

## Planning Committee Report

**Applicant:** Willoughby (610) Ltd

**Application Ref:** 20/01884/FUL

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

**Proposal:** Erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective)

**Application Validated:** 24/11/2020

**Target Date:** 19/01/2021

**Consultation Expiry Date:** 30/03/2021

**Site Visit Date:** 08/10/20, 18/02/21, 18/03/21

**Case Officer:** Emma Baumber

**Reason for Committee decision:** Public interest

## Recommendation

Planning Permission is **REFUSED**, for the below reasons as set out in the report:

1) The proposal has failed to demonstrate that significant impacts from the development on the transport network in terms of displaced and additional parking demand can be mitigated, contrary to paragraph 108 and 109 of the National Planning Policy Framework. This could have implications in respect of the safe functioning of the public highway and is also contrary to policies GD8 and IN2 of the Harborough Local Plan and policy CAF2 of the Great Bowden Neighbourhood Plan.

### 1. Site & Surroundings

1.1 The Red Lion Public House is located in the centre of Great Bowden fronting Main Street. The pub has a pub garden to the rear with an existing decked area closest to the pub and a gravel area beyond with a number of outdoor tables. There is a gravelled parking area to the west of the site which is not formally demarked into bays. The pub is surrounded by residential properties.



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

- 1.2 The site is within the Conservation Area and there are a number of Listed buildings nearby, the closest of which is No.11 Main Street which is the neighbouring property to the west of the car park. The Red Lion is recognised as an Asset of Community Value in the Great Bowden Neighbourhood Plan. The Red Lion had been closed for a number of years before the pub garden was re-opened in July during the Covid-19 pandemic.
- 1.3 A single storage container is present close to the Red Lion and adjacent to the decked seating area, this was granted retrospective temporary planning permission until 30th September 2022 (20/01994/FUL).

## 2. Site History

- 2.1 The site has the following relevant planning history:
  - 20/01194/FUL- Temporary siting of a converted storage container for serving outdoor food and drink and renovation to existing pergola (retrospective) (APPROVED- temporary consent to 30 September 2022)
  - 20/01468/FUL- Temporary siting of converted storage containers forming a quadrant courtyard for the purposes of providing covered outdoor space and serving food and drink, temporary removal of smokers shed and outside kiosk bar (retrospective application) (WITHDRAWN)
- 2.2 The current application (20/01884/FUL) was deferred by Planning Committee on the 26<sup>th</sup> January 2021 owing to the applicants submitting additional information/amendments which had not been consulted upon.

## 3. The Application Submission

### a) Summary of Proposals

**LATE NOTE: Late applicant information and plans received 31 March 18:04, this is too late to be considered in this report. Any update will be provided via the Supplementary List.**

- 3.1 The application, which is retrospective, is for a quadrant courtyard for the purposes of providing an all year round outdoor covered seating area. The applicants have amended the proposal during the course of the application. Originally consent was

sought for temporary planning permission, however, permanent consent is now being sought.

- 3.2 The quadrant courtyard occupies an area of approximately 180m<sup>2</sup> and is sited on the car park, with the exception of a small area where a modest shed (approximately 15m<sup>2</sup>) was previously sited in the south eastern corner of the car park.
- 3.3 Following amendments to the application, six on-site car parking spaces are proposed (an increase from the three spaces originally proposed). The car parking area is proposed to be widened by the removal of the internal hedge and by cutting back the decking on the eastern edge of the car park. Cycle racks for 12 bicycles are proposed along the western boundary of the pub garden.

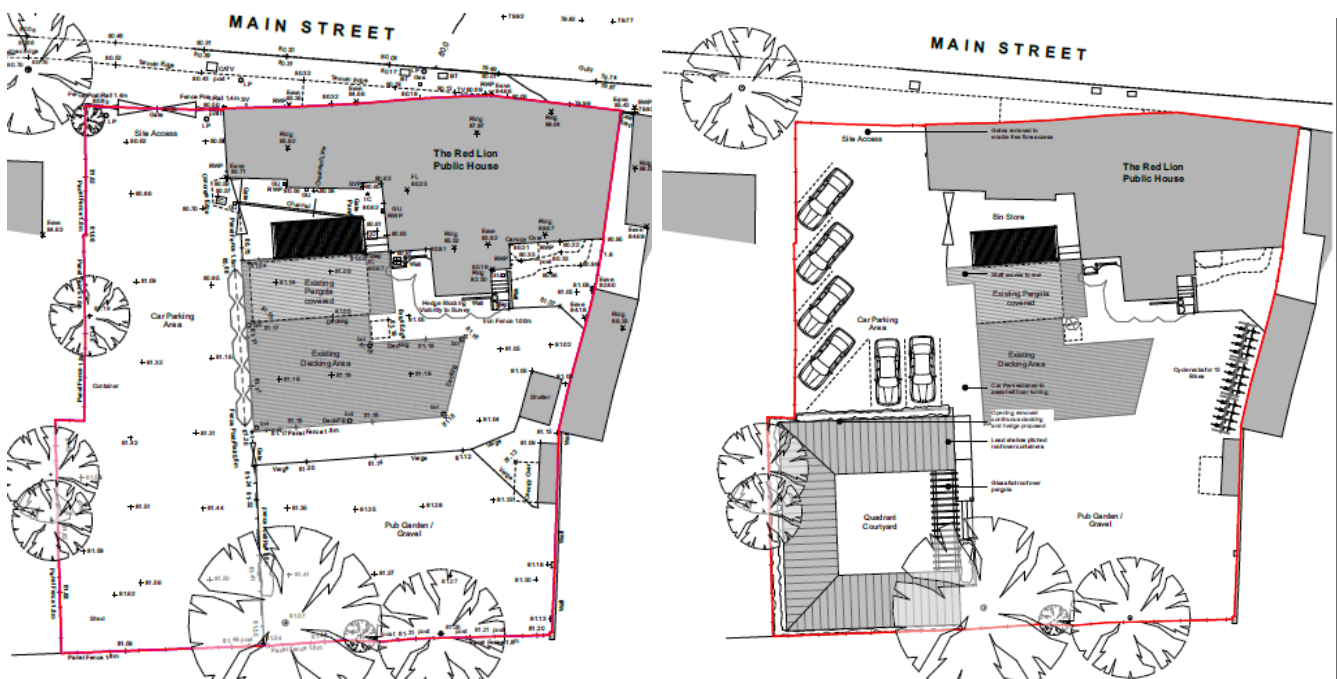


Figure 2. Existing (left) and proposed (right) site plan

- 3.4 The skeleton of the quadrant is comprised of three storage containers arranged around a central courtyard. The external faces of the converted storage containers are proposed to be clad in reclaimed timber cladding (Yorshire boarding), laid vertically with 10mm spacing between the boards. The container roofs are proposed to be covered with a low profiled lead roof covering. A new semi-mature beech hedge is proposed to be planted along the northern elevation. The previously proposed pedestrian entrance/fire escape has been removed from the northern elevation.
- 3.5 Turning to the internal courtyard, painted boarding is proposed to the internal faces of the containers. An oak pergola is proposed between the containers with a glass roof covering. The courtyard area and an access ramp from the decking area are proposed to be paved with block paving.
- 3.6 The converted containers are proposed to be subdivided into eight seating 'pods', the two northern 'pods' will have level access from the courtyard, the others are proposed to have a 170mm step up to the seating area. The southernmost converted containers are proposed to house two unisex disabled WCs with lobbies and two stores.

