

**Planning Committee 18 August 2020  
Report of the Planning Manager**

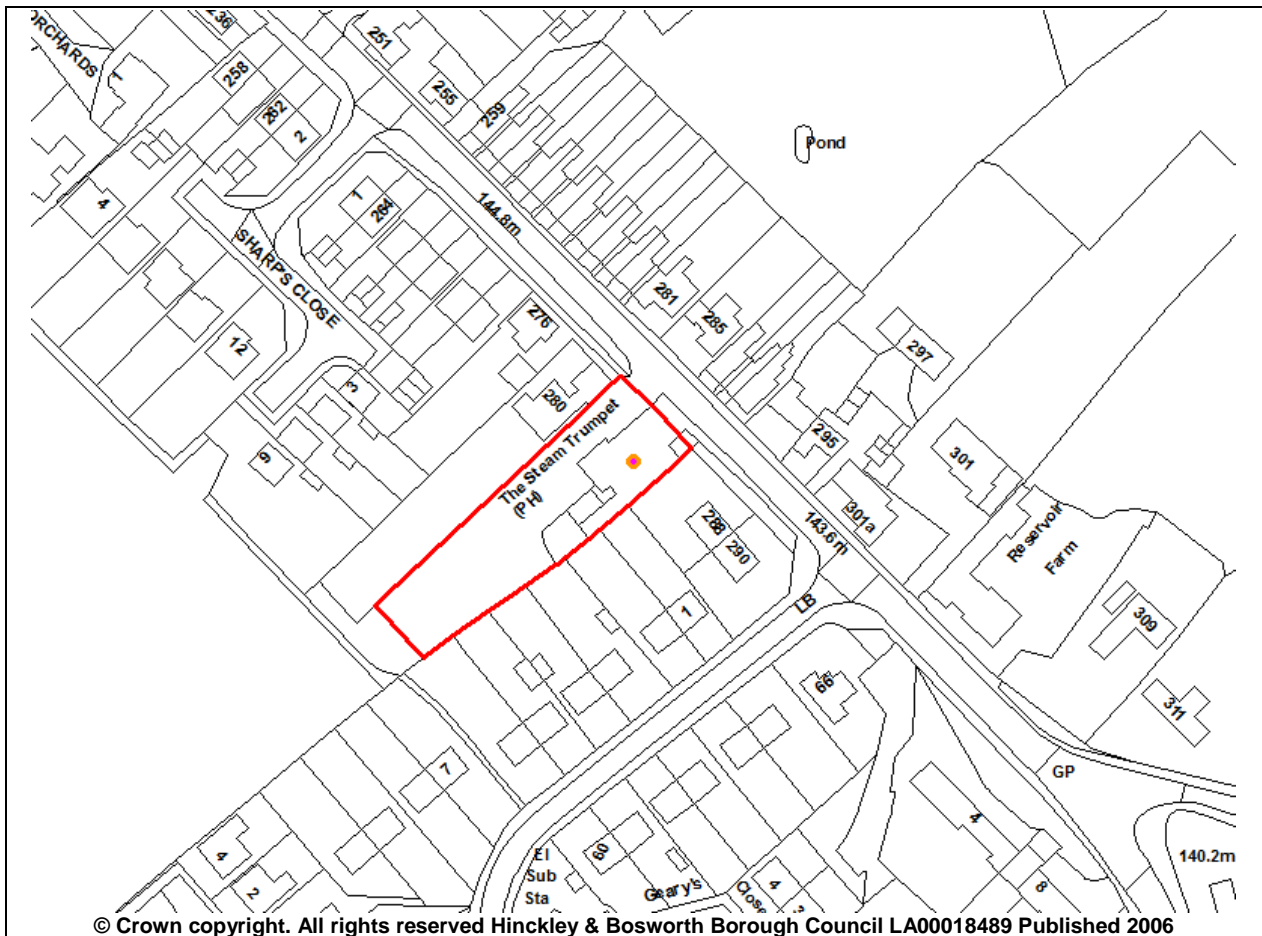
**Planning Ref: 20/00353/FUL  
Applicant: Mr David Miles  
Ward: Ratby Bagworth And Thornton**



