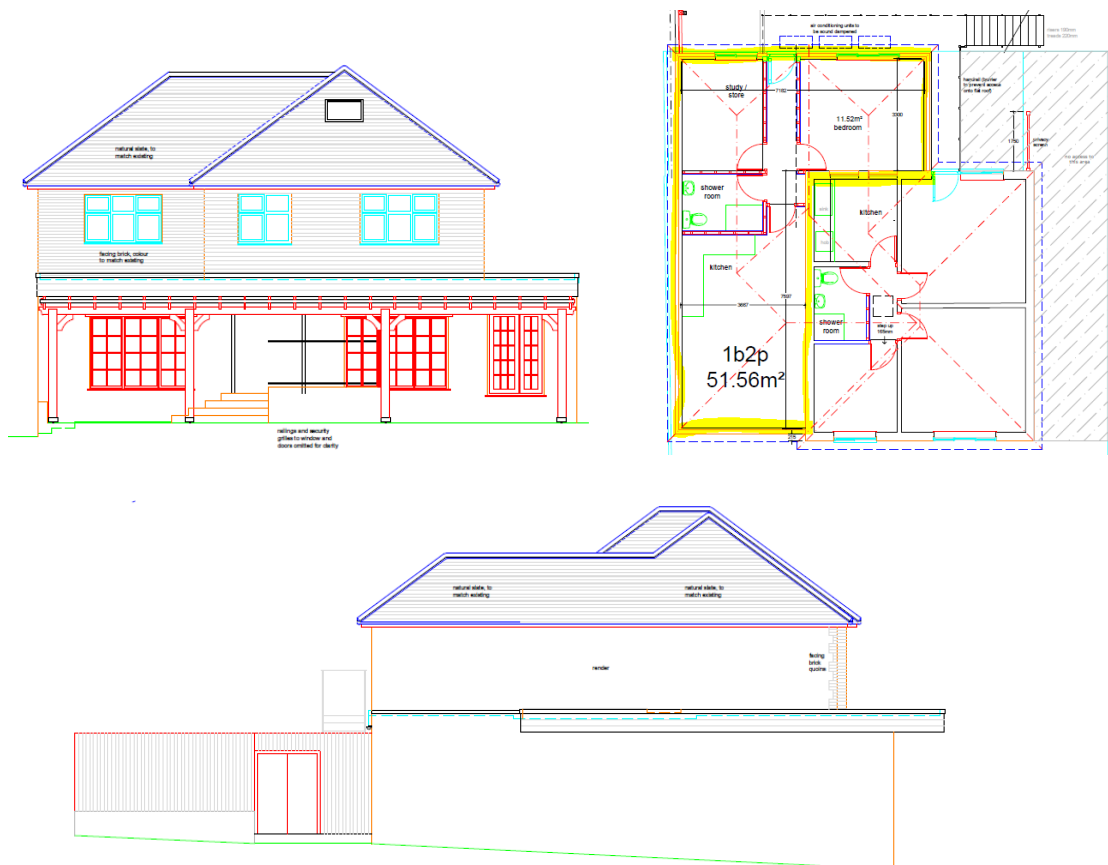
- 2.1 Planning permission to change this former dwelling to a shop and post office was given in 1991. Between 2004 and 2010 there were several other permissions granted for a ramp, steps, disabled access, and signage for the front of the shop.

- 2.2 The existing first floor flat was authorised through the “prior notification” procedure, under reference 22/01478/PDN. (To clarify, Part 3, Class G of the Town and Country Planning (General Permitted Development) Order permits “change of use of a building from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats”).

3. The Application Submission

a) Summary of Proposals

- 3.1 The application proposes a first floor extension to the side (north) and rear to create a new (additional) first floor apartment. The extension would be constructed over part of the existing ground floor flat roof area – the ground floor footprint of the building would not change. The extension would be stepped back from the first floor front building line and would incorporate a subservient hipped roof to the side with two smaller hipped roofs projecting to the rear.
- 3.2 The existing external staircase would be relocated approx. 4.8m further over to the south and a new section of raised walkway platform would be added along the central section of the rear elevation, between the two proposed doorways to the two flats.
- 3.3 Revised plans were received during the course of the application to clarify matters such as access, external amenity space, privacy screening to no.9, materials and to reduce the scheme to a 1-bed flat with internal store (in line with national space standards).



4. Consultations and Representations

- 4.1 A summary of the technical consultees and representations received is set out below. Where appropriate the responses will be discussed in more detail within the main body of the report. If you wish to view the comments in full, please go to: www.harborough.gov.uk/planning
- 4.2 No representations have been received from neighbouring properties.
- 4.3 **Great Glen Parish Council: Objection:**
Factual observations were made about the proposal leading to 2 self-contained and independent flats; about electric scooters being illegal on public roads; about the limitations in the village's public transport, walking and cycling network; and about the parking capacity of local car parks and roads.
- The Parish Council oppose the application as the occupants of the two flats (which could be up to 6 adults) will not be subjected to a walk only, get the bus only, use an e-scooter only condition of tenancy.
- 4.4 **LCC Highways:** The impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe.

Site Access/ Transport Sustainability

The proposed development is located on Stretton Road which is an adopted, unclassified road subject to a 30 mph speed limit. No vehicular access is proposed to serve the proposed dwelling and pedestrian access is gained via a gateway from Public Footpath C19 which runs from Stretton Road through to Oakfield Close. Muddy Dog Architects, Transport, Highways and Parking Statement, April 2023, states (paragraph 3.1) that the end tenant will not have a motorised vehicle, and will rely on walking, small portable electric vehicles and public transport. The LHA welcome this statement and whilst it cannot be guaranteed that the end tenants will not have a motorised vehicle it is acknowledged that the site enjoys good access to local services and that there are bus stops within 200 metres of the site from which buses operate between Leicester and Market Harborough. There are also single yellow lines present on Stretton Road within the vicinity of the site which prevent waiting and loading at anytime. The LHA accept that it is feasible for the dwelling to be occupied without the residents requiring the use of a motorised vehicle. The LHA also welcome the inclusion of covered and secure cycle parking within the proposals.