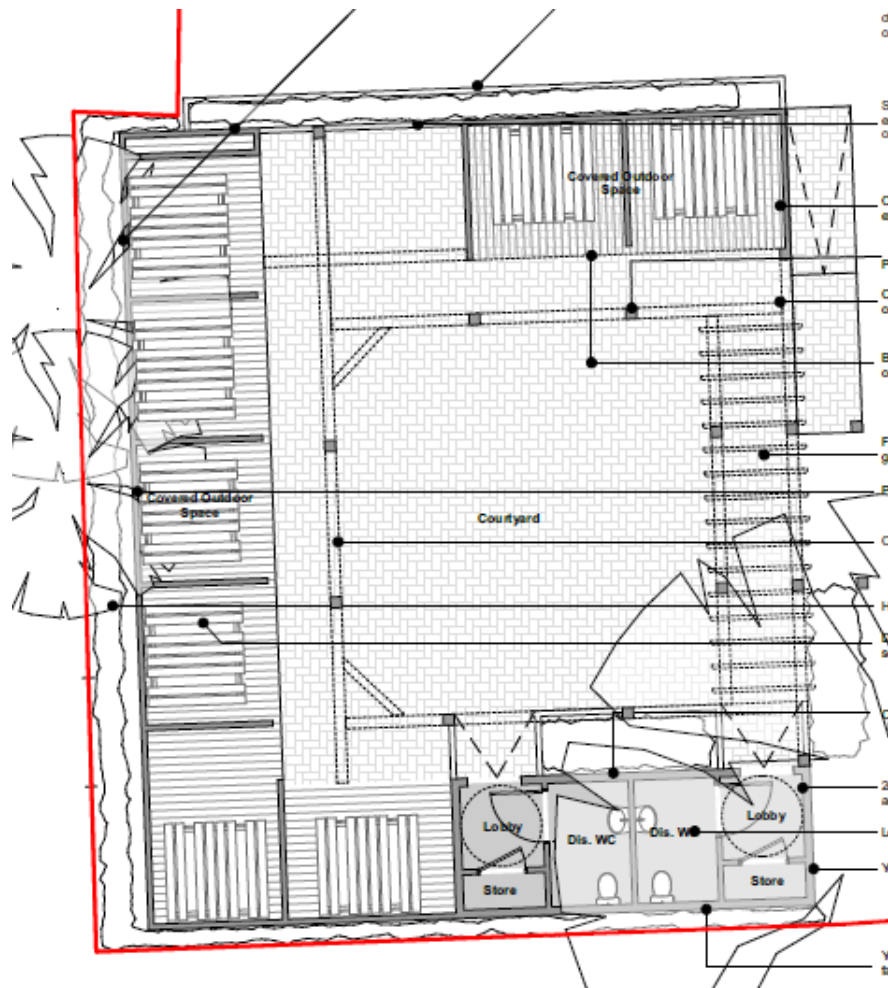


Figure 3. Ground Floor Plan

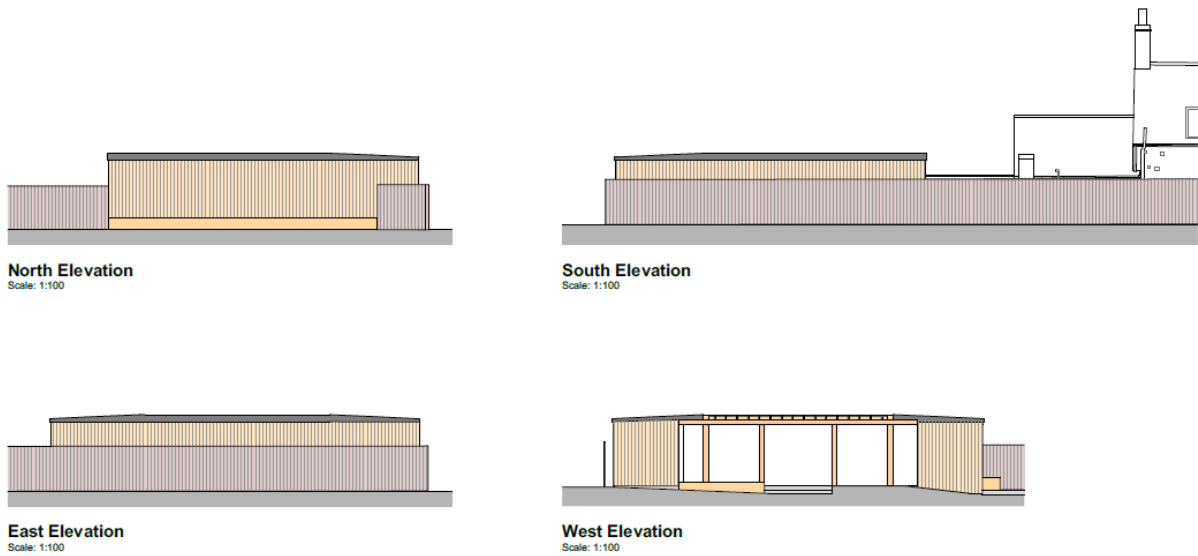


Figure 4. Proposed Elevations



**Main Street Elevation**  
Scale: 1:100

*Figure 5. Street Scene*

## **b) Documents submitted**

### **i. Plans**

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

Planning Statement  
Heritage Impact Assessment  
Transport Technical Note  
Site Location Plan  
Existing Site Plan  
Proposed Site Plan (Amended)  
Proposed Elevations and Floor Plans (Amended)  
Applicants Highway Information  
Supplemental Planning Statement  
Environmental Noise Assessment Report

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

4.2 No pre-application advice has been sought or provided.

## **5. Consultations and Representations**

5.1 Consultations with technical consultees and the local community were carried out on the application. This first occurred on 1<sup>st</sup> December 2020 including a site notice put up on 8<sup>th</sup> December 2020 and a press notice published on the 10<sup>th</sup> December 2020. The first consultation period expired on 31<sup>st</sup> December 2020. Following amendments to the scheme a second consultation period occurred on the 3<sup>rd</sup> February 2021, including a new site notice put up and press notice made on the 18<sup>th</sup> February 2021, this consultation period expired on the 11<sup>th</sup> March 2021. A third consultation was then carried on the 16<sup>th</sup> March, which expired on the 30<sup>th</sup> March 2021.

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

## a) Statutory & Non-Statutory Consultees

### **HDC Environmental Health**

#### 5.3 *First comments:*

In relation to the above application, we have concerns about the impact of the shelter upon neighbouring properties; specifically in relation to noise generated from patrons using the shelter and also potential intrusion from artificial lighting.

Our understanding is that the shelter aims to seat up to 48 persons and whilst we appreciate that patrons could sit outside in that vicinity anyway, we feel that the shelter would encourage this external use during times when patrons might not usually sit outside. So in essence, it would serve to intensify the use of the outdoor area.

Noise from patrons talking, laughing and shouting is a clear concern, as is any music that may be played within the shelter. There is a concern that the shelter could be used as a stage for performance of music i.e. bands, karaoke etc. so we would like to see this kind of use prohibited through condition.

Noise from patrons is unpredictable and difficult to assess and condition. Therefore, we are effectively relying on the acoustic properties of the enclosure to protect local residents. On this, we would suggest that the applicant approaches an acoustic consultant to assess the appropriateness of the insulation, to ensure that it is fit for purpose and able to protect local residents from noise intrusion.

The current licence for the premises stipulates that the beer garden can be used until 23.00hrs (Annex 2, point 8 as attached) so I understand that the use of the shelter would also be restricted to this time under the licence. We feel that this should be mirrored by a planning condition.

As far as lighting is concerned, we would like to condition the application such that all external artificial lighting complies with the requirements of the Institution of Lighting Professionals Guidance 01/20 <https://theilp.org.uk/publication/guidance-note-1-for-the-reduction-of-obtrusive-light-2020/> and that any lighting scheme is run by us for approval prior to implementation.

We would also suggest that the shelter is conditioned so as to prevent cooking/BBQ's from taking place on it to prevent local residents suffering any nuisance from cooking odours and smoke.

So in summary, our comments are as follows:

1. Noise should be conditioned so that no amplified or live music can be played within the shelter
2. The use of the shelter should be limited to 23.00hrs as per the premises licence
3. The acoustic properties of the shelter should be assessed by a competent acoustic consultant/engineer
4. Any lighting scheme should comply with the Institution of Lighting Professionals Guidance 01/20 <https://theilp.org.uk/publication/guidance-note-1-for-the-reduction-of-obtrusive-light-2020/> and be approved by Environmental Health prior to implementation
5. The shelter should be conditioned so that no cooking including BBQ's and burning takes place within it



All conditions to protect local residents from harm/nuisance from noise, lighting, odour and smoke.

It is also recommended that due to the difficulty in being able to assess the impact of noise from patrons on the local amenity and the unknown quantity that this is, that a temporary consent less than 3 years is granted to protect local residents.

5.4 *Informal Comments*

The assessment is not perfect, but I have to say that they have made a decent effort to demonstrate that the structure will provide moderate/significant attenuation to the type of noise expected in a beer garden, versus no structure/what is there now.

Based on this, and providing we can restrict the hours of use, the use for entertainment etc. and external speakers, then I think it would be difficult to argue against.

Should any further EHO confirmation or clarification be received that will be reported via the Supplementary Papers

**HDC Conservation Officer**

5.5 *First Comments:*

The application relates to land within the Great Bowden Conservation Area and adjacent to 11 Main Street, which is a grade II listed building.

The application is supported by a heritage statement, which concludes that no harm would be caused to the character and appearance of the conservation area or the setting of the adjacent listed building as the proposal would be relatively low in height and largely screened with cladding and planting.

This being the case, could you ask for clearer details of what the planting and cladding would look like? There also should be no openings in the street-fronting elevation as this would limit the area of planting and would draw attention to an opening, which would limit the effectiveness of any cladding.

*Final comments:*

Further to the additional details which have been provided it is understood that the cladding would be in the form of timber slats and that no part of the containers would be visible beneath. On this basis, given the height and location of the units I do not consider that harm would be caused to the character and appearance of the conservation area or the setting of the adjacent listed building.

It is noted that the proposed hedging would not be substantial enough to conceal the structure but would break up the massing to an extent.

It is further noted that the door openings on the front would be required for safety reasons. As such, I would recommend a condition that these are only used as such.

**Leicestershire County Council (LCC) Highway Authority**

5.5 *First Comments:*

The Local Highway Authority (LHA) advice is that the residual cumulative impacts of the development are severe in accordance with the National Planning Policy Framework (2019) and the Local Planning Authority is advised to consider refusal on transport/highway grounds for the reasons outlined in this report.

### **Advice to Local Planning Authority**

The LHA advises the following reasons for refusal:

- 1) The Applicant has failed to demonstrate that safe and suitable access arrangements can be provided for vehicles servicing the site, contrary to paragraph 108 of the National Planning Policy Framework.
- 2) The Applicant has failed to demonstrate that significant impacts from the development on the transport network in terms of displaced and additional parking demand can be mitigated, contrary to paragraph 108 of the National Planning Policy Framework. This could have implications in respect of the safe functioning of the public highway.

