

Planning Committee 19th September 2023
Report of the Head of Planning (Development Management)

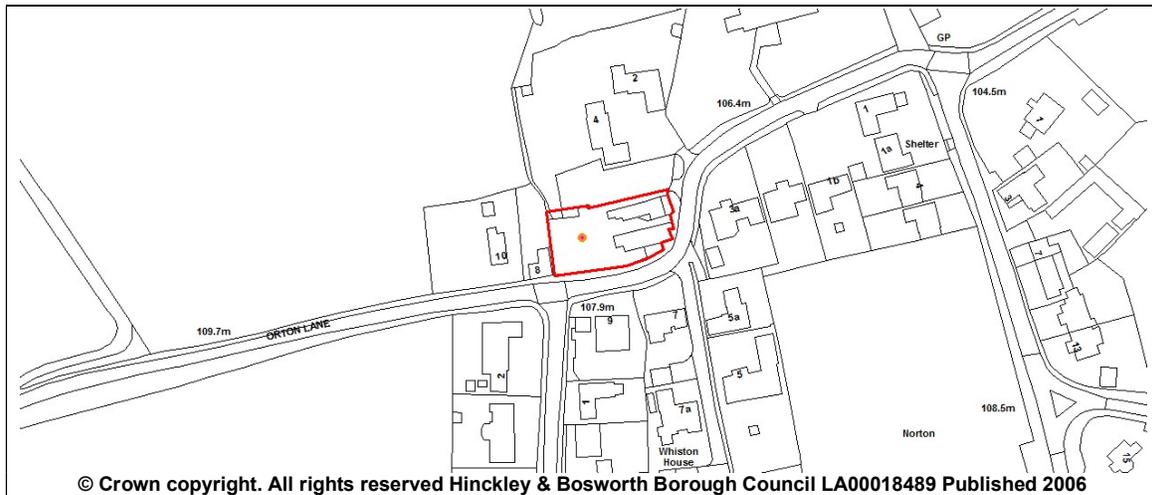


Hinckley & Bosworth
Borough Council

Planning Ref: 21/01146/FUL and 22/00563/LBC
Applicant: Mr Andrew Forsythe
Ward: Twycross, Sheepy & Witherley

Site: Moore's Arms, Orton Lane, Norton Juxta Twycross

Proposal: Partial demolition and change of use of a former public house (Grade II Listed) into 1no. dwellinghouse. Demolition of associated outbuilding. Construction of 2no. new dwellings and associated garages.



1. Recommendations

- 1.1 That the application be approved subject to:
 - a) Confirmation of acceptance of a scheme to Natural England in terms of nutrient impact on the River Mease SAC;
 - b) The conditions contained in this report
- 1.2. That the Head of Planning be given powers to determine the final detail of the conditions

2. Planning application description

- 2.1. The application seeks full planning permission for alterations to the Moore's Arms to facilitate its change of use from a public house to one dwelling, the demolition of an existing outbuilding within the curtilage of the Moore's Arms with the erection of a replacement building to provide one dwelling, the erection of one further dwelling and the erection of garages to serve the development.
- 2.2. The sole element of demolition for the pub would be the removal of the toilet block abutting the western gable which is a flat roofed extension of no historic or architectural interest. The proposed alterations and works to facilitate the change of

use are limited in scope and extent and would result in a modest alteration to the plan form of the building and would not materially alter its character or appearance.

- 2.3. The historic outbuilding to the north of the Moore's Arms is to be demolished and be rebuilt on a predominantly like-for-like basis, other than for some minor alterations to the number, style and location of fenestration, removal of small single storey extensions off the western gable, and the addition of a flat roofed garage to the side.
- 2.4. The detached two storey dwelling (plot 3) would be sited within the former garden to the pub located within the south-western corner of the wider site and opposite the junction of Orton Lane with Cock Lane. A new vehicular access would be created off Orton Lane in between plot 3 and the converted pub (plot 1) with a car port/garage block serving both plots to the rear of a shared access drive.
- 2.5. A detached two-storey dwelling was approved via permission 21/00537/OUT and 23/00005/REM to the north of this site but within the wider ownership and curtilage of the site.
- 2.6. The application has received six objections and therefore meets the threshold to be determined by Planning Committee.