Public Rights of Way

Public Footpath C19 runs adjacent to the proposed development and the LHA are satisfied that the use and enjoyment of Public Footpath C19 will not be significantly affected. Given that the pedestrian access (access to the bin store area) is located more than 25 metres from the highway boundary the Applicant should ensure that refuse bins are not placed as to obstruct Public Footpath C19.

Highway Safety

There has been no recorded Personal Injury Collisions within 500 metres in all directions of the proposed development in the previous five years. Therefore the LHA has no pre-existing highway safety concerns at this location.

Site Layout

The LHA observe that to the front of the site is an off-road parking area that serves the Post Office and supermarket. It appears that this area is already signposted to specify

that these spaces are solely for the use of customers of the Post Office and supermarket. The LHA request that the Applicant ensures that this parking area is not used for residential parking. The Transport, Highways and Parking Statement states that visitors who use motorised vehicles will be expected to use short term on-street parking on Stretton Road. The LHA observe that adjacent to the site is a unrestricted parking bay where two vehicles can safely park and that the site is located close to a free public car park. Whilst the LHA would prefer a proposal that offered at least one off-road parking space the attempt to submit a transport sustainable proposal is acknowledged and given the scale of the development the LHA would not seek to resist the proposals on parking grounds.

Suggested Condition

The development hereby permitted shall not be occupied until such time as secure and under cover cycle parking shall be provided in accordance with details first submitted to and agreed in writing by the Local Planning Authority. Thereafter the onsite cycle parking provision shall be kept available for such use in perpetuity. REASON: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2021).

Suggested Informative relating to keeping the PROW clear and unobstructed.

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 The DP for Harborough comprises:
- The Harborough District Local Plan adopted April 2019
 - Great Glen Neighbourhood Plan Review 2011-2031 (Made).

b) Statutory Duties, Material Planning Considerations and other relevant documents

- 5.3 Material considerations include any consideration relevant in the circumstances which has a bearing on the use or development of land.
- The National Planning Policy Framework ('the Framework') 2021
 - Planning Practice Guidance
 - The Leicestershire County Council Highways Design Guide (2018)
 - Development Management SPD (December 2021)

6. Officer Assessment

a) Principle

- 6.1 The government's objective to boost the supply of homes is relevant, and NPPF acknowledges that small windfall sites have a role to play in this. The current proposal aligns with this and other principles in the NPPF such as making efficient

use of land, safeguarding and improving the environment, ensuring safe and healthy living conditions, and overall the proposal is considered to be sustainable development.

- 6.2 As Great Glen is a Rural Centre (defined in SS1 of the HLP) policy GD2 of the HLP is relevant. GD2 states that proposals within the built-up area of the settlement will be permitted where they respect the form and character of the settlement and retain natural features.
- 6.3 Policy GG3 of the Neighbourhood Plan states that small residential development proposals on infill sites will be supported subject to them being well designed and meeting the other relevant policies in the plan. The specific criteria for windfall sites set out in GG3(a-g) are all met as the proposal will occupy a restricted gap in the existing frontage that is surrounded by buildings, garden space will not be reduced by the proposal and it makes provision for a small dwelling of two or fewer bedrooms as advocated in the Neighbourhood Plan.
- 6.4 Given the policy context above, the principle of a new 1-bed flat in this location is therefore acceptable subject to the detailed considerations below.

b) Design and Impact on the Character of the Area
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- 6.5 The site is not in a conservation area and there are no listed buildings in the vicinity.
- 6.6 Policy GD8 of the Harborough Local Plan and GG6 of the Great Glen Neighbourhood Plan require development to achieve a high standard of design which is inspired by, respects and enhances local character and distinctiveness. HDC has an adopted Supplementary Planning Document, of which sections 2 and 6 are considered most relevant. Whilst section 6 relates to 'Residential Extension Design' in particular, it clearly states that the design principles set out at section 2 'Design principles' should be adhered to. As outlined in the SPD the Council seeks a high standard of design to house extensions and alterations, to ensure that proposed new work is appropriate to the character and appearance of an existing property and to the street scene and landscape around a property.
- 6.7 The addition of the proposed side and rear extension would result in an attractive sympathetic design which would be entirely in keeping with the original building. Keeping within the existing built footprint ensures the scale would be proportionate to the building and the plot within which it sits. The pitched, hipped roof detail reflects and respects the form, character and style of the original building. The subservience created by the set back from the first floor front elevation and the set-down of the roof ridge reflect the principles of good design advocated within the SPD. The first floor would extend right up to the site's northern boundary but this would not result in any terracing due to the existence of the intervening public footpath and the fact that the neighbouring dwelling is set at an angle with a sizeable gap at first floor.
- 6.8 At officer request the proposed material for the elevations has been amended to matching red brick (from white render) which will help the proposal blend in and ensure the long side elevation does not appear too prominent in the street scene on approach from the north. The roof would be finished in natural slate to match the existing. These materials are judged to be visually acceptable and sympathetic to the building and the area.
- 6.9 At the rear, it is considered that the re-siting of the steps and creation of a new raised walkway would be visually acceptable in the context of the site – the rear yard is

clearly a functional area for the post office and shop business and the new first floor flat will not change this. So long as the access to the flat is practical and kept clear there is no reason not to accept this mixed use in design terms. Future tenants can decide if they are content with this approach to their home when they decide whether to take on a tenancy. The provision of a key-coded or fob-controlled lock to the gate from the side alley is an acceptable solution for access (noting that Royal Mail delivery staff also have access to this area given its use as a Post Office and parcel hub). Again it will be for the tenants to establish their own arrangements for other deliveries and/or access for visitors.