### **Background**

The Local Highway Authority (LHA) is in receipt of full application 20/01884/FUL which seeks the temporary siting of converted storage containers. These form 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 at Red Lion, 5 Main Street, Great Bowden, this is a retrospective application.

A previous application was submitted for the same proposal under 20/01468/FUL, however this was later withdrawn.

### **Site Access**

Having considered the submitted documents, it would appear the only changes to the access are the installation of pedestrian gates either side of the vehicular access, these are to facilitate pedestrian access and egress for the site. Whilst the LHA have no issues with achievable visibility splays, on street parking by privately owned vehicles and vehicles delivering to the Public House could restrict visibility in both directions.

### **Highway Safety**

One personal injury collision (PIC) has been recorded in the locality of the application site in the last five years, this was classified as slight in severity.

The increase in floor space is likely to result in an increase in trips generated. Given the information provided by the applicant, there could be approximately 150 customers within the site with no additional off street parking. This is an increase of 48 customers based on the existing scenario. However the applicant has not put forward any plans on how they plan to manage this. Indeed, the proposals as submitted would reduce the existing parking provision on site by 5 spaces.

There appears to be some discrepancies between the previously submitted application 20/01468/FUL which was withdrawn, and 20/01884/FUL which is now being considered. The application form submitted as part of 20/01468/FUL stated that there were 8 existing off street car parking spaces. This corresponds with drawing number L316-BRP-00-00-DR-A-0408-P01 provided to the Local Planning Authority (LPA) and LHA on 15 November 2020, this was labelled Site Plan Existing Car Parking Arrangements. However, the application form submitted as part of 20/01884/FUL states there are three existing spaces with all of these to be retained. Furthermore, the table included as part of Point 3.0 of the Design & Access statement also appears to include an error. This is copied below for ease.



Description	Pre Covid-19	Covid-19 with courtyard
Inside dining tables	50*	Max 22
Casual seating/bar stools/standing	40*	N/A
Garden and decking	140	80
Living accommodation (5-bedroom 2 bathroom self-contained first floor flat)	8	1
Quadrant courtyard	N/A	48
<b>TOTAL</b>	<b>238</b>	<b>129</b>

Whilst the pre-Covid-19 calculations appear to be correct, the Covid-19 with courtyard do not. This has been calculated to be 129 customers, where it should total 151 customers with the courtyard included.

The application forms for both the previous application 20/01468/FUL, and 20/01884/FUL both show the existing floor space to be 208 square metres, and proposed floor space to be 223 square metres, which would be an increase in 15 square metres. Having scaled off the covered seating areas only from the submitted drawing Quadrant Courtyard Ground Floor, drawing number L316-BRP-00-00-DR-A-0403-P04, it is the opinion of the LHA that the increase is in fact approximately 57.65 square metres.

Whilst the LHA are considering this application on its own merits, it should be noted that without including the courtyard area, the data shows the current customer levels are 103 customers, with 8 car parking spaces provided. If the application were to be granted, a further 48 customers could be accommodated with the loss of 5 off street car parking spaces, leaving only three available for staff, customers and for the living accommodation provided on-site.

The LHA would say as a guide the Highway Requirement for Development Part 4 defines the level of parking to be 1 customer car space per 4 square metres of public area plus one staff car space per 10 tables or 40 sq. metres. Space shall be provided for loading and unloading of service and delivery vehicles clear of the public highway. Given this the applicant should consider provision for 15 customer spaces and 2 staff parking spaces, and also space for onsite delivery and service vehicles.

The LHA is also aware of residents concerns relating to parking in the area which have been received by Leicestershire County Council.

### Summary

Whilst the LHA are only considering the Quadrant Courtyard, the Design & Access Statement part 3.0 shows that there is already provision for 103 customers currently available at the site, if the proposals were to be granted this would increase to 151, not the 129 as stated within the Design & Access Statement.

The submitted documents show there is an increase in covered floor space of approximately 57.65 square metres. It is also proposed to decrease the amount of available car parking spaces from 8 to 3, in addition to no parking and turning for service and delivery vehicles. As such the LHA consider this to be contrary to Highway Requirements for Development Part 4 and National Planning Policy Framework (NPPF) 108 and 109.

Due to the significant shortfall in off-street car parking spaces to be provided, the site location and current levels of on street parking in the vicinity, the LHA consider the application to be contrary to Highway Requirements for Development Part 4, National Planning Policy Framework (NPPF) 108 and 109. As such the LHA advises refusal of this application on the grounds of highway safety.

## 5.6 *Final Comments:*

The Local Highway Authority (LHA) advice is that the residual cumulative impacts of the development are severe in accordance with the National Planning Policy Framework (2019) and the Local Planning Authority is advised to consider refusal on transport/highway grounds for the reasons outlined in this report.

The LHA advises the following reasons for refusal:

- 1) The Applicant has failed to demonstrate that significant impacts from the development on the transport network in terms of displaced and additional parking demand can be mitigated, contrary to paragraph 108 of the National Planning Policy Framework. This could have implications in respect of the safe functioning of the public highway.

### **Background**

The Local Highway Authority (LHA) have been re-consulted on application 20/01884/FUL which seeks the erection of a quadrant courtyard for the purposes of providing an outdoor covered seating area (revised scheme of 20/01468/FUL) (retrospective) at Red Lion 5 Main Street Great Bowden Leicestershire LE16 7HB. The LHA previously responded to the application on 21 December 2020 and advised refusal of the planning application for the following reasons:

- 1) The Applicant has failed to demonstrate that safe and suitable access arrangements can be provided for vehicles servicing the site, contrary to paragraph 108 of the National Planning Policy Framework.
- 2) The Applicant has failed to demonstrate that significant impacts from the development on the transport network in terms of displaced and additional parking demand can be mitigated, contrary to paragraph 108 of the National Planning Policy Framework. This could have implications in respect of the safe functioning of the public highway.

The re-consultation is based on further information provided by the Applicant, and to an amendment to the description seeking the permanent erection of a quadrant courtyard rather than temporary use as per previous submissions. It is also understood the main Public House is to close to the public for an undetermined period of time as a consequence of the Covid 19 pandemic.

A further application was submitted for the temporary siting under 20/01468/FUL; however this was later withdrawn.

### **Site Access**

Having considered the revised documents, it would appear the Applicant proposes to remove the previously proposed gates (including pedestrian gates) located at the entrance to the site. This could raise the issue of conflict points between vehicles and pedestrians. As per the LHA's previous observation, whilst the LHA have no issues with achievable visibility splays, however, on street parking by privately owned vehicles and vehicles delivering to the Public House could restrict visibility in both directions.

### **Highway Safety/Trip Generation/Internal Layout**

Having reviewed new and previously submitted documentation, including the Revised Highways Information submitted by Gateley Legal, the LHA make the following observations.

The previous review of information was undertaken based on the evidence submitted by the Applicant in support of the planning application.

There seems to be confusion on the part of the Applicant as to how many existing off-street car parking spaces were available prior to the siting of the Quadrant Courtyard. The letter submitted to the Local Planning Authority (LPA) from Gateley Legal states there have not been 8 spaces available for some years. However, the original application 20/01468/FUL states on the application form that there were 8 existing car parking spaces, with 8 retained. This is also echoed within application 20/01194/FUL which was for the temporary siting of a converted storage container for serving outdoor food and drink and renovation to existing pergola (retrospective), which was permitted on 4 November 2020. Finally, an existing car parking arrangement was sent to the LPA on 18 November 2020 which also shows 8 car parking spaces.

The letter from Gateley Legal also refers to a submitted revised plan from BRP Architects, Site Plan As Proposed, drawing number L316-BRP-00-00-DR-A-0402-P05 showing 6 car parking spaces within the northern end of the car park. Whilst it is unclear due to the lack of vehicle tracking if the spaces and turning are usable, given that the northern end of the car park is 212 square metres and the total car parking area is approximately 422 square metres, it is the opinion of the LHA that 8 theoretical car parking spaces could be achieved as originally stated. Given the information currently provided, the LHA will base any observations on 8 existing spaces as submitted in 3 separate instances by the Applicant.

It is also stated within the letter that the existing baseline occupancy figure should be 238, made up of 230 patrons and 8 occupants of a first floor flat, rather than the 103 made up of 22 patrons inside, 80 patrons for the garden and decking plus 1 person using the living accommodation. Whilst the LHA appreciate the comments raised surrounding the capacity of the proposals the current application would not result in the permanent closure of the Red Lion Public House, which is an asset of community value and therefore, the existing building could be brought back into use at any time alongside the proposed development. Given the above the LHA concludes that there is an extant use for the Public House served by 8 existing off street car parking spaces.

The application is a retrospective application after works commenced to build a Quadrant Courtyard on what has been consistently indicated as the existing car park area by the Applicant, including the original application 20/01468/FUL, BRP Architects drawing number L316-BRP-00-00-DR-A-0401-P01. As such this is an addition to the existing extant use of the Public House and would reduce the existing available off street car parking area by almost half.