3. Description of the site and surrounding area

- 3.1. The application site is located at the junction of Orton Lane and Cock Lane and on a bend of Orton Lane towards the north-west of the village. To the north-east of the site is the Church of the Holy Trinity and its associated churchyard. The street scene of Orton Lane has a mixed character, which consists of the Church, churchyard and the 18th century buildings upon and adjacent to the application site reflecting the historic development of Norton Juxta Twycross, and the plots in between having been developed during the late-20th to early-21st centuries with large predominantly two-storey detached dwellings of varying architectural styles including gabled designs and those with locally distinctive eyebrow dormer windows.
- 3.2. The Moore's Arms is a grade II listed building of special historic and architectural interest. The listed building entry identifies the building as: "*Public house. Mid to late C18. Painted brick with plain tile roofs and brick end stacks. 2 storeys with first floor band. 2 window front: 3-light glazing bar casements with segmental-headed openings. Plain central door with segmental headed opening. Single-storey single-bay brick wings to left and right; the former has a flat roofed canted bay, and the latter a glazing bar casement to the centre and a door to the left. Interior: Chamfered ceiling beams. Open fireplace with salt and spice boxes.*"
- 3.3. The Moore's Arms is located within the south-eastern corner of a large plot which also includes an existing outbuilding immediately to the north, and areas of former car parking and garden land that served the pub further to the north and within the western section of the site. The large plot is considered to form the curtilage of the pub. The outbuilding immediately to the north of the pub was historically a pair of cottages with attached rear range, likely being a barn, that appears contemporary in age to the pub. The outbuilding was within the same ownership and within a use ancillary to the function of the pub at its time of listing in 1989 and given such a use and function and its physical proximity to the pub it is considered that the outbuilding is a curtilage listed structure also covered by the listing of the pub. The

outbuilding is a building of historic and architectural interest, which despite its generally poor state of repair sits comfortably besides the pub and contributes positively to the character of the historic core of the settlement.

- 3.4. The Church of the Holy Trinity is a grade II* listed building and lies approximately 70m northeast of the site. The overall significance of the 14th century church is principally derived from its architectural and historic interest, which is experienced both internally and externally. The church is surrounded by a large, raised churchyard which extends southwards to Orton Lane, being bound from the lane by lengths of brick and stone walls. The application site is divided from the churchyard by the former pub car park and the vehicular entrance to no's 2 and 4 Orton Lane. As these dwellings are set back from the lane there is a clear intervisibility between the application site, the church and the churchyard.

4. Relevant planning history

- 4.1. The application site has the following relevant planning history:

23/00005/REM

- Approval of reserved matters (Appearance Layout and Landscaping) following Outline Approval 21/00537/OUT for 1 dwellinghouse
- Permitted
- 15.02.2023

21/00537/OUT

- 1No. Dwellinghouse
- Permitted
- 17.11.2022

95/00155/FUL

- Erection of a dwelling
- Permitted
- 09.03.1995

5. Publicity

- 5.1. Neighbours have been notified of the application and a site notice was erected.
- 5.2. Six objections for the FUL and three objections for the LBC have been received making the following comments:

- Outbuilding should be restored and not demolished and rebuilt (FUL & LBC)
- Loss of the pub is detrimental to the hamlet (FUL & LBC)
- Insufficient and unsafe access capability (FUL & LBC)
- Plot 3 will have negative amenity impact on Rose Cottage (FUL)
- Increased flood risk (FUL & LBC)
- Sewage capacity (FUL & LBC)
- Bat survey needed (FUL)
- Hedgerow along Orton Lane must not be removed (FUL)
- Light pollution concerns (FUL)

6. Consultation

6.1. Twycross Parish Council (FUL & LBC) – Twycross Parish Council reaffirms its view that the former Moore's Arms pub should be used as a community pub if a sound business case is put forward and believes that whatever development takes place on the site is in character and addresses parking and highways issues whilst respecting the privacy of immediate neighbours.

6.2. LCC Highway Authority (FUL)–

16.11.21:

Request for further information regarding visibility splays, Plot 2 relationship with highway, Location of Plot 3 and proposal to extend footway to Plot 3.

08.08.2023:

Following the submission of plans indicating acceptable vehicle tracking and visibility splays, the LHA confirmed that they have no objections to the proposal subject to conditions.

6.3. LCC Archaeology (FUL & LBC) – No objection subject to condition (WSI).

6.4. LCC Ecology (FUL & LBC) –

28.09.22

The ecology report (Focus 2021) is acceptable as a preliminary report. Evidence of bats in both the pub buildings was found in March 2021.

Further surveys of a large willow and the two buildings is recommended by the ecologist and are required. Mitigation will be needed for demolition and conversion; the extent and nature of this will depend on the results of additional bat emergence surveys. An appropriate licence from Natural England will be needed. In accordance with ODPM 2006/05, the additional surveys are needed before determination. They will also be needed in order to obtain a licence. There has been plenty of time to do these since March 21, but the applicant should understand that the active bat season has now expired, and the required follow-up surveys cannot be done until next Spring.