- 6.10 The revised block plan shows an area of rear yard space being made available, in place of one of the outbuildings, and this would serve as an external amenity area for the flat to enable things such as bin storage, cycle storage, laundry drying area and a small sitting out area.
- 6.11 Overall the proposed extension is judged to follow the principles of good design, to reflect local distinctiveness and the general character of the surrounding area and would not disrupt the visual amenities of the street scene. The flat itself would be a suitable size in that it meets the national space standards for a 1-bed 2-person flat. It would have practical access and storage opportunities and is therefore an acceptable and workable form of development in accordance with the relevant design provisions of the development plan.

c) Residential amenity

- 6.12 Policies GG6(e) of the Neighbourhood Plan and GD8 of the Harborough Local Plan require that developments should be designed to minimise impact on general amenity and the amenity of existing and future residents.
- 6.13 There are three refrigeration / cooling units fixed to the rear elevation of the Post Office / Store at ground floor level. These three units will remain going forwards, grouped together underneath the proposed walkway and stairs. The intermittent noise from these units as they click on and off is part of the existing noise environment of this site which has been long accepted by the existing first floor flat and the neighbouring properties. There is no reason to conclude that the current proposal will compound this noise situation or that the noise environment is so problematic that an additional flat could not reasonably be provided. If anything the current proposal gives scope to improve the noise environment for all nearby residents as the applicant has proposed measures to muffle the sound (details of this are awaited). In line with the requirements of policy GG6 of the Neighbourhood Plan, the noise impact has been considered and found in the site circumstances to be acceptable.

No.13 Stretton Road.

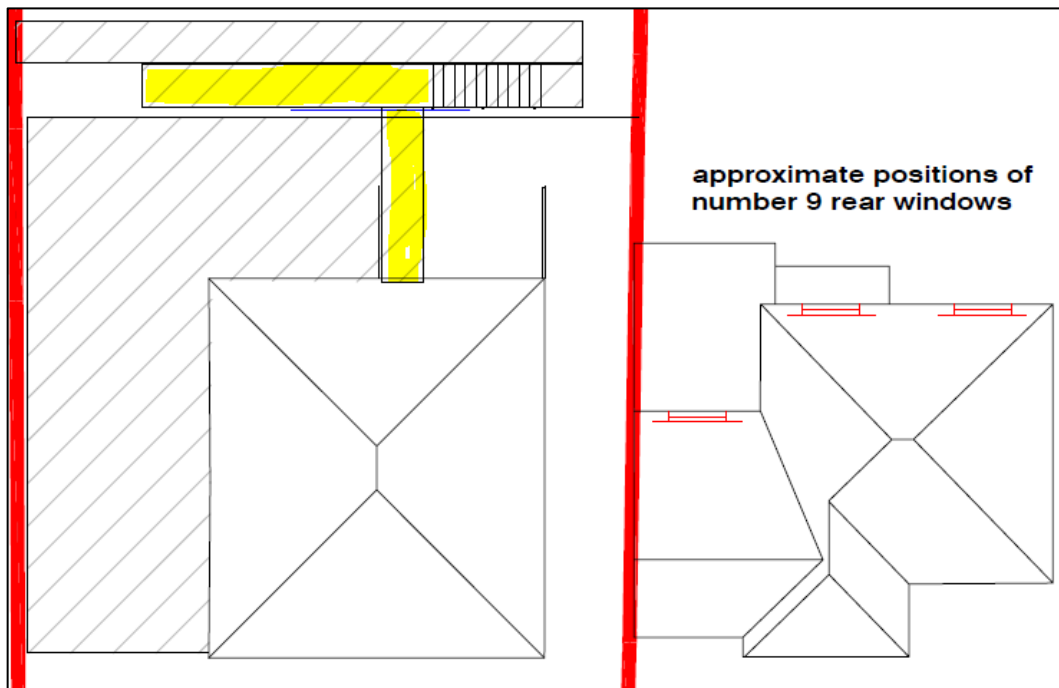
- 6.14 No.13 is the detached neighbouring property to the north of the application site at the other side of the public footpath. The two-storey part of no.13 is set away from and at an angle to the side boundary and intervening footpath, with only a single storey flat roof extension in between. The two first floor windows on the side elevation of no.13 are both obscure glazed non-habitable windows, as is the nearest first floor rear window. Therefore no.13's nearest habitable window is the central first floor rear window – the 45 degree line from this window is not breached by the proposed extension meaning that the physical impact of the works will be acceptable and in line with the SPD. The separation between the main habitable part of no.13 and the proposed extension will ensure that the proposal has no undue overbearing or closing in impact that would affect their residential amenity.



Relationship with 13 Stretton Road:

No.9 Stretton Road

- 6.15 No.9 is the detached neighbouring property to the south of the application site. The proposed extensions are set far enough away from this dwelling to ensure that there would be no overbearing or overshadowing impact from the physical form of the build.
- 6.16 The more relevant issue for no.9 is the potential overlooking / privacy impact arising from the re-siting of the entrance to the existing flat and having a new raised walkway to this new doorway leading over the existing flat roof.



Relationship with 9 Stretton Road: (Raised walkway highlighted)

- 6.17 It is noted that this raised platform and walkway would only be used for short periods as people access and exit the flat – there is no reason to think that anyone would linger there. Having stood on the relevant sections of the flat roof during the site visit, it is the officer's opinion that use of the access route to and from the flat would not unduly impose on the privacy of no.9's habitable rooms or garden area subject to the following measures (which have all been agreed with the agent and secured in the revised plans):

- a privacy screen at the south-eastern corner of the first floor element (this will help in the event that a tenant / visitor decides to stand outside the flat door to have a cigarette for example)

- a fixed railing to enclose the pathway and prevent routine access to the remaining flat roof area

- a planning condition to clarify that the remaining flat roof area will not be accessed other than for property maintenance, and that it shall not be used as a balcony / terrace / sitting out area, or for any other domestic purpose like airing laundry, in the interests of neighbouring amenity.