The submitted documents show there is an increase in covered floor space of approximately 57.65 square metres. As a guide the Highway Requirement for Development Part 4 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. Given this the Applicant should consider provision for a further 15 customer off street car parking spaces and 2 staff parking spaces.

Given the new information presented by Gateley Legal regarding deliveries, the LHA accepts that they have been historically undertaken on the highway.

### **Summary**

Whilst the LHA are only considering the Quadrant Courtyard and car parking it is the opinion of the LHA from the information provided by the Applicant, that the existing provision before the erection of the Quadrant Courtyard was 8 existing off street car parking spaces on approximately 422 square metres of allocated off street car parking space.

With the installation of the Quadrant Courtyard the available off street car parking provision space has reduced in size by approximately 210 square metres. The Applicant has indicated there is space for 6 vehicles within the remaining area of approximately 212 square metres, this is a reduction of two spaces on the existing off street car parking provision. It is however not shown within the revised documentation if the amended off street car parking and turning layout is useable, enabling vehicles to access and egress the site in a forward gear.

The submitted documents show there is an increase in covered floor space of approximately 57.65 square metres. Therefore, the Applicant should consider provision for a further 15 customer off street car parking spaces and 2 staff parking spaces. However, it is proposed to decrease the amount of available car parking spaces from 8 to 6. Having searched Leicestershire County Council records, it appears there have been 6 previous complaints related to parking in the area. As such the LHA consider this to be contrary to Highway Requirements for Development Part 4 and National Planning Policy Framework (NPPF) 108 and 109.

Due to the shortfall in off-street car parking spaces to be provided for this application, the site location and current levels of on street parking in the vicinity, the LHA consider the application to be contrary to Highway Requirements for Development Part 4, National Planning Policy Framework (NPPF) 108 and 109. As such the LHA advises refusal of this application on the grounds of highway safety.

## **b) Local Community**

- 5.7 Comments from residents are summarised below, full comments can be read on the Councils website. Comments have been received from both within the village and District as well as outside of the District.

20 support comments were received before the amendments:

Business Needs	<ul style="list-style-type: none"> <li>• This will be an asset to Great Bowden and the surrounding area and allows the pub to reopen</li> <li>• Planning approval would allow the Red Lion to stay in business during the Covid-19 pandemic</li> <li>• Would be a help to a local business, especially in winter months due to a small interior</li> <li>• Keeping the pub open allows for the business to provide employment</li> <li>• Would provide a safe area during the pandemic</li> <li>• This is in line with government advice to pub owners to make use of outdoor spaces to provide Covid-19 space environments</li> </ul>
Disabled Toilets	<ul style="list-style-type: none"> <li>• The provision of accessible toilet facilities is positive</li> </ul>
Design	<ul style="list-style-type: none"> <li>• The development looks great</li> <li>• The proposal, once cladded and completed, will not create any visible nuisance and the pub will be released from its boarded-up windows which give a significantly worsened presentation</li> <li>• The proposal is hardly visible from the road</li> </ul>
Traffic and Parking	<ul style="list-style-type: none"> <li>• I believe the new proposal reduces the number of patrons and therefore would be workable with less parking.</li> <li>• It doesn't create greater challenges that the other businesses in the village</li> </ul>
Residential Amenity	<ul style="list-style-type: none"> <li>• Country public houses are a large ingredient to village life, I see no reason for the pub to create public behaviour issues.</li> </ul>

7 objection comments were received before the amendments:

Highways	<ul style="list-style-type: none"> <li>• Inadequacy of parking and servicing</li> <li>• Adverse effect on access, highways safety and traffic generation</li> <li>• The HLP makes it clear that commercial development proposals must provide for safe access, servicing and parking arrangements (IN2). It confirms that the Leicestershire Highway Design Guide will act as the starting point...Part 3 of that Guide makes clear that restaurants, cafes and drinking establishments must make provision within the site for service and delivery vehicles to be loaded and unloaded clear of the highway. Delivery vehicles which supply the business park on the highway</li> <li>• Main St has become congested and obstructed owing to parked vehicles whilst the pub has been open and during construction</li> <li>• The images in the Highway Report are misleading as they use historic images on Street View by Google before the Applicant started to trade</li> <li>• The car park will be reduced by 70%</li> <li>• Whilst on street parking is commonplace throughout the village the scale of this problem should not act as a precedent</li> <li>• The highways report acknowledges a cumulative impact, as mitigation a cycle rack is proposed but this will not assist drivers of deliveries, staff or customers from beyond the village</li> <li>• The impact of the car park closure during the summer months was the worst (in the objector's opinion) in 25 years residence in Main St.</li> </ul>
Design and Appearance including the impact on Heritage Assets	<ul style="list-style-type: none"> <li>• The design is industrial and wholly out of keeping, the solution proposed is to disguise the scheme.</li> <li>• The containers are overlarge, too high, ugly and in full view of the road in a residential area in the conservation area</li> <li>• Hedges take many years to become established, this solution runs counter to the Applicants assertion that the scheme is temporary</li> <li>• The footings will have been dug through the root system of mature trees</li> <li>• If the structure is deemed essential it could have been installed in the South East corner of the site, in the garden, where it would have been much better concealed</li> </ul>
Duration of consent	<ul style="list-style-type: none"> <li>• Three years is not temporary and goes well beyond the government 'leeway' extended to the hospitality industry which expires in September 2021.</li> <li>• The applicants claim to seek temporary consent until the end of Dec 2023 to allow time post the Covid-19 pandemic to make up for losses during enforced closure. In reality the applicant acquired the site in March 2017, they chose not to begin trading until July.</li> </ul>
Residential Amenity Impacts	<ul style="list-style-type: none"> <li>• Great potential for noise, light and sensory pollution</li> <li>• Objections due to noise and disturbance (which went on for hours in the summer with a steady thumping noise till late at night).</li> </ul>
Other:	<ul style="list-style-type: none"> <li>• Approving an application for siting a container in a Conservation Area could set a precedent</li> </ul>

	<ul style="list-style-type: none"> <li>• Disabled lavatory facilities are desirable, but they are proposed at the end of the garden which, for wheel chair users, means a stiff push across sloping gravel. When the temporary structure is removed the site would still be rendered without disabled toilets.</li> <li>• The electricity supply to the premises was found to be inadequate for the needs of the new extension. Until this point no alteration to the electricity supply has been required - even for significant functions. It was adequate during the brief summer re-opening. For the new building it has required a significant upgrade and we have had over a week of roadworks connecting a new supply. It is one more piece of evidence that what is being built on the car park is a major extension to this pub - not a measure to assist an existing business through a difficult pandemic! This is out and out extension and should not be allowed in a residential area at the expense of almost all the operations car parking facilities</li> </ul>
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Two neutral comments were also received, the first acknowledging that the Red Lion is a good pub but asked that a larger parking area should be provided. The second stating this is a wonderful idea and will be a lovely place for a catch up with friends and family after lockdown.

Following the amendments, further objections were received from three households (repeated comments are not included as they can be viewed above):

Highways	<ul style="list-style-type: none"> <li>• The application still allows for a much bigger/altered establishment and even as amended it contains fewer parking spaces than the small operation it replaces had</li> <li>• The solicitors' letter proposes that the Developer self-certifies that no more than 200 customers are served in its rear yard and that the transport needs of those customers might be served by five parking spaces in a car park that the Developer has halved in size and is now so restricted that no car can turn around to enable it to drive forwards onto the highway in compliance with the Highway Code. This proposal is not credible.</li> </ul>
Design and Appearance including the impact on Heritage Assets	<ul style="list-style-type: none"> <li>• The increase in parking comes at the expense of the remaining vegetation which helps to hide the earlier retrospectively approved shipping container (still painted red in contravention of its temporary planning consent) and which reduces some of the impact of light, noise and sensory pollution created by that structure and its pergola.</li> </ul>
Residential Amenity Impacts	<ul style="list-style-type: none"> <li>• The increase in parking comes at the expense of the remaining vegetation which reduces some of the impact of light, noise and sensory pollution created by that structure and its pergola.</li> <li>• Consideration should be given to the duration – in terms of months of operation during which outdoor noise is likely to be generated – increasing from approximately 4/5 months a year to 12</li> <li>• With regard to the conclusions in the noise assessment it should be noted that this was carried out during the day. Noise always seems to carry more at night. From my property the nearby trains pass unheard during the day but are noticeably more intrusive from mid evening on. I have no doubt this will be the same with pub noise.</li> </ul>