02.08.23

The plans submitted are of sufficient detail. Overall, this is an excellent example of a bat mitigation scheme. Conditions recommended.

6.5. HBBC Waste (FUL)– No objection. Condition recommended.

6.6. HBBC Drainage (FUL)– No objection including notes to applicant.

6.7. HBBC Environmental Services (FUL)– No objection – contamination condition recommended.

6.8. HBBC Conservation Officer (FUL & LBC) – No objection – comments incorporated into this report.

6.9. Historic England (LBC) – No comment.

- 6.10. Hinckley CAMRA (FUL) – Objection - *this planning application would involve the irreplaceable loss of an important community asset in a small rural settlement of the Borough where there are precious few facilities to contribute to the vibrancy and sustainability of the area, which are principles at the heart of local and national planning policy.*

Notwithstanding the fact that this public house has been closed for some time, it has not been used subsequently for any other purpose so its community asset status remains and should be retained at all costs. Adopted policies require the applicant to demonstrate beyond doubt that the existing lawful use is no longer viable before a proposal to reuse and redevelop for residential purposes is even entertained. The supporting information submitted with the application fails to do so.

The report of historic planning applications which were withdrawn for unknown reasons date back 16 years and no evidence has been provided to demonstrate that the site has been marketed by specialist commercial agents and offered for sale at a realistic price reflecting its lawful use and its condition, for a reasonable length of time. This is the least the Council should insist upon before planning permission is considered. Other supposed supporting information is inuendo and speculation and without proper evidence to back up the claims of unviability, the Borough Council should refuse this proposal out of hand as being contrary to their adopted policy DM25 and the overarching principles of the NPPF (2019), designed to protect community assets and prevent settlements becoming merely housing for nearby larger centres.

- 6.11. Natural England (FUL) - *As submitted, the application could have potential significant effects on The River Mease Special Area of Conservation (SAC), Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.*

The following information is required:

- A nutrient budget must be calculated for the development (using the River Mease Nutrient Calculator) & where appropriate, mitigation measures must be put in place to achieve Nutrient Neutrality for this development.

- Details of surface water drainage proposals. Without this information, Natural England may need to object to the proposal. Please re-consult Natural England once this information has been obtained.

7. Policy

7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets

7.2. Site Allocations and Development Management Policies DPD (SADMP) (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

- Policy DM25: Community Facilities
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
 - Self-Build and Custom Housebuilding Act 2015
- 7.5. Other relevant guidance
- Good Design Guide (2020)
 - Highway Design Guide
 - National Design Guide (2019)

8. Appraisal

- 8.1. It is considered that the key issues in the determination of this application are:
- Principle of Development
 - Design and Impact upon the Character of the Area
 - Impact upon the significance of heritage assets
 - Impact upon residential amenity
 - Highway Safety
 - Ecology and Biodiversity
 - Other matters

Principle of Development

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.3. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Due to this and the change in the housing figures required for the Borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the NPPF whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.4. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Norton-Juxta-Twycross is identified as a Rural Hamlet in the adopted Core Strategy where development will be confined to infill housing, local choice schemes and the conversion of agricultural buildings to employment.

- 8.5. The application site is located within the settlement boundary of Norton Juxta Twycross, which has limited local services, but good access to facilities, services, employment, and sustainable modes of transport. Thus, the principle of residential development is generally accepted in the proposed location, subject to satisfying all other relevant policies and material planning considerations.
- 8.6. Regarding the partial demolition and change of use of the former pub, Historic England Advice Note 2 states that the best way to conserve a building is to keep it in use, or to find an appropriate new use if it has passed out of use. It is therefore considered that whilst the long-established historic pub use of the building would be lost via its conversion to a dwelling, the change of use is not considered to be harmful in principle subject to the works required to facilitate its conversion being compatible with its significance.
- 8.7. Officers acknowledge and have considered Hinckley CAMRAs objection on the basis that the proposal would involve irreplaceable loss of an important community asset and would conflict with Policy DM25 of the SADMP. The LPA is satisfied that the pub is no longer viable and that the social benefit of providing three additional market dwellings would help to mitigate the loss of the community facility. Furthermore, the pub is not designated as a Community Facility under DM25 of the SADMP, and the proposal is therefore not considered to conflict with this policy.
- 8.8. Regarding the demolition and rebuild of the curtilage listed outbuilding, the structural survey and dilapidation report submitted with the application has concluded that the outbuilding is in a state of structural decay and is it not viable to convert or bring back into a beneficial use, so there is justification for its proposed loss. It is to be rebuilt on a predominantly like-for-like basis which would largely reflect the appearance of the current building, as well as providing a residential use which likely reflects the original use of the building and is therefore considered acceptable in principle.
- 8.9. Notwithstanding the development plan's housing policies being out of date, the remaining policies in the Site Allocations and Development Policies DPD and the Core Strategy are attributed significant weight as they are consistent with the NPPF. In this case the principle of development accords with the aforementioned policies of the Development Plan which is attributed significant weight.