- 6.18 In conclusion, and applying the planning guidance in the SPD, the proposals that form part of the application would be acceptable in terms of their impact on the residential amenity of neighbouring properties and the future occupiers of the proposed flat. The proposal would accord with policy GD8 of the HLP, GG6 of the GGNP and the HDC SPD.

c) Access and parking

- 6.19 If approved, the proposed new flat will be the second self-contained flat to be created over the Post Office (there is already a 1-bed flat). The existing flat was consented as permitted development, as it was a “change of use of a building from a use within Class E (commercial, business and service), to a mixed use for any purpose within that Class and as up to 2 flats”. The existence and scope of this permitted development right is a relevant consideration - it emphasises that, generally speaking, it is considered acceptable for a commercial unit to also accommodate up to 2 independent flats. If there was already additional space above the Great Glen Post Office, the creation of this second flat would have been permissible under permitted development without any consideration of the parking implications (the only relevant considerations for permitted development under this Class would be contamination, flooding, noise, natural light and domestic waste storage).

- 6.20 However, as planning permission is required for the current scheme (due to the building of the extension to accommodate the second flat), then Neighbourhood Plan Policy GG21 becomes relevant. This policy deals with residential parking for new dwellings and it states:

POLICY GG21: RESIDENTIAL PARKING

At least two off-street car parking spaces should be provided within the curtilage for each new dwelling developed within the Village of Great Glen. Three such spaces should be provided for four-bedroom or larger dwellings.

The current proposal does not provide any off-road parking and so it is the case that the proposal is contrary to GG21.

- 6.21 Notwithstanding this, the Local Highway Authority has considered the context of this application and has raised no objection, referring to the applicant's Transport, Highways and Parking Statement which promotes use of sustainable transport options and suggests that the aim is for the end tenant to not have a motorised vehicle but to

rely on walking, cycling and public transport. The LHA welcomes this statement and whilst it cannot be guaranteed that the end tenants will not have a motorised vehicle, this situation would be “buyer / tenant beware” (ie a tenant will be aware that there is no parking available when making the decision to take on the tenancy and this should help “self-police” the parking demand).

- 6.22 The off-road parking area on the forecourt of the store is already signposted to specify that these spaces are solely for the use of customers of the Post Office and Store. The LHA has requested that the Applicant ensures that this parking area is not used for residential parking (residents or visitors) but continues to be reserved for customers to help the efficient operation of the store (a condition to this effect is recommended). There are also single yellow lines present on Stretton Road within the vicinity of the site which prevent waiting and loading at anytime, enabling the highway in the vicinity of the site to remain clear and unobstructed, aiding the efficient use of the site.
- 6.23 The site enjoys good access to local services, there are bus stops within 200 metres of the site and local bus services to Leicester and Market Harborough, so it is entirely feasible that residents could lead full lives without needing a car. Visitors who use motorised vehicles will be expected to use short term on-street parking further along Stretton Road, or to utilise local car parks. Adjacent to the site is an unrestricted parking bay where two vehicles can safely park and the site is located close to a free public car park.
- 6.23 Whilst the LHA preference would always be for a proposal that offered at least one off-road parking space, they accept that it is feasible for the flat subject of this application to be occupied without the resident(s) requiring the use of a motorised vehicle. The attempt to submit a “transport sustainable” proposal is acknowledged and, given the scale of the development, the LHA would not seek to resist the proposals on parking grounds. As the LHA have expressed that they are content with the parking situation it would be ill advised for the council to resist the proposal on parking grounds, despite the conflict with GG21.
- 6.24 In order to fully promote and enable the use of sustainable transport modes at this site, and to counteract the lack of dedicated parking provision, it is considered reasonable and necessary to impose a condition requiring the provision of covered and secure cycle parking for the flat.
- 6.25 The final issue on highways is the need to protect the public right of way up the side of the site from obstruction at all times. The flat will be accessed directly off the right of way, through the key-pad / fob controlled gate, and so this will be the route used for residents presenting their refuse/recycling bins at the Stretton Road kerbside for collection. The revised block plan shows the area within the rear yard where the refuse bins will be stored day-to-day. Standard highways informatives regarding the need for the right of way to be kept clear and unobstructed at all times will be added. Obstruction of a right of way is an offence that is enforceable by the Highway Authority.

d) Other matters

- 6.26 The site is not identified as having critical drainage issues from a surface water perspective. For a development of this nature drainage would be handled through building regulations practices and so it is not considered necessary to seek technical drainage details in this case.

- 6.27 The site is within Flood Zone 1, with low probability of flooding as such accords with Policy CC3 of the HLP.
- 6.28 There is no reason to believe that the building operations would have an impact on protected species, but an informative can be used to cover the event that any nests, roosts or habitat are discovered during works.

7. Planning balance and Conclusion

- 7.1 At the heart of the NPPF is the presumption in favour of sustainable development. Paragraph 11 sets out what this means for decision-takers: that proposals that accord with an up-to-date development plan should be approved without delay; and that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted (unless two criteria apply).¹ The development plan for this proposal is the Harborough District Local Plan and the Great Glen Neighbourhood Plan. The whole plan is up-to-date, with the policies most important for determining this application also up-to-date. For the presumption in favour of sustainable development, the application must be determined against the policies of the development plan, unless material considerations indicate otherwise².
- 7.2 The NPPF recognises three strands to sustainable development, and these are all considered to be met by the proposed development as follows, making the proposal meet with the definition of sustainable development:
- 1) economic
- In the short-term there will be work for local trades involved in the construction work. Modest benefits arising from additional council tax income and from additional custom to local facilities and services. The ability of the post office / store to diversify and achieve additional income from residential letting will help this local business to thrive.
- 2) social
- A thriving post-office / store is more likely to sustain into the future and continue to provide vital local facilities. The provision of a new small (1-bed) unit in the village will widen the housing offer and enhance affordability / access to entry level housing, a need that is identified in the Neighbourhood Plan.
- 3) environmental
- Occupiers of the site will not require a private motor vehicle to access key services and to visit leisure destinations. The site is well located and has good connectivity and sustainable transport choices.
- 7.3 The only conflict with the development plan is that no off-road parking is provided. However this is something that planning officers and the Local Highway Authority are comfortable with in the circumstances. The development is promoted as a green proposal by virtue of it being sold as car-free living with sustainable transport options, which in turn makes the proposal more in line with the central pillar of the NPPF (sustainable development). The benefits arising from the proposal are judged in this instance to outweigh the conflict with GG21 in respect of parking.