	<ul style="list-style-type: none"> <li>• The survey appears to ignore the potential noise generated by patrons arriving and leaving, including 'takeaway pickups' which will include additional vehicle movements as well as people generated noise.</li> <li>• The survey mentions that at some time neighbours might need to close their windows to sleep!</li> <li>• The area has bungalows for elderly people and we are not happy that we shall have to hear the thumping of music all day until late at night as this is what was happening before Covid put a stop to it.</li> <li>• The report relies in part on distance from the Development. However, residents of neighbouring properties do not enjoy the luxury of being distant from the noise created. The report states that attenuation due solely to the structure of the Development is expected to be in the order of 8.2dB(A) This is a minimal effect and the report admits that this finding cannot be stated with certainty.</li> </ul>
Other:	<ul style="list-style-type: none"> <li>• Whilst Covid remains a high profile problem for the hospitality industry, successful, fast vaccine rollout is clearly indicating that prolonged need for extensive outdoor facilities is diminishing. The need for additional covered seating during the pandemic could even have been met by siting this structure in the garden facing the rear of the building where it would have been much less of an intrusion on the conservation area and would have allowed for the retention of all the original parking.</li> <li>• The Developers have taken the advice of solicitors, who have written to the Planning Authority. In paragraph 6.1 of their letter, they "call into question whether the Red Lion would ever reopen." They answer that question in paragraph 2.2, emphasising that "there will not be customers using the "inside table" capacity of the pub building" and that "the design-concept is to enable customers to enjoy an outdoor amenity instead of the former indoor-focused approach." This is a new admission by the Developer that it has no intention of reopening the Red Lion public house.</li> </ul>

Following the amendments, further support comments were received from five individuals (repeated comments are not included as they can be viewed above):

Business Needs	<ul style="list-style-type: none"> <li>• The Red Lion has developed an incredible outdoor space during this closed period and is well on the way to provide a market leading, all inclusive, outdoor environment for Food and Drink in anticipation re the opening up of Hospitality on the 12<sup>th</sup> of April.</li> <li>• In August of last year that Unemployment in the Harborough area was three times Pre Covid levels and the highest it's been since 1992! It is therefore good to hear that the many hurdles of Planning finally appear to be reaching a sensible conclusion. This will be of much relief to all of those involved in the Supply Chain to the Red Lion, all are local, and include Coffee Suppliers, Fishmongers, Green Grocers, Butchers, Brewers and Spirit Suppliers, Cleaners, Laundries and last but by no means least the 12 members of Staff, all of which will be desperate to stay in Employment come the end of the Furlough Scheme.</li> <li>• I would urge the Council to consider the many Local Suppliers and Staff, already mentioned, who anxiously await the re-</li> </ul>
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	opening of the Red Lion, the result will be to bring hope and stability back into their lives and livelihoods, which have been on hold for the past year.
Traffic and Parking	<ul style="list-style-type: none"> <li>• One final obstacle remains, the provision of numbers due to Parking issues, I have to say I'm a bit perplexed as how this has come about as I understand that the numbers permitted not just Pre Covid but for many many years were approx. 250.</li> <li>• How can Highway's object to the proposal when the applicant has suggested a capacity constraint of 200 customers but invited HDC/Highways to suggest a lower number of customers if they are concerned that the figure of 200 is too high.</li> <li>• The application provides the only public cycle storage facility in the village which helps encourage the use of environmentally friendly forms of transport.</li> </ul>

Excerpts of Facebook comments have been received, however, these comments have not been made to the LPA and are therefore not given weight.

## **6. Planning Policy Considerations**

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

### **a) Development Plan**

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

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

- GD8 – Good design in development
- HC1 – Built heritage
- HC3 – Public houses, post offices and village shops
- GI5 - Biodiversity and geodiversity
- IN2- Sustainable Transport
- *Great Bowden Neighbourhood Plan (Reviewed Plan 2020)*
  - H6 – Design Standards
  - CAF1- Protection of existing community amenities and facilities
  - CAF2- Provision of new or the extension of existing community amenities and facilities

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

- *National Planning Policy Framework*

6.3 Whilst read as a whole of particular relevance are:

- Chapter 2- Achieving sustainable development
- Chapter 4- Decision making
- Chapter 6- Building a strong, competitive economy
- Chapter 8- Promoting healthy and safe communities
- Chapter 9- Promoting sustainable transport
- Chapter 12- Achieving well-designed places
- Chapter 14- Meeting the challenge of climate change, flooding and coastal change

- Chapter 15- Conserving and enhancing the natural environment
- Chapter 16- Conserving and enhancing the historic environment

- *Business and Planning Act 2020*
- *National Planning Practice Guidance*
- *Planning (Listed Buildings and Conservation Areas) Act 1990*

## 7. Assessment

### a) Principle of Development

- 7.1 The quadrant courtyard is proposed for the purposes of providing an all year round outdoor covered seating area. The application was originally made for temporary consent, which the applicants stated would allow the pub to operate during the Covid-19 pandemic. The combination of ongoing refurbishment and Covid restrictions mean that food and drink is served from the outdoor bar and kitchen (approved under planning reference 20/00194/FUL) thus the pub when operational does so currently with just outdoor seating. The applicants claim it is not feasible to operate on this basis alone as a commercial enterprise, as operation is dependent on good weather as there is no external cover, heating and only limited external lighting. Therefore, the additional space would address these issues, whilst following government guidance on the use of outdoor space utilising increased ventilation etc.
- 7.2 Whilst the above factors are still relevant during the Covid-19 pandemic and associated restrictions on indoor hospitality venues remain, the application is no longer for temporary consent. As stated in the applicants 'Supplementary Planning Statement' it has been confirmed that once the restriction on the use of indoor hospitality space has lifted the indoor space at the Red Lion will be brought into operation again. The proposal is therefore a permanent expansion to the public house.
- 7.3 Policy HC3 of the Harborough Local Plan (HLP) states that development at public houses will be permitted in order to assist in their diversification including extensions and alterations to provide kitchen and restaurant facilities and improvements to the external environment. Paragraph 80 of the National Planning Policy Framework (NPPF) states that planning decisions should help create the conditions in which businesses can invest, expand and adapt and significant weight should be placed on the need to support economic growth. The retention and development of accessible local services and community facilities, including public houses in rural locations in particular, is supported in paragraph 83(d). Finally, paragraph 92 of the NPPF states that policies and decisions should plan positively for the provision of community facilities, such as public houses, to enhance the sustainability of communities and residential environments. Furthermore, that policies and decisions should guard against the loss of valued facilities and services and ensure that established facilities are able to develop and modernise and are retained for the benefit of the community.
- 7.4 Policy CAF2 of the Great Bowden Neighbourhood Plan (GBNP) supports extensions to existing community facilities providing a number of criteria are met. Policy CAF2(c) is of relevance to whether the expansion of the Red Lion is acceptable in principle. CAF2(c) states that developments should meet a locally identified need and should be of a type and scale appropriate to the needs of the locality and conveniently accessible for residents of the village wishing to walk or cycle. The Red Lion is considered to be conveniently accessible to residents of the village. Whilst the locally identified need for the expansion to the pub is not addressed within the submission directly, the Red Lion building is an Asset of Community Value (ACV) with the supporting text of the GBNP

stating 69% of the residents from the GBNP questionnaire used the pub it is therefore considered that the proposal accords with this particular aspect of Policy CAF2.

- 7.5 Further to the Red Lion building being listed as ACV in late February Great Bowden Parish Council, as the nominating body, have also nominated the garden/carpark for listing as an ACV (as well as the pub building). The nomination includes the extension of the public house building, garden and car park as an ACV for a further 5 years, the building is currently listed until 22/03/2022. HDC is currently due to make a decision on the nomination by 20/04/2021. The nomination highlights the value of the garden/carpark within the community but as a decision is yet to be made as to whether to include the garden area as an ACV it is given limited additional weight in the determination of the application.
- 7.6 The proposal is considered to support the expansion of facilities at the existing pub, the principle of development is therefore acceptable. The proposal has clear economic benefits in allowing the expansion of the public house, including through local employment and access to and retention of local facilities.
- 7.7 As discussed in paragraphs 7.31-7.35 the applicant has proposed a condition limiting the number of customers onsite, the acceptability of such a condition is considered fully later in the report. However, it is important to note that should HDC impose this condition as stated in the 'Supplementary Planning Statement' it would *'in effect secure that the historic upper limit (of customer numbers) would not be exceeded'*. Such a condition would reduce the economic benefits of the proposal outlined above, it would restrict the expansion in terms of the customers trading on the site. Therefore, the ability of the proposal to create additional local employment and economic benefits above the historic situation is reduced. However, the short term economic benefits of allowing the pub to trade during the Covid-19 pandemic would still exist.

## **b) Technical Considerations**

1. Design and Visual Amenity
- 7.8 Chapter 12 of the NPPF relates to design, in particular paragraph 127 states that decisions should ensure that developments will function well and add to the overall quality of the area, should be visually attractive, and should be sympathetic to local character and history while not preventing or discouraging appropriate innovation or change. Policy GD8 of the Harborough Local Plan (HLP) requires developments to achieve a high standard of design which is inspired by, respects and enhances local character. Development should be designed so that it integrates well into the existing street scene. Where appropriate development can be individual and innovative, yet sympathetic to the local vernacular. Similarly, Policy H6 of the GBNP requires new developments to enhance and reinforce local distinctiveness and character, developments should not disrupt the visual amenities of the street scene. Materials should complement the historic context.
- 7.9 The application site is located in the traditional core of the village, part of the wider Conservation Area with a number of attractive, traditional buildings (including the pub itself) nearby. As mentioned above Number 11 Main St, is Grade II Listed and neighbours the site to the west with the courtyard protruding along the rearmost, side boundary of No.11s garden (see section 2 below for the assessment on heritage assets).
- 7.10 The quadrant courtyard introduces built form in an area which was formerly open, with the exception of a modest storage shed. However, the courtyard is set back 20m from the frontage of the pub reducing its visibility in the street scene with the exception of

being stood to the front of the access. The structures are single storey with a maximum height of 3m, where the structures are visible their height is not dissimilar to many domestic outbuildings. The proposed 'instant' beech hedge will offer some additional screening of the northern elevation and will act to break up the massing of this frontage to some degree, although it is not considered likely to conceal the structure in its entirety. In the officer's opinion the hedge alone is not a determinative factor given the plants may die, shed leaves etc.