Design and Impact upon the Character of the Area

- 8.10. Policy DM10 requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features. Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.11. The Good Design Guide outlines that built development on infill sites should be of similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development.
- 8.12. The proposed additional building (Plot 3) would have a side-gabled form, with locally distinctive eyebrow dormer windows and a two-storey rear extension. Further detailing would include a canopy over the front door, two chimneys, soldier course

window headers and cill detailing to the front elevation, and eaves brick detailing across all elevations, which would add architectural interest and is supported. This would result in a dwelling of a modern appearance, reflecting the design and detailing of other historic buildings near the site, particularly the neighbouring pub and outbuilding. The ridge height of 7.5m and eaves height of 4.5m is similar to neighbouring Rose Cottage to the west, and the dwelling is considered to sit harmoniously within the street scene. The two-storey storey rear extension would result in a larger 'family' home with an overall floor space which is average for a 4-bedroom dwelling. The layout and floorspace is considered in keeping with the surrounding built form.

- 8.13. The outbuilding (Plot 2) is to be rebuilt on a predominantly like-for-like basis and would relate well to the existing pub and wider site, resulting in an enhancement to the street scene due to the current disused and dilapidated appearance of the building. To ensure that the character and appearance of the new dwelling preserves the setting of the adjacent listed building the Moore's Arms, all external materials for the construction of Plot 2 will be provided and agreed prior to the commencement of the development to ensure that the character and appearance of the new dwelling preserves the setting of the adjacent listed building the Moore's Arms.
- 8.14. As explained earlier in this report, the sole element of demolition for the pub would be the removal of the toilet block abutting the western gable which is a flat roofed extension of no historic or architectural interest. The proposed alterations and works to facilitate the change of use are limited in scope and extent and would result in a modest alteration to the plan form of the building and would not materially alter its character or appearance. The external works to change the windows and repaint the building will result in the visual enhancement of the building and is considered acceptable.
- 8.15. The proposed garage and car port features a pitched roof and green oak columns and would incorporate the necessary bat mitigation equipment as advised by the submitted bat surveys and LCC Ecology. The structure would have a traditional and harmonious appearance, set back into the site to reduce its prominence when viewed from the street.
- 8.16. Overall, it is considered that the proposal will result in the enhancement of the appearance of the buildings and will make a positive contribution to the character of the area and the street scene, thus complying with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon the significance of heritage assets

- 8.17. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities to pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area.
- 8.18. The proposal to redevelop the Moore's Arms and the wider site will directly affect the listed building, its curtilage listed outbuilding, whilst also affecting its setting and the setting of other heritage assets within the vicinity.

The Moore's Arms

- 8.19. Alterations are proposed to the Moore's Arms to change it to a single dwelling. The permanent change of use of the Moore's Arms to a residential use will result in the loss of the long-established historic use of the building. The PPG advises that historic buildings should remain in active use to avoid the risks of neglect and decay, with recognition that this is likely to require sympathetic changes to be made.
- 8.20. The submitted plans demonstrate that the existing building is capable of conversion via modest alterations to the existing floor plans and internal fabric. The proposed ground floor plan reflects the current arrangement of rooms and circulation spaces, with changes being limited to the formation of a new internal entrance lobby, enclosing the bar space to form a utility room, and the insertion of a dividing stud wall to form a new bedroom and passageway to the stairs in the former sitting room. The chamfered ceiling beams, principal open fireplace and adjoining spice cupboards referred to within the listing description are to be retained. No significant alterations are proposed to internal fabric within or the floor plan of the first floor.
- 8.21. There are a range of window types and styles across the building. All are of a timber material but date from various periods during the 20th century, so none are significant historic fabric. The windows to the front elevation are traditionally styled three light casements whilst those to the side and rear elevations are standard casements. Similarly, the doors to the building also date from various periods of the 20th century and include solid doors to the front elevation. None of the doors are of historic or architectural interest. It is proposed to replace the existing windows to all elevations with timber double glazed windows in a like-for-like style with painted white frames. A single contemporary styled patio door is proposed to face the garden to the dwelling in the position of the removed toilet block. The doors across each elevation are proposed to be replaced with solid timber doors. The replacement of the windows and doors across each elevation is considered acceptable in principle. A condition requesting further details confirming the style, material, finish and profile of the windows and doors is to be provided and agreed prior to the commencement of the works to ensure that any replacements are sympathetic to the character and appearance of the building.
- 8.22. The building would benefit from a range of repairs including repainting the eastern gable end wall, removal of ivy from the western gable end wall and making good, repointing facing walls throughout, clay tile roof repairs, replacement flashing and flaunching, and replacement rainwater goods. The applicant has agreed that a range of repairs are required to the building and that such repairs, to be specified in a Schedule of Works, can be secured as part of the redevelopment of the wider site and undertaken prior to its full occupation to ensure they are completed.
- 8.23. It is considered that the change of use of the Moore's Arms to a residential use would bring the building back into a beneficial use that is consistent with its conservation. The proposed alterations and works to facilitate the change of use are limited in scope and extent and would result in a modest alteration to the plan form of the building, would not harm any important historic fabric, and would not materially alter its character or appearance. The proposed sensitive repairs would improve the condition of the building and be consistent with the long-term conservation of its historic built fabric. Consequently, the proposal is considered to be compatible with the significance of the listed building.