¹ Paragraphs 11 c) and 11 d) National Planning Policy Framework (ODPM, July 2021)

² Paragraph 2 NPPF (ODPM, July 2021)

- 7.4 This report shows how the proposal is found to conform with all other relevant aspects of the development plan. The proposal is well designed, it would not adversely affect the character or appearance of the street scene and is considered acceptable in respect of residential amenity and highway safety, despite the lack of dedicated off-road parking provision. It is therefore considered that in this instance material considerations indicate that, despite a slight policy conflict, this application should be supported.

Appendix A – Suggested Conditions / Informative / Notes to Applicant

If Members agree with the recommendation to Approve the application, the following conditions are suggested:

1. 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. The development hereby permitted shall be carried out in accordance with the following approved plans:
001A – Location and Block Plan
012B – Floor and Roof Plan
013C – Elevations
021 – Yard Plan and Elevations
031 – Block Plan context no.9
REASON: For the avoidance of doubt and to ensure that the proposed development is carried out as approved.
3. Notwithstanding the annotation on the approved plan, the external materials of the extension hereby approved shall be matching natural slate roof tiles and matching red facing brick throughout.
REASON: To safeguard the appearance of the development and the character and appearance of the area, having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework.
4. Prior to the first occupation of the development hereby permitted, full details of the provision within the site for secure and covered cycle storage, refuse and recycling storage and a sitting out and laundry drying area to serve the development shall be submitted to and approved in writing by the Local Planning Authority. All of these facilities shall then be provided in accordance with the approved details prior to the first occupation of the flat hereby approved and shall thereafter be retained as such for use at all times.
REASON: To preserve the residential and visual amenities of the locality having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework.
5. Prior to the first occupation of the development hereby permitted the privacy screen shall be installed as identified on the approved plans and shall thereafter be retained as such.
REASON: To safeguard the residential amenities of adjoining dwellings having regard to Harborough Local Plan Policy GD8, and the National Planning Policy Framework .

6. Other than the identified walkway route to the flat shown on the approved plans, the remaining flat roof area of the building shall not be used as a balcony, roof garden or similar amenity / drying area. Furthermore, other than the privacy screen and safety railings for the walkway route shown on the approved plans, no balustrades, railings or other means of enclosure or means of permanent access shall be erected on this flat roof area.

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

7. Parking on the shop forecourt shall be for short term use by customers of the shop only and shall not be used for the parking of vehicles associated with (or making visits to) the residential occupiers of the first floor.

REASON: In the interests of the safe and convenient use of the highway in this vicinity having regard to Harborough Local Plan Policy IN2.

Informatives:

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.The Applicant is advised that Protected Wildlife Species may be using the building/site as a nesting place and/or habitat. All such species are protected under the Wildlife and Countryside Act 1981. Should Protected Wildlife Species, or evidence of them, be present or be suspected in the building/site (and potentially affected by the development), the Applicant should cease development immediately and contact Natural England, The Maltings, Wharf Road, Grantham, Lincs., NG31 6BH (tel. 01476 584800). All workers should be made aware of the above, particularly with regard to bird and bat access points under roof eaves / roof materials / and openings.

3.Public Rights of Way notes from Highways:

a) Prior to construction, measures should be taken to ensure that users of the Public Footpath C19 are not exposed to any elements of danger associated with construction works.

b) Public Footpath C19 must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.

c) Public Footpath C19 must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.

d) If the developer requires Public Footpath C19 to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.

e) Any damage caused to the surface of Public Footpath C19, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.

f) No new gates, stiles, fences or other structures affecting Public Footpath C19, of either a temporary or permanent nature, should be installed without the written consent of the

Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.

Planning Committee Report

Applicant: Harborough District Council

Application Ref: 23/00709/FUL

Location: Market Hall, Northampton Road, Market Harborough

Proposal: Change of use of land and installation of condenser unit

Application Validated: 18.05.2023

Target Date: 13.07.2023

Consultation Expiry Date: 22.06.2023 (Weekly List)

Site Visit Date: 13/09/2021

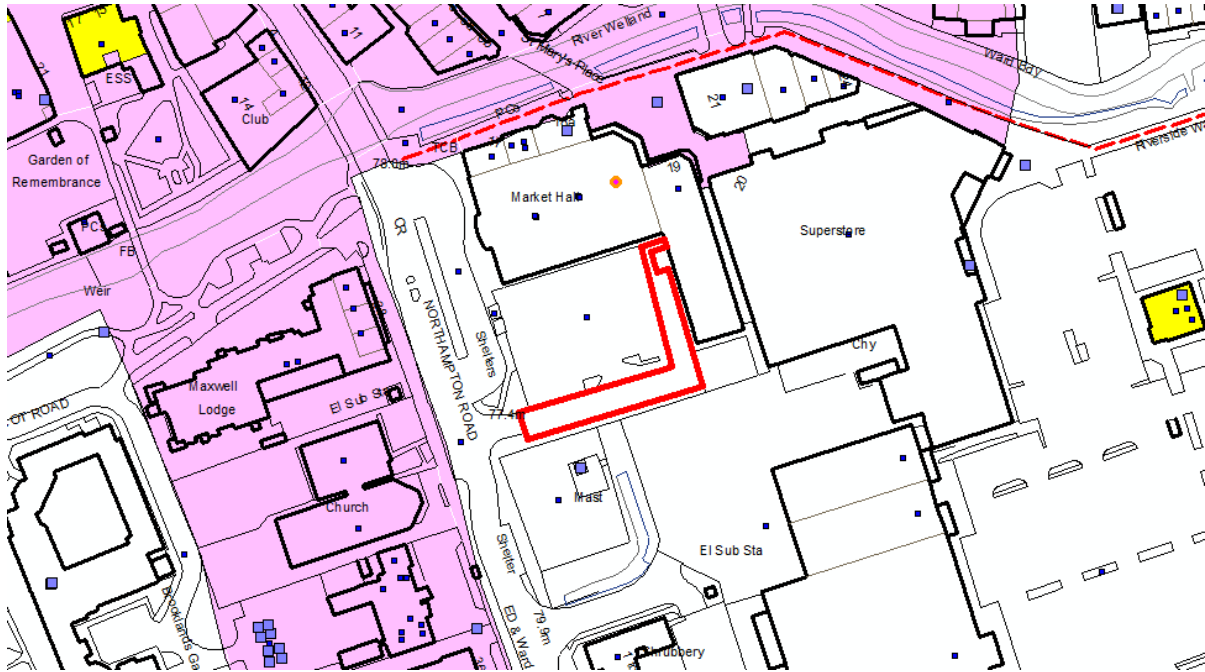
Reason for Committee decision: Applicant is Harborough District Council