*Figure 6. Photo taken prior to the installation of the containers*



*Fig 7. Photo from site entrance (12<sup>th</sup> January 2021)*

- 7.11 It is acknowledged that the sub-structure of the quadrant courtyard is comprised of three converted storage containers. Storage containers are not commonplace nor particularly attractive in their own right. However, the proposals include the complete cladding of the containers and a lead roof covering which would mean that no part of the metal shell of the container would be visible. Timber cladding, a lead roof as well as the use of oak in the internal pergola are material choices which whilst not matching those found on the Red Lion itself are not inappropriate for the setting. Timber is a common material choice for outbuildings and in this case is considered to create an ancillary feel between the Red Lion and the courtyard structures.
- 7.12 To conclude, whilst storage containers form the sub-structure of the courtyard, given they are clad in their entirety it is not considered that the development will be perceived as a collection of storage containers from the public realm. The scale of the courtyard is considered subordinate to the Red Lion building and the set back of the courtyard reduces the prominence/visibility of the structures from the street scene. Therefore, subject to conditions ensuring the use of materials in accordance with the proposed plans in perpetuity the proposal is considered to respect the local character and accords with policy GD8 of the HLP and policy H6 of the GBNP.

## 2. Impact on Heritage Assets

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- 7.13 Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that *“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”*. Section 66 (1) of the Act make 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”*. The courts 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.
- 7.14 Section 16 of the NPPF outlines the national policies for the historic environment. Paragraphs 190-202 contain the key considerations in the determination of planning applications affecting heritage assets. Paragraph 193 (page 55) states that: *“when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance”*. Paragraph 194 makes it clear that: *“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”*. Paragraph 196 states that: *“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”*.
- 7.15 Policy HC1 of the Harborough Local Plan refers to heritage assets and their settings. Development affecting heritage assets will be appraised in accordance with national

policy and will be permitted where it protects, conserves or enhances the significance, character appearance and setting of the asset. Where a proposal would lead to harm this will be weighed against the public benefits of the proposal dependent on the level of harm. Development within or affecting a conservation area will be permitted where it preserves or enhances the character or appearance of the conservation area, including local design and materials.

- 7.16 The applicants have undertaken a Heritage Impact Assessment, and the HDC Conservation Officer has been consulted on the proposals. In this case the key heritage assets include the Great Bowden Conservation Area, this particular aspect of the Conservation Area is characterised by the number of traditional buildings and mature trees. Furthermore, the properties to the south side of Main St are close to the road frontage giving a sense of enclosure to the street. No. 11 Main St is a Grade II listed building, it is an 18<sup>th</sup> century or earlier thatched cottage. Given the proposal is sited immediately adjacent to the shared boundary with No.11 the proposal does fall within its setting. No.1 Main St is the next property but one to the east of the application site and is also a Grade II listed property. However, the siting of the development to the rear of the car park does not form part of the setting of No.1 Main St. The Red Lion itself is not a nationally listed building nor is it locally listed within the GBNP, it is however an attractive, historic property of some character which contributes to the village streetscene making a positive contribution to the Conservation Area. As outlined in the Heritage Impact Assessment it is therefore considered of some heritage significance, as a non-designated heritage asset.
- 7.17 As addressed in the earlier design section, no part of the steel shells of the three containers will be externally visible, they will be clad in timber with a lead roof covering applied. The courtyard structures are set back from the street and are relatively modest in height (akin to domestic outbuildings). Considering these factors, in accordance with the Conservation Officers comments the proposal is not considered to cause harm to the character and appearance of the conservation area nor to the setting of the adjacent listed buildings and the Red Lion itself. The applicants have also amended the proposal, removing the doors in the northern elevation which will strengthen the effectiveness of the cladding in this location compared to the previous plans. Subject to a condition requiring the materials to be implemented in accordance with the application particulars in perpetuity, the proposal is considered to preserve the character of the Great Bowden Conservation Area and the setting and significance of the nearby listed buildings and non-designated heritage assets (s66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990). As no harm is caused to the setting or significance of the heritage assets the proposal accords with the relevant provisions of the NPPF and policy HC1 of the HLP.

## 2. Highways

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- 7.18 Chapter 9 of the NPPF relates to transport matters, of particular relevance to this application are paragraphs 108 and 109. Paragraph 108 of the NPPF states that in accessing applications it should be ensured that appropriate opportunities to promote sustainable transport modes can be taken up, that safe and suitable access to the site can be achieved for all users and that any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 7.19 Policy GD8 of the HLP requires developments to ensure safe access, adequate parking and servicing areas, and to provide the safe, efficient and convenient



movement of all highway users. Policy IN2 of the HLP states that development proposals should have regard to the transport policies of the Local Transport Authority. Commercial development proposals will be permitted, subject to the provision of safe access, servicing and parking arrangements having regard to highways authority guidance and standards (the supporting text of the policy refers to the Leicestershire County Council Highways Design Guidance) and measures to facilitate and encourage safe access by cycle and on foot. Policy CAF2 of the GBNP supports extensions of existing community facilities provided that the development will not result in unacceptable traffic movements and will not generate a need for parking that cannot be adequately catered for.

- 7.20 The applicants have submitted a 'Transport Statement', additional highways information and a 'Supplementary Planning Statement' as well as revised plans these have been reviewed and LCC Highways (LHA) have commented on the proposal. It is noted that a number of objection comments refer to the loss of parking and resultant highway implications and a number of photographs showing the prevalence of on street parking in the area have been submitted. The LHA have noted that one personal injury collision (PIC) has been recorded in the locality of the application site in the last five years, this was classified as slight in severity. LCC records show six complaints have been received regarding parking in the area.
- 7.21 The proposal seeks to utilise the existing site access with the existing gates removed to enable a free-flowing access. The LHA have stated that the removal of the gates (including pedestrian gates) could raise the issue of conflict points between the vehicles and pedestrians, however, this is not maintained as a reason to refuse the application. Considering the gates would presumably be open during opening hours when operational, the loss of the gates is not judged to create any additional harm to highways safety. The LHA have raised no issues with achievable visibility splays, however, acknowledge that on street parking by privately owned vehicles and vehicles delivering to the Red Lion could restrict visibility in both directions.
- 7.22 The proposed courtyard is sited on the Red Lion car park and would result in the loss of parking on site. It is noted that there are discrepancies in the submission itself and between the previously submitted application 20/01468/FUL in relation to the former number of parking spaces. The application form submitted as part of 20/01468/FUL stated that there were 8 existing off street car parking spaces. This corresponds with drawing number L316-BRP-00-00-DR-A-0408-P01 provided to the Local Planning Authority (LPA) and LHA on 15 November 2020, this was labelled Site Plan Existing Car Parking Arrangements. However, the additional highways information provided by the applicant later states that there were not 8 car parking spaces. Moreover this identifies that there is no current condition or obligation requiring the Red Lion to provide car parking.
- 7.23 As outlined in the LHA comments given that the northern end of the car park, proposed to house 6 car parking spaces is approximately 212 square meters and the total former car parking area is approximately 422 square metres, it is in the opinion of the LHA that 8 theoretical car parking spaces could be achieved in the former car park. Based on this advice, acknowledging the information submitted by the applicants, the LPA still consider that the existing situation and former car park provided for 8 car parking spaces as originally stated.
- 7.24 During the course of the application the applicants have amended the car parking area, it was initially proposed to accommodate three parking spaces but is now proposed to accommodate six parking spaces, an improvement to the initial submission. The car parking area would be reduced by almost half, but this equates to a loss of two spaces.



In the absence of vehicle tracking it is unclear whether the six spaces and turning are themselves usable. The applicants proposed that one car-parking space would be for staff with the other five being customer car parking spaces.

- 7.25 The application includes an assessment of pre-Covid-19 capacity for comparison with the Covid-19 capacity including the courtyard seating area. For completeness/reference this is included below:

Description	Pre Covid-19	Covid-19 with courtyard
Inside dining tables	50*	Max 22
Casual seating/bar stools/standing	40*	N/A
Garden and decking	140	80
Living accommodation (5-bedroom bathroom self-contained first floor flat) 2	8	1
Quadrant courtyard	N/A	48
<b>TOTAL</b>	<b>238</b>	<b>129</b>

\*The fire risk assessment carried out in July 2020 states that the maximum number of customers and employees on the ground floor is not expected to exceed 160. By substituting this figure the pre-Covid-19 capacity of The Red Lion is in excess of 300.

\*\*Please note officers consider there is an error in the table, the total column for Covid-19 with courtyard should total 151.