Curtilage listed outbuilding

- 8.24. The structural survey and dilapidation report submitted with the application has concluded that the outbuilding is in a state of structural decay and is it not viable to convert or bring back into a beneficial use, so there is justification for its proposed loss. Its rebuilding on a predominantly like-for-like basis would largely reflect the appearance of the current building, as well as providing a residential use which likely reflects the original use of at least the main front range, so it is considered on balance to be an appropriate approach for its redevelopment which will result in a neutral impact upon the curtilage listed outbuilding. Notwithstanding the details provided within the application form and upon the proposed elevational drawings details of all external materials for the construction of plot 2 should be provided and agreed prior to the commencement of the development to ensure that the character and appearance of the new dwelling preserves the setting of the adjacent listed building the Moore's Arms.
- 8.25. In addition, to avoid premature demolition of the outbuilding which would be harmful to the character and appearance of the area and the setting of the listed building, a condition is recommended to ensure that no demolition works shall commence until a contract has been let to carrying out the building operations.

Recording

- 8.26. As specified by Leicestershire County Council Planning Archaeology a programme of Historic Building Recording of the listed building and associated outbuilding prior to their alteration and loss is required to record and advance understanding of the significance of these heritage assets in a manner appropriate to their importance.

Setting considerations

- 8.27. The proposed new dwelling would have a simple rectangular plan form with symmetrical front elevation consisting of cottage style windows set either side of a central front door. The windows to the first floor would be of the locally distinctive eyebrow dormer style. The dwelling would have gable end chimney stacks. It would be finished in render with a clay tile roof. It is considered that the dwelling would be of an appropriate scale, form, design, and appearance that respects the local street scene and follows characteristics that are typical of historic development within the settlement. As for plot 2, notwithstanding the details provided within the application form and upon the proposed elevational drawings details of all external materials for the construction of plot 3 should be provided and agreed prior to the commencement of the development to ensure that the character and appearance of the new dwelling preserves the setting of the adjacent listed building the Moore's Arms.
- 8.28. The dwelling would be sited a short distance from the back edge of a new pavement to Orton Lane fronting the plot. This layout would reflect the urban grain and positioning of historic development within the wider settlement, including the adjacent Rose Cottage to the west, resulting in a plot that positively addresses the street scene. Due to its acceptable layout, scale, form, design, and appearance it is considered that the proposed dwelling would sit comfortably within the wider setting of the listed building the Moore's Arms and have no adverse impact upon its significance.
- 8.29. The car port/garage building to serve plots 1 and 3 would have a simple rectangular plan form with a dual pitched roof over the garage and timber framed car ports to the front. The building would be constructed of red brick with clay tile roof with vertically aligned garage doors. The building is considered to be of an appropriate

scale, form, design and appearance and the materials are to be confirmed via a condition. The building is sited a considerable distance back from the site frontage which would ensure that it would not be a dominant presence within the street scene and that the setting of the listed building the Moore's Arms would be respected. For these reasons the car port/garage block is considered to have no adverse impact upon the significance of the Moore's Arms.