Recommendation

Planning Permission is **APPROVED** subject to the Planning Conditions and Informative Notes set out below in Section 8 "Appendix A".

1. Site & Surroundings

- 1.1 The site relates to part of the Harborough Market Hall car park, located in the centre of Market Harborough on the eastern side of Northampton Road.
- 1.2 The proposed condenser unit (& its associated metal cage) is to be sited in the north-eastern corner of the car park, between the building and a small timber fenced storage compound. The site is approximately 60m from Northampton Road. The site lies close to, but not within the Market Harborough Conservation Area.
- 1.3 Site Red Line (Uniform). Purple shading = Conservation Area. Yellow shading = Listed Buildings.



1.4 Google Streetview; April 2023



1.5 Planning Officer Site Photo; 31.05.23



1.6 Google Streetview; May 2017



1.7 Planning Officer Site Photo; 31.05.23



1.8 Applicant submission:

Proposed location of the condenser in red, this is not to scale, indicative only.



Blue line = proposed trunking.

Market Hall heating food hall

Visual of the proposed condenser unit and cage.

Size 2m x 2m x 2m



2. Site History

2.1 21/01488/FUL – Siting of a storage container – Approved 09.12.2021.

15/00862/ADV – Erection of a fascia sign to rear elevation – Approved 05.08.2015.
(Wilko)

14/00220/ADV – Installation of halo illuminated fret cut 3D signs and non-illuminated rondelle signs, to replace existing signage – Approved 14.04.2014.

14/00017/NMA – Installation of 2x additional doors (Proposed non-material amendment of 13/01131/FUL) – Approved 03.02.2014.

13/01131/FUL – Replacement entrance doors, additional entrance and blocking up of 4 doors – Approved 13.09.2013.

92/01791/3P – Erection of temporary market hall – Approved 18.11.1992.

91/01523/3P – Demolition and redevelopment of site for superstore, shops market hall, carparking & bus & petrol station – Approved 18.09.1992.

MU/06603/MUDC – Use of part of site as a car park and alteration to access – Approved 23.01.1968.

3. Reason for Referral to Committee

- 3.1 The application has been referred to Committee as the applicant is Harborough District Council.

4. Proposal

a) Summary of Proposals

- 4.1 The proposal is to site a condenser unit (enclosed by metal cage) within a corner of the Market Hall car park.

4.2 Proposed Dimensions

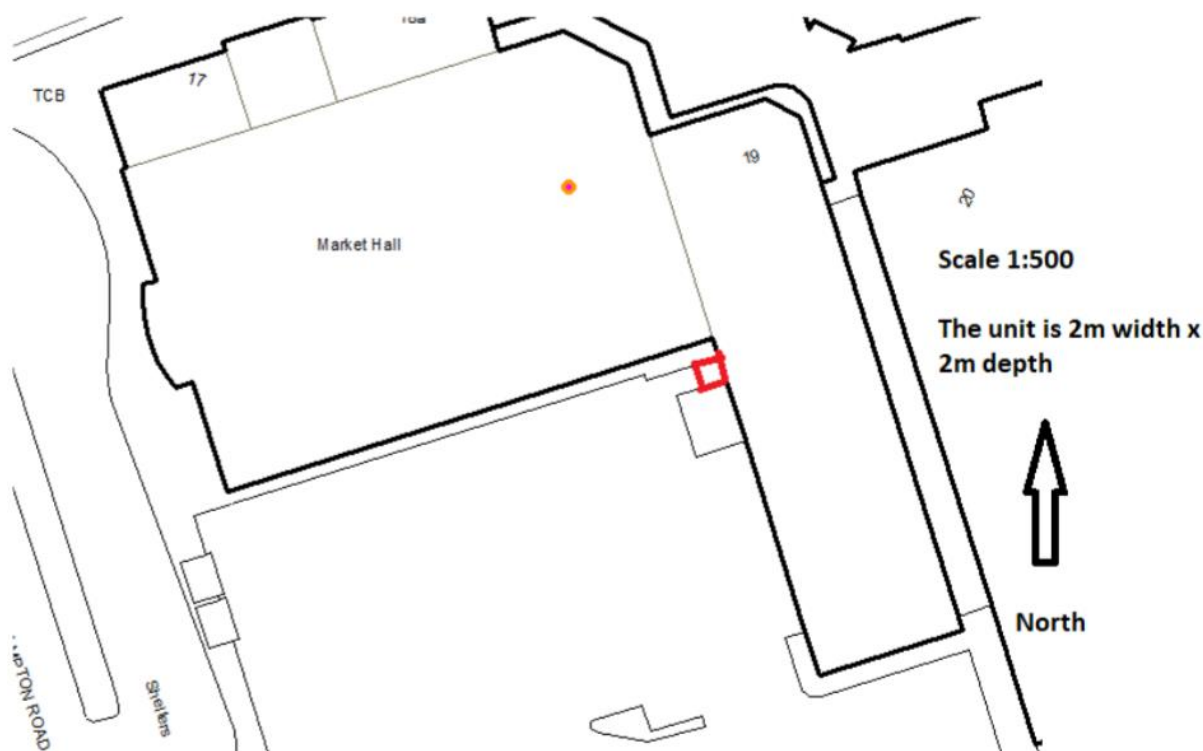
Depth: 2.0m

Width: 2.0m

Height: 2.0m

Market Hall heating food hall

Location plan of the proposed condenser unit marked with a red square below.