Owing to a need for social distancing both internally and externally, including allowing for table service only, clear access routes it is understandable that the capacity for customers is reduced during the Covid-19 pandemic. However, the proposal is no longer for temporary consent, the LPA must consider the impact of the proposal beyond the pandemic, whereby the pub itself would be reopened and as such the quadrant courtyard would accommodate an estimated additional 48 customers. The data provided shows the current customer levels are estimated at 238 customers, with eight car parking spaces provided. If the application were granted, a further 48 customers could be accommodated with the loss of two off street car parking spaces.

- 7.26 In terms of floor space the application forms for both the previous application 20/01468/FUL, and 20/01884/FUL both show the existing floor space to be 208 square metres, and proposed floor space to be 223 square metres, which would be an increase in 15 square metres. Having scaled off the submitted drawings, it is the opinion of the LHA and planning officer the increase is approximately 57 square metres. This figure does not include the internal courtyard area which could be used for further seating.
- 7.27 The LHA have advised that as a guide the Highway Requirement for Development Part 4 defines the level of parking to be 1 customer car space per 4 square metres of public area, plus one staff car space per 10 tables or 40 sq. metres. Furthermore, that space shall be provided for loading and unloading of service and delivery vehicles clear of the public highway. Given this, the LHA authority have advised that the applicant should consider provision for 15 customer spaces and 2 staff parking spaces for an extension of this size. Clearly this requirement for parking would exceed the former parking provisions on site, however, in assessing the current proposal on its merits alone what is clear, is that the proposal represents an increase in covered floor space of approximately 57 square metres, an increase in capacity of approximately 48 persons yet a reduction of two parking spaces.
- 7.28 Initially the LHA also advised refusal owing to a failure to demonstrate that safe and suitable access arrangements can be provided for vehicles servicing the site. As outlined in the LHA consultation response given the additional information presented by the applicants regarding deliveries, it is accepted that they have been historically undertaken on the highway and therefore the proposal presents no additional harm in respect of vehicles servicing the site.

- 7.29 In accordance with the advice of the LHA due to the shortfall in off-street car parking spaces to be provided, the site location and current high levels of on street parking in the vicinity, the LHA consider the application to be contrary to Highway Requirements for Development Part 4 and NPPF paragraphs 108 and 109. As the proposal does not result in the provision of safe servicing and parking arrangements the proposal is also contrary to policies GD8 and IN2 of the HLP and policy CAF2 of the GBNP.
- 7.30 The provision of new cycle storage is a benefit of the proposal; it would not in itself mitigate the highways harm but would perhaps encourage customers to access the facility using sustainable means of transport which is supported by the HLP and NPPF. In addition, it is noted that the proposal includes a disabled access ramp and disabled WCs which would be beneficial. Although there are concerns as to how wheelchair users would access this ramp and the WCs considering the loose bound gravelled garden and parking area. Furthermore, in coming to this conclusion it is acknowledged that on street parking is commonplace within Great Bowden and that other facilities/amenities do not have car parks however; this is not considered to set a precedent or justification for further on street parking.
- 7.31 In accordance with NPPF paragraph 54 LPAs should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The LPA (and LHA) have considered whether such conditions exist. In particular the applicant has provided three suggested conditions to overcome the highway concerns, these are contained in Section 5 (page 5) of the 'Supplementary Planning Statement' and have been reviewed specifically below. The first suggested condition is no longer judged to be necessary as the servicing arrangements are judged to be acceptable. The subsequent suggested conditions are copied below for completeness and are suggested to overcome the lack of parking:
1. *The total number of customers on the Red Lion site shown edged red on plan [X] (the **Red Lion Site**) at any one time shall not exceed [X]. A written record of the daily maximum number of customers present at the same time on the Red Lion Site shall be made and such data retained for at least 12 months.*
  2. *The development hereby permitted shall not be used by customers unless the five customer car parking spaces and 1 staff car-parking space indicated in the north-western part of the Red Lion site shown edged red on plan [X] are available for 5 x customer car parking/occupied by cars of customers and 1 x staff car parking present on the Red Lion Site at all times when the development is open to customers.*
- 7.32 Paragraph 55 of the NPPF alongside National Planning Policy Guidance 'Use of Conditions' makes it clear that planning 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. These tests are commonly referred to as the 6 tests and each of them need to be satisfied for each condition which an authority intends to apply. As outlined in paragraph 005 of the 'Use of Conditions' guidance any proposed condition that fails to meet one of the 6 tests should not be used and this applies even if the applicant suggests or agrees to it.
- 7.33 Suggested condition number 2 or a variant of this, would meet the 6 tests and would be suggested were the proposal otherwise acceptable. However, suggested condition number 1 would not meet the 6 tests. The applicant proposes a ceiling on customers of 200 customers on site (although is open to discussion on this figure). This condition would in effect secure that the historic upper limit of customers (prior to the installation of the courtyard) would not be exceeded and therefore there would be no intensification

in the use of the site as a whole. Thus, in the applicants view, rendering the highway concerns not valid.

- 7.34 Officers consider that the 6 tests are not met for the following reasons. Firstly, limiting the customers to a historic level would not overcome the loss of two parking spaces. Secondly, planning conditions must be reasonable. A condition limiting the number of customers below that which could normally access and enjoy the Red Lion (pre and post the Covid-19 pandemic) would be unduly restrictive. It would also effectively nullify the benefit of the permission in that the proposal would not provide for any expansion to the business in terms of customer numbers. Thirdly, such a condition could not properly be enforced. It would be entirely impractical to monitor the number of customers on site and the condition poses severe difficulties in proving a contravention. For example, once reopened the pub would have two entrances/exits, generally there is a reasonably high and frequent turnover of customers and unlike a restaurant patrons would move around the facility making it severely difficult to monitor the number of customers on site.
- 7.35 The LPA have therefore assessed whether conditions could overcome the highway concerns, however these would not meet the 6 tests. In particular the suggested condition limiting the number of customers would be unduly restrictive on the proper running of the business and is therefore unreasonable. The condition would also not be enforceable. The applicants have suggested the use of planning obligations as opposed to planning conditions, however, for the reasons outlined above such obligations would not meet the required tests, namely they would not be '*fairly and reasonably related in scale and kind to the development*'. In the absence of suitable planning conditions/obligations the proposal is judged to be contrary to Highway Requirements for Development Part 4, NPPF paragraphs 108 and 109, policies GD8 and IN2 of the HLP and policy CAF2 of the GBNP.

### 3. Residential Amenity

- 7.36 Policy GD8 of the HLP states that developments should not cause significant adverse harm to neighbouring amenity through overshadowing, overdominance or loss of privacy. Nor should developments generate a level of activity, noise, vibration, pollution or unpleasant odour emission which cannot be mitigated to an appropriate level and so would have an adverse impact on amenity and living conditions. Similarly, policy H6 of the GBNP states that proposals should minimise the impact on general amenity given careful consideration to the above factors outlined in GD8. Policy CAF2 of the GBNP states that the extension of existing community facilities and amenities will be supported provided that the development will not result in unacceptable noise, fumes, smell or other disturbance to residential properties and would not result in a significant loss of amenity to local residents or other adjacent users
- 7.37 The proposal is judged to be of a scale and with sufficient separation from surrounding residential properties to minimise overlooking, loss of light or overdominance as a result of the additional structure. Users of the courtyard would not overlook surrounding residential gardens to the north and west owing to the screening provided by the converted containers, with no openings proposed in these elevations. No openings are proposed in the southern elevation, and whilst the eastern elevation is open, views from this aspect to the neighbouring garden to the south and east are similar to those from the current pub garden which is bounded by a 1.8m close boarded fence. It is acknowledged that the structure will be visible from those properties to the immediate north, opposite the site entrance, however, a loss or change to a view is not a material planning consideration. The separation distance is in excess of 30m from the front gardens of these properties, which is sufficient to minimise an overbearing impact.

- 7.38 The HDC Environment Team were consulted and initially raised concerns about the impact of the shelter upon neighbouring properties; specifically, in relation to noise generated from patrons using the shelter and also potential intrusion from artificial lighting.
- 7.39 The proposed shelter is adjacent to the pub garden, where patrons could sit outside in the vicinity of the proposed development. The former car park may also have generated noise through the comings and goings of cars and people in the past. Notwithstanding this, the shelter aims to seat up to 48 people in a sheltered, lit environment which is considered to encourage the external use during times when at present patrons may not usually sit outside. The proposal is therefore considered to intensify the use of the wider outdoor area. The current licence for the premises stipulates that the beer garden can be used until 23.00hrs, it is understood that the use of the shelter would also be restricted to this time under the licence and a planning condition to that effect is also considered necessary to avoid noise and disturbance at night. The applicants have themselves suggested such a condition in the Supplemental Planning Statement, limiting use to between 1100hrs and 2300hrs.
- 7.40 In respect of potential noise generation, any music played or the use of the shelter as a stage for performance of music ie bands, karaoke etc would be of concern. However, it is considered this could specifically be mitigated through use of a planning condition prohibiting this within the shelter. Again the applicants have suggested an appropriate condition limiting the playing of amplified/recorded or live music. Other noise generation would occur from patrons themselves, ie through talking, laughing and shouting which is also a clear concern of the HDC Environment Team. The Environment Team have stated that noise from patrons is unpredictable and difficult to assess and condition. Therefore, we are effectively relying on the acoustic properties of the enclosure to protect local residents. The Environment Team therefore suggested that the applicant approaches an acoustic consultant to assess the appropriateness of the insulation, to ensure that it is fit for purpose and able to protect local residents from noise intrusion. An Environmental Noise Assessment Report has been submitted.
- 7.41 The methodology for the assessment is outlined within section 2.9 of the Noise Assessment Report. *'The methodology for the assessment was to replicate the noise associated with typical pub beer garden activities, with a reading taken adjacent to each of the affected boundaries, together with noise readings within the courtyard as a base level for comparative purposes. By comparing noise readings outside of the quadrant with those recorded within the courtyard, it will be possible to gauge the acoustic properties of the structure in-situ. An ambient beer garden sound effect was obtained, which was played (on loop) at a constant noise level throughout the assessment (55dB(A) – 60dB(A)). The sound effect consisted of general loud conversation/laughter, glass collecting, drinks being ordered/collected.'* The noise survey was carried out during the daytime and readings were taken from 7 monitoring positions (Fig.8).