- 8.30. Currently the site frontage to Orton Lane consists of varying treatments include native hedgerows, coniferous trees, brick walls, sections of which are historic, and timber fencing. The proposed site plan indicates that a range of soft and hard landscaping and boundary treatments are proposed to divide the plots within the application site and front Orton Lane. A detailed landscaping and boundary treatment plan is requested as a condition to ensure that the proposed treatments are appropriate to the amenities of the area and preserve the setting of the adjacent listed building the Moore's Arms. It is requested that sections of historic brick wall fronting the site are retained or rebuilt, with the remainder of treatments along Orton Lane supplemented by low brick walls and/or native hedgerows to reflect the characteristics of the area.
- 8.31. Due to the distance between the Church of the Holy Trinity and intervening built form plot 3 is not considered to fall within its setting. As the alterations to the Moore's Arms and the rebuilding of the curtilage listed outbuilding are considered to result in an appropriate redevelopment of the site it is considered that these elements of the proposal would maintain the setting of the Church of the Holy Trinity and result in no adverse impact upon its significance.
- 8.32. On the south-eastern side of the churchyard is a pair of stone effigies and the chest tomb of William Glen, both of which are grade II listed structures. Due to the distance between them and the application site and the lack of intervisibility due to the presence of churchyard vegetation the application site is not considered to fall within the setting of these structures, and it is considered that they would not be materially affected by an appropriate form of development on the application site.
- 8.33. In summary, it is considered that the change of use of the Moore's Arms to a residential use would bring the building back into a beneficial use that is consistent with its conservation. The proposed alterations and works to facilitate the change of use would respect key aspects of its historic and architectural interest alongside the implementation of a range of sensitive repairs improving the condition of the building and being consistent with its long-term conservation. Given the state of decay of the curtilage listed outbuilding its loss is justified with its rebuilding on predominantly a like-for-like basis to provide a new dwelling being appropriate for its redevelopment, which reflects its likely original historic use. The proposed dwelling (Plot 3) and car/port garage block to the west of the Moore's Arms are of an appropriate layout, scale, form, design, and appearance, and alongside the appropriate appearance of the rebuilt outbuilding and appropriate boundary treatments throughout the site would respect and maintain the setting of the adjacent listed building the Moore's Arms and the nearby listed building the Church of the Holy Trinity.
- 8.34. Overall, it is considered that the proposal is compatible with the significance of the grade II listed building the Moore's Arms, its associated curtilage listed outbuilding and the grade II* listed building the Church of the Holy Trinity. Consequently, it would comply with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Residential Amenity

- 8.35. Policy DM10 (a) and (b) of the SADMP states development will be permitted if it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.36. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable, and safe internal and external environment.
- 8.37. The proposed additional dwelling (Plot 3) would be sited adjacent to Rose Cottage to the west and both dwellings would form a similar footprint and layout, with a two-storey side gabled form and two storey rear extension. The rear extension on Rose Cottage would technically breach the 45-degree rule assessed against the rear elevation door/windows serving the living room and bedroom two of Plot 3. However, this is considered acceptable given the north facing orientation and given that there are other windows (south facing, front elevation) serving these rooms.
- 8.38. The first-floor windows serving bedroom 1 of Plot three face eastwards towards the pub garden and side elevation, with a distance separation of 8m to the garden boundary and 17m to the west elevation. It will be conditioned that these windows are obscurely glazed to ensure that there are no overlooking/loss of privacy concerns to Plots 1 and 2.
- 8.39. In terms of the relationship between Plot 1 and Plot 2, the north elevation of Plot 1 contains two bedrooms on the ground floor which face the south elevation of Plot 2. It is accepted that suitable boundary treatments would mitigate any overlooking issues, and the bathroom windows on the First Floor of Plot 2 would be obscurely glazed. The remaining central window on the First Floor of Plot 2 would not have a direct overlooking impact on the ground floor bedrooms of Plot 1.
- 8.40. It is acknowledged that the rear garden areas for Plots 1 and 2 are smaller than what would usually be expected for dwellings of this size (approximately 115sqm and 105 sqm). However, in the interests of making efficient use of the land it is considered that they are acceptable and would provide adequate amenity space for prospective residents. A condition to remove permitted development rights has been included to ensure that the gardens are not further minimised by extensions to the dwellings and to preserve residential amenity space in the future.
- 8.41. With the imposition of conditions, the proposal is considered to meet policies DM10(a) and (b) of the SADMP, the Good Design Guide SPD and national policy in the NPPF regarding neighbouring and occupier amenity.

Impact upon highway safety

- 8.42. Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision is appropriate to the type and location of the development.