4.3 The applicant has explained the reason for the proposal as follows:

3. Description of the Proposal

Please describe the proposed development, including any change of use:

PROPOSED CHANGE OF USE -
THE EXISTING HEATING SYSTEM WITHIN THE FOOD HALL AT THE MARKET HALL HAS REACHED ITS END OF LIFE AND REQUIRES REPLACEMENT. AS PART OF THE PROPOSED SCHEME A CONDENSER UNIT IS REQUIRED AND THE PROPOSED LOCATION IS ADJACENT TO THE EXISTING WASTE COMPOUND LOCATED IN THE CAR PARK ADJACENT TO THE MARKET HALL. THE CAR PARK IS OWNED BY HARBOUROUGH DISTRICT COUNCIL. THE INTENTION IS FOR THE INSTALLATION OF A SERVICE TRAY TO CONNECT THE HEATING SYSTEM TO THE CONDENSER, THIS WILL BE FIXED TO THE BACK WALL AT A SUITABLE HEIGHT TO REACH THE PROPOSED CONDENSER UNIT.

Has the building, work or change of use already started?

☐ Yes

☒ No

b) Pre-application Engagement

4.4 The applicant was advised that the proposal requires planning permission and that it appears to comply with planning policies, although it would ultimately be for Planning Committee to decide.

5. Consultations and Representations

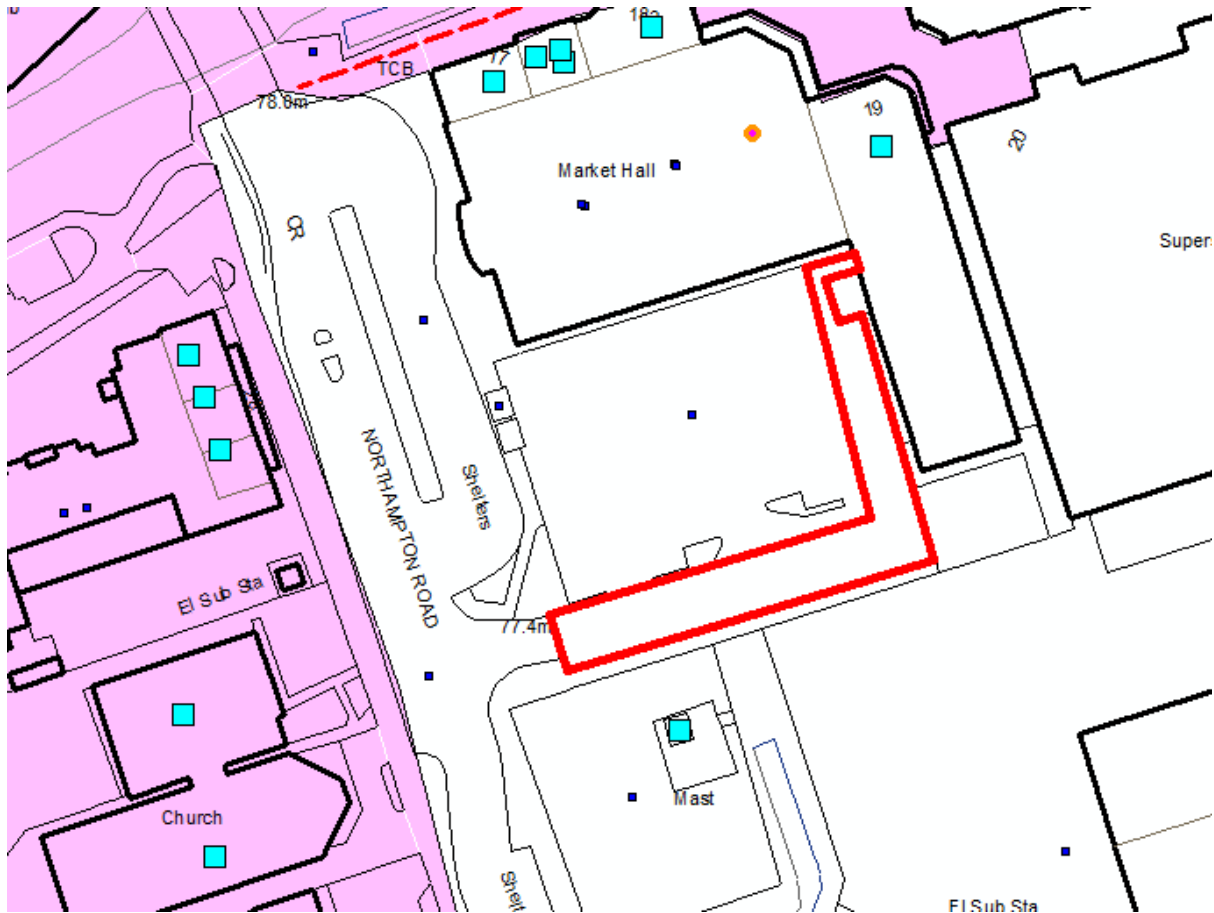
- 5.1 Consultations with technical consultees and the local community have been carried out on the application.
- 5.2 A Site Notice was erected (expired end of 21.06.23).
- 5.3 A summary of the technical consultee and local community responses is set out below. If you wish to view comments in full, please request sight or search via: www.harborough.gov.uk/planning

a) Statutory & Non-Statutory Consultees

- 5.4 Market Harborough Civic Society
No comment.
- 5.5 HDC Environmental Health
No comment.
- 5.6 LCC Highways
Not consulted. The proposal is not considered to have significant public highway implications.

b) Local Community

- 5.7 Neighbours checked (turquoise squares on the following map extract are the neighbouring address points which were consulted).
No comments or objections.