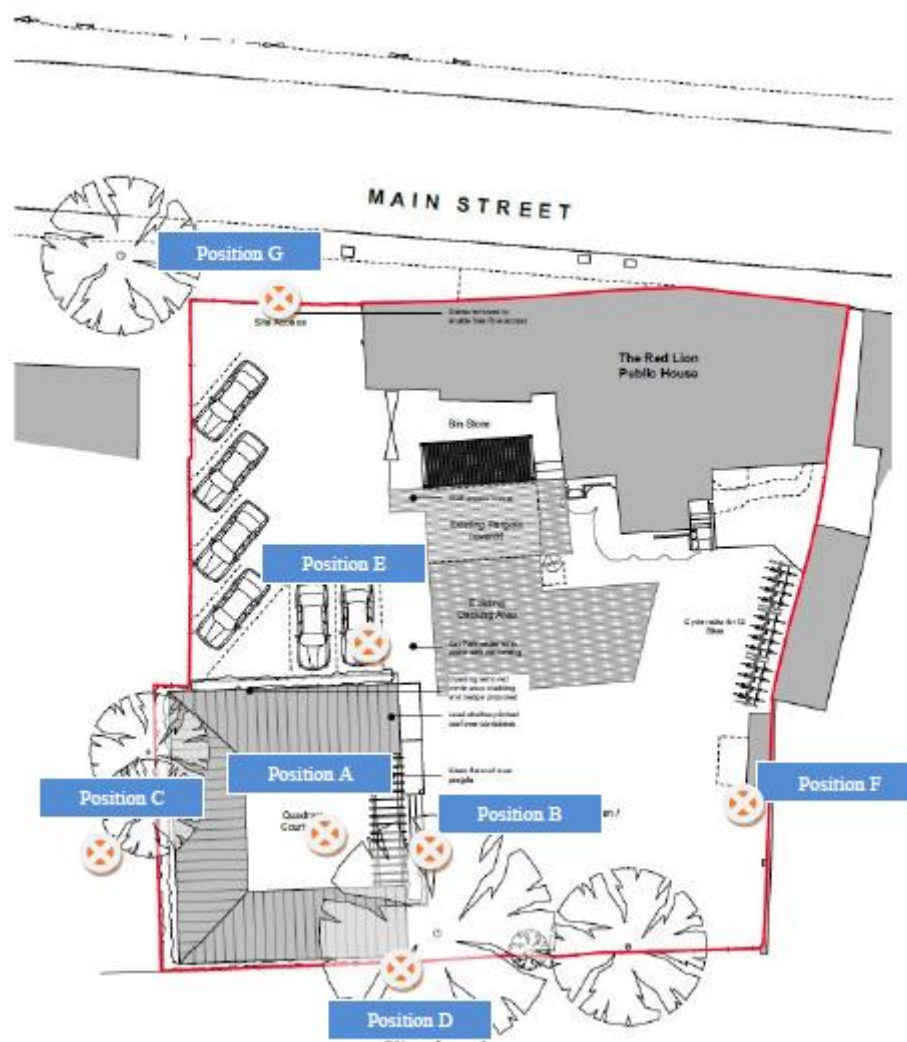


Figure 8. Site Plan with monitoring positions from the Environmental Noise Assessment Report

- 7.42 The results of the submitted assessment state that 'with the combination of distance and the acoustic properties of the quadrant structure, an attenuation of around 20dB(A) could be expected. When looking solely at the attenuation due to the structure it is expected that a reduction of noise levels in the order of 8.2dB(A) would be expected. Thus, proving that the quadrant structure Offers a significant noise reduction over the existing (pre-quadrant) conditions, and should be seen as a positive measure to reduce the impact of noise generated within the pub garden, and its effect on the residents of the neighbouring properties.'
- 7.43 As outlined in the initial Environment Teams comments the type of noise generated in a pub garden is difficult to quantify and to assess. However, informally the Environment Team have said that overall the report demonstrates that the structure would provide moderate/significant attenuation to the type of noise expected in a beer garden, versus no structure/what is there now. Should any further EHO confirmation or clarification be received that will be reported via the Supplementary Papers. As outlined above the structure is located on the former carpark immediately adjacent to the pub garden which when operational generates noise. The courtyard area will extend and expand the outdoor facilities, however, based on the comments before us the enclosed nature of the structure provides 'moderate/significant attenuation' to the type of noise expected in a beer garden. Policy GD8 of the HLP states developments should be

*‘designed to minimise impact on the amenity of existing and future residents by not generating a level of activity and noise...which cannot mitigated to an appropriate standard and so would have an adverse impact on amenity and living conditions’.*

Policy H6 of the GBNP states that proposals should minimise the impact on general amenity given careful consideration to the above factors outlined in GD8. Policy CAF2 of the GBNP states that the extension of existing community facilities and amenities will be supported provided that the development will not result in unacceptable noise or other disturbance to residential properties and would not result in a significant loss of amenity to local residents or other adjacent users. It is concluded that the design of the structure is considered sufficient to mitigate additional noise to an appropriate standard which would therefore not have a significant adverse impact on the amenity and living conditions of surrounding residents. As above should any further EHO confirmation or clarification be received that will be reported via the Supplementary Papers

- 7.44 No details with regards to external lighting have been submitted as part of the proposal. The HDC Environment Team and applicants have agreed that details of lighting could be dealt with by way of condition requiring details of lighting to be submitted prior to its installation. All external artificial lighting would be required to comply with the requirements of the Institution of Lighting Professionals Guidance 01/20.
- 7.45 Finally in terms of odour, no cooking is currently proposed within the shelter. As with music, it is considered that a condition to prevent cooking/BBQ's from taking place on/within the shelter would be sufficient to mitigate local residents suffering any nuisance from cooking odours and smoke.
- 7.46 To conclude, the proposal is judged to comply with policy GD8 and HLP and policies H6 and CAF2 of the GBNP subject to the conditions outlined above.

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

### **8.1 Sustainable Development**

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

- **Economic**

The proposal would provide for some limited new economic development during construction and, once built, would help the Red Lion to continue to contribute to the local economy including through job retention. The proposal would provide for an extension to the Red Lion which is an Asset of Community Value, enabling the facility to expand. It is considered that the proposal could help create the conditions in which the businesses can invest, expand and adapt and this is given significant weight in accordance with paragraph 80 of the NPPF. However, should the customer numbers be restricted by condition the economic benefits of the proposal would be reduced and the weight afforded to this reduced in turn.

- **Social**

As above the proposal would expand the Red Lion which is an important amenity facility for Great Bowden, helping to support the community facilities. The proposal includes the provision of disabled WCs and accessible seating areas which would increase the accessibility of the site for all members of the community (although the gravelled parking and garden areas may be difficult for wheelchair users to navigate). However, as outlined in the report the

residual cumulative impacts of the development on the highway are considered to be severe. The applicant has failed to demonstrate that significant impacts from the development on the transport network in terms of displaced and additional parking demand can be mitigated. This is considered to have negative impacts on the safety of the surrounding community environment. In addition, has not been demonstrated that additional noise and disturbance to surrounding residents could be mitigated and subject to conditions no significant adverse impact to neighbouring residents is found.

- Environmental

The Red Lion is located in a sustainable location, accessible by walking and other sustainable means of transport by the local community, the provision of additional bicycle storage would enhance cycling opportunities. The proposal is also considered to preserve the character of the conservation area and significance of nearby Listed buildings, the development is not judged to harm the natural, built and historic environment (subject to conditions).

- 8.2 To conclude, significant weight is placed on the need to support economic growth and productivity. However, as outlined in the report the residual cumulative impacts of the development on the highway are considered to be severe. The applicant has failed to demonstrate that significant impacts from the development on the transport network in terms of displaced and additional parking demand can be mitigated. The proposal therefore conflicts with NPPF paragraphs 108 and 109. As the proposal does not result in the provision of safe servicing and parking arrangements the proposal is also contrary to policies GD8 and IN2 of the HLP and policy CAF2 of the GBNP.
- 8.3 The economic and partly social benefits of the proposal through the expansion of the Red Lion are not considered to outweigh the above impact. Furthermore, planning conditions cannot be utilised to overcome the reasons for refusal and the application is therefore recommended for refusal.