- 8.43. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible.
- 8.44. Paragraph 111 of the NPPF (2019) outlines 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. Paragraph 112(e) of the NPPF states development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
- 8.45. Plots 2 and the already approved 'Plot 4' would be accessed via the existing access on Orton Lane, whilst a new access is proposed to serve Plots 1 and 3 approximately 50m south west of the existing access. The LHA are satisfied that the submitted plans show a suitable access width in accordance with the guidelines set in the Leicestershire Highway Design Guide (LHDG). The LHA request that the Applicant ensures that the access is at least 4.25 metres wide and are satisfied that this can be secured by way of a condition.
- 8.46. Regarding the internal layout, Plot 2 would share a turning area with the already approved 'Plot 4' (23/00005/REM and 21/00537/OUT) and would feature 3 parking spaces, one within an attached garage on the north side elevation. Plots 1 and 3 would share a garage/car port, driveway and turning area ensuring adequate parking and turning provision within the site from the new access.
- 8.47. Overall, the LHA considers that vehicular and pedestrian visibility splays are achievable for both accesses, the internal arrangement and parking provision for all plots is acceptable and therefore accords with Policies DM17 and DM18 of the SADMP.

Ecology and Biodiversity

- 8.48. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.49. The applicant submitted a preliminary ecological survey which documented evidence of roosting bats in both the pub and the outbuilding in March 2021. Further surveys of a large willow and the two buildings was therefore recommended by the ecologist.
- 8.50. Further surveys were undertaken and proposed a mitigation scheme for hibernating and roosting bats has been submitted. A bat loft is to be incorporated into one of the garages, along with a cavity wall hibernation roost and various integrated bat boxes in the new and reconstructed buildings. County Ecology stated that the submitted plans are of sufficient detail and that they demonstrate an excellent example of a bat mitigation scheme. In summary, the proposal is therefore considered to comply with DM6 subject to accordance with the recommended condition and acquisition of a European Protected Species Licence.

Other Matters

- 8.51. The proposed development lies within the catchment of the River Mease SAC, which is currently in unfavourable condition and is failing its conservation objectives.

This is because of numerous factors, including high levels of phosphorous in the water. Any addition of phosphorous from foul water (including via mains Sewage Treatment Works) or pollutants from poorly treated surface water will contribute to the site's unfavourable condition and the failing of its conservation objectives.

- 8.52. Natural England have been consulted and confirmed that the application could have potential significant effects on The River Mease Special Area of Conservation (SAC), Natural England therefore require further information to determine the significance of these impacts and the scope for mitigation. The following information has been requested:
- A nutrient budget must be calculated for the development (using the River Mease Nutrient Calculator) & where appropriate, mitigation measures must be put in place to achieve Nutrient Neutrality for this development.
 - Details of surface water drainage proposals.
- 8.53. It has been agreed with the agent and applicant that the application should be presented to Planning Committee with a recommendation for a resolution to grant planning permission subject to the above details being submitted and found acceptable by Natural England. This is to avoid any further delay with the determination of the application.

Conclusion

- 8.54. The Council cannot demonstrate a five-year housing land supply and therefore, in accordance with paragraph 11(d) of the NPPF permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF when taken as a whole.
- 8.55. The proposed development would result in the enhancement of the appearance of the existing buildings and will make a positive contribution to the character of the area and the street scene. There would be no harm to the amenity of neighbouring dwellings and the level of amenity provided to the prospective residents is considered acceptable, thus complying with Policy DM10 of the SADMP.
- 8.56. There would be no harm identified in terms of highway safety or ecology and biodiversity subject to conditions. Matters relating to nutrient neutrality are to be addressed with Natural England and planning permission would only be granted subject to Natural England removing their objection following the submission of additional information.
- 8.57. Regarding the Listed Building Application, it is considered that the proposal is compatible with the significance of the grade II listed building the Moore's Arms, its associated curtilage listed outbuilding and the grade II* listed building the Church of the Holy Trinity. Consequently, it would comply with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duty of Section 66 of the of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 8.58. In conclusion, subject to the further work to be undertaken regarding the River Mease SAC and further re-consultation and agreement with Natural England, it is considered that the proposed development is in accordance with the Policies DM1, DM6, DM7, DM10, DM11, DM12, DM17 and DM18 of the SADMP (2016). The benefits of the proposal therefore significantly and demonstrably outweigh adverse impacts and it is therefore recommended for approval subject to the conditions listed below.

9. Equality implications

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

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

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

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.

9.3. There are no known equality implications arising directly from this development.

9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Recommendation

10.1. **Grant planning permission subject to the planning conditions set out below:**

1. (FUL & LBC) - The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. (FUL & LBC) - The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Proposed Site Plan – Drawing No. 06D
- Proposed Site Block Plan – Drawing no. 05B
- Plot 1 Elevations and Floor Plans – Drawing no. 08C
- Plot 2 Elevations and Floor Plans – Drawing no. 10C
- Plot 3 Elevations and Floor Plans – Drawing no. 11A
- Proposed Garage/Car Port Plans and Elevations – Drawing no. 12a
- Levels and street scenes – Drawing no. 15e
- Vehicle tracking plan – Drawing No. 16

Reason: To ensure a satisfactory form of development and to preserve the special interest of the buildings in accordance with the requirements of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act

1990 and in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. (FUL & LBC) - Notwithstanding the submitted details, before any development commences full details and/or samples of all external materials for the construction of the new dwellings (plot 2 and 3) and the garage block, including facing walls, roof tiles, details of proposed new windows, doors and roof lights, window cill and header treatments, and rainwater goods shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved details.