6. Planning Policy Considerations

6.1 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 (DP) (this is the statutory presumption), unless material considerations indicate otherwise.

a) Development Plan

6.2 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, as relevant to the proposal.

6.3 The DP for Harborough relevant to the current proposal comprises:

- The Harborough District Local Plan (adopted April 2019),

6.4 The policies of the DP which that are most relevant to this application are:

- GD8 – Good Design in Development
- RT2 – Town and Local Centres
- HC1 – Built Heritage
- CC1 – Mitigating Climate Change
- IN2 – Sustainable Transport

b) Statutory Duties and Material Planning Considerations

6.5 Planning (Listed Buildings and Conservation Areas) Act 1990

Section 72 imposes a duty on Local Planning Authorities with regard to Conservation Areas. When considering whether to grant planning permission for development “*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*”

6.6 The National Planning Policy Framework

6.7 The National Planning Practice Guidance

6.8 National Design Guide

c) Other Relevant Documents

6.9 Circular 11/95 Annex A - Use of Conditions in Planning Permission

6.10 Leicestershire County Council Highways Design Guide

6.11 Development Management Supplementary Planning Document (Dec 2021)

7. Assessment

a) Principle of Development

7.1 The proposal is part of a necessary heating modernisation project that would improve efficiencies and benefit carbon-reduction strategies. The proposal would support the ongoing function of the Market Hall. The proposal is supported by Development Plan policies RT2 and CC1 in principle.

b) Design & Visual Impact on the Streetscene, including the Conservation Area

7.2 As this application is for plant equipment which would be visible from some limited public vantage points and potentially affect the setting of a Conservation Area, Harborough Local Plan Policies GD8 and HC1 are most relevant.

7.3 The proposal is outside the town’s Conservation Area, which runs along the west side of Northampton Road. The proposal is sufficiently distant from the Conservation Area and sited in such a context (no more than 2.0m in height, rear corner of a car park, up against building facades, next to the trade entrance, and between an existing galvanised steel fire escape stairs and a timber-fenced compound containing a green metal storage container) that it is not judged to have a negative impact on the special character and appearance of the Conservation Area, nor the visual amenities of its general surroundings.

7.4 The applicant has suggested that the proposal could be further assimilated into its surroundings by hiding the condenser unit & its metal cage behind timber fencing, to match the adjacent storage compound. Given the discreetness of the condenser unit siting this is not considered to be necessary for planning policy requirements; it is a decision which is left to Councillors.

7.5 The proposal is judged to comply with Local Plan Policies GD8 and HC1.

c) Neighbouring Amenity

7.6 HDC Environmental Health Dept has been consulted. No concerns have been raised.

7.7 Due to the location of the proposed condenser unit (and associated trunking), it is not considered that neighbouring amenity would be affected. There are no residential or commercial premises with glazed fenestration situated close enough to the proposal to be negatively impacted in terms of overbearing, loss of light and loss of privacy, nor anticipated noise, vibration or other pollution.

7.8 It is judged that the proposal would not harm neighbouring amenities. The proposal complies with Policy GD8 of the Harborough Local Plan in this respect.

d) Highway Safety

7.9 The condenser unit would be sited on the edge of the Market Hall car park and would not obstruct nor reduce any parking spaces, access and turning within the car park.

7.10 The proposal is judged to comply with Local Plan Policies GD8 and IN2 in this respect.

e) Other Matters

7.11 None

8. The Planning Balance / Conclusion

8.1 The development, by virtue of its design, size and positioning, would not cause significant harm to the character and appearance of the site nor area (which includes the MH Conservation Area), would not adversely affect the amenity of neighbouring occupiers, and would not affect highway, parking or public safety.

- 8.2 The proposal would support the operational requirements of the Market Hall, helping to maintain its economic vitality and service to the local community.
- 8.3 The proposal is judged to accord with Harborough Local Plan Policies GD8, RT2, HC1, and CC1. No other material considerations indicate that the policies of the Development Plan should not prevail. The assessment has taken into account the National Planning Policy Framework.

9. Appendix A

Planning Conditions

1. Development to Commence Within 3 Years

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

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

2. Approved Plans

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

--Drawing Title: Location Plan of the proposed condenser unit marked with a red square below" (Scale 1:500);

--Drawing Title: "Visual of the proposed condenser unit and cage";

--Document Title: "Photographs of proposed location of external condenser".

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

Potential Additional Condition

3. Enclosure Fencing

Prior to first use, or within one month of installation (whichever is sooner), the condenser unit shall be screened by timber fencing to match the adjacent storage compound and, thereafter, the screening shall be maintained as such in perpetuity.

REASON: To safeguard the appearance of the site and the character and appearance of the area (which includes the nearby Conservation Area), having regard to Harborough Local Plan Policies GD8 and HC1.

Informative Notes:

1. Building Regulations

The Applicant is advised that this proposal requires separate consent under the Building Regulations and that no works should be undertaken until all necessary consents have been obtained. Advice on the requirements of the Building Regulations can be obtained from the Leicestershire Building Control Partnership (building.control@blaby.gov.uk / 0116 272 7533). As such, please be aware that complying with Building Regulations does not mean that the Planning Conditions attached to this Planning Permission have been addressed and vice versa.

2. Cadent Gas

Cadent Gas Ltd own and operate the gas infrastructure within or close to the area of your development. There may be a legal interest (easements and other rights) in the land that restrict activity in proximity to Cadent assets on private land. The applicant must ensure that the proposed works do not infringe on legal rights of access and or restrictive covenants that exist.

If buildings or structures are proposed directly above the apparatus, the development may only take place following diversion of the apparatus. The applicant should apply online to have apparatus diverted in advance of any works, by visiting cadentgas.com/diversions