Reason: To ensure that the development has a satisfactory external appearance in the interests of visual amenity and to preserve the significance of the listed building the Moore's Arms to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

4. (FUL) - The development hereby permitted shall not be occupied until such time as the access, parking and turning facilities have been implemented in accordance with Proposed Site Block Plan drawing number P / 002 (Revision A). Thereafter the onsite parking (and turning) provision shall be kept available for such use(s) in perpetuity.

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

5. (LBC) - Before any development commences, details of any new and replacement windows and doors on each elevation of the listed building the Moore's Arms shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved details. The details shall include the window and door style, window frame and door materials, window frame and door finish, and sectional and elevational window and door drawings to a recognised scale.

Reason: To ensure that the development has a satisfactory external appearance in the interests of visual amenity and to preserve the significance of the listed building the Moore's Arms to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

6. (LBC) - There shall be no occupation of Plot 3 authorised to be constructed pursuant to the planning permission 21/01146/FUL unless and until the repairs to the listed building The Moore's Arms have been completed in accordance with a schedule of repairs consented by listed building consent reference 22/00563/LBC.

Reason: To secure the enhancement of the significance of the listed building to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

7. (LBC) - No demolition works to the curtilage listed outbuilding (plot 2) shall commence until a contract has been let to carry out the building operations permitted under this permission (or any superseding consent as first agreed in writing by the Local Planning Authority) has been made.

Reason: To avoid premature demolition which would be harmful to the setting of the listed building the Moore's Arms and to safeguard the local environment and in accordance with the aims and objectives of the NPPF and in accordance with Policies DM11 and DM12 of the adopted Site Allocations and Development Management Policies DPD.

8. (FUL) - No dwelling as hereby approved shall be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
- i. proposed finished levels or contours
 - ii. hard surfacing materials
 - iii. retained trees and hedgerows
 - iv. planting plans
 - v. written specifications
 - vi. schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - vii. implementation programme.

The landscaping scheme shall be carried out in accordance with the approved details in the first planting season following the date of the details being approved.

Reason: To enhance the appearance of the development and biodiversity of the site in accordance with Policies DM6 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. (FUL) - The development hereby approved shall be implemented in strict accordance with the measures stated in section 1.1 Mitigation Strategy of the Bat Survey report (Focus Environmental Consultants, July 2023). Long term replacement roost sites must be delivered prior to occupation of the development and be retained and maintained thereafter in perpetuity.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document (2016).

10. (FUL) - If during development, contamination is found to be present at the site, no further development shall take place until a scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with policy DM7 of the adopted Site Allocations and Development Management Policies DPD (2016).

11. (FUL) - No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The scheme shall thereafter be retained in perpetuity.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

12. (FUL & LBC) - No development or demolition 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 in accordance with Policies DM11, DM12 and DM13 of the Site Allocations and Development Management Policies Development Plan Document.

13. (FUL) - Notwithstanding the provisions of Part 1 of the Second Schedule of the Town & Country Planning (General Permitted Development) (England) Order 2015 or any Order revoking or re-enacting that order with or without modification), no buildings or enlargements permitted under classes A, B, C, D or E shall be carried out without the express permission of the Local Planning Authority.

Reason: To safeguard the rural character of the area in accordance with Policy DM4 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the advice contained in the NPPF

14. (FUL) - Site preparation and construction works shall be limited to the following hours: Mondays to Fridays between 07.30am to 18.00pm; Saturdays between 08.00am to 13.00pm and at no time on Sundays and Bank Holidays.

Reason: To safeguard the residential amenity of the occupiers of neighbouring dwellings from potential noise, vibration, and disturbance etc. in

accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. (FUL) - Notwithstanding the approved plans all windows serving bathrooms or en-suites in all dwellings and the windows serving Bedroom 1 on the east (side) elevation of the first floor of Plot 3 shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and thereafter shall be retained as such in perpetuity.

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

10.2. Informatives:

1. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
2. Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
3. 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. 3 The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.
4. This development will require a European Protected Species licence to make it lawful. You must be aware that to proceed with the development without first obtaining an EPS Licence could result in prosecution.