**Hinckley & Bosworth  
Borough Council**

**Site: The Reservoir Inn 286 Main Street Thornton**

**Proposal: Change of use of public house (Class A4) to five self contained flats (Class C3), alterations**



**1. Recommendations**

**1.1. Grant planning permission subject to:**

- Planning conditions outlined at the end of this report

**2. Planning application description**

- 2.1.** The application seeks full planning permission to change the use from public house (Class A4) to five self contained flats (Class C3). The flats would be split over the two floors with three on the ground floor and two on the first floor. Two of the flats would contain 1 bedroom, two of the flats would contain 2 bedrooms and one of the flats would contain 3 bedrooms. A small amenity space is shown to the rear.
- 2.2.** Changes to the elevations are proposed with additional window openings to the front elevation, removal of box dormer window, additional window openings and replacement of a door with a window to the side elevations and additional window

openings, bi-fold doors and replacement of a door with a window to the rear elevation. Amended plans have been received showing roof lights on the ground floor to the living/kitchen area of flat B.

- 2.3. The existing 4.25 metre wide access off Main Street will be used. Parking is to the rear with 10 off street spaces now being provided rather than 8 as was originally proposed. A bin collection point is shown towards the front of the site close to the access. A bin store and cycle store is shown to the rear.

- 2.4. The application is accompanied by a planning statement and marketing information.

### **3. Description of the site and surrounding area**

- 3.1. The site relates to a vacant, detached public house with flat above and car park to the rear. The building is rendered and is positioned close to the edge of the public footway on Main Street. The building has a slightly unorthodox L-shaped plan-form with the principal elevation set perpendicular to the Main Street. A functional flat roof extension has been added to serve the use of the public house during the 20th century which extends out to the rear.
- 3.2. There are residential properties on both sides and opposite and the site is within the settlement boundary for Thornton. Access off Main Street is to the side of the property. Vehicular access to the rear of the site is currently blocked off due to the site being vacant. To the rear of the site is open countryside. The site is relatively flat with the exception of a slight rise at the front off the road. The site has an area of 0.15 hectares.

### **4. Relevant planning history**

#### **18/00859/OUT**

- Demolition of Existing Public House and Erection of Six Semi-Detached Houses (Outline - access, layout and scale only)
- Withdrawn
- 30.10.2018

#### **14/00784/ADV**

- Erection of 4 illuminated and 4 non-illuminated signs (retrospective)
- Permitted
- 06.10.2014

#### **07/00569/FUL**

- New paved terrace and patio area with jumbrella and pergola
- Permitted
- 12.07.2007

#### **07/00956/FUL**

- New paved terrace and patio area with pergola and jumbrella
- Permitted
- 10.10.2007

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site. There have been responses from 16 separate addresses as a result of the publicity objecting to the scheme making the following points:

- 1) Loss of privacy and overlooking
- 2) A strain on the already poor drainage and sewage systems

- 3) Increased traffic
- 4) Five flats into such a small space is too many
- 5) Increased levels of noise
- 6) Lack of outdoor space for some of the residents
- 7) Insufficient parking spaces leading to increased on street parking problems
- 8) Main Street is already congested
- 9) School bus service stops outside the property leading to an inconvenience for future residents
- 10) Access onto the roof should be restricted as it's a health and safety issue
- 11) Ideally the pub should be retained
- 12) An alternative use should be found like a Community Run Tearoom, Doctor's Surgery, Pharmacy or overflow parking for villagers and visitors
- 13) Thornton is a village with limited local amenities and very limited Public Transport
- 14) There is no reason why the building cannot still be a successful pub/restaurant
- 15) Increased noise and disturbance
- 16) Headlights from cars flashing into peoples windows
- 17) The pub has not been given its rightful opportunity to remain an important social space
- 18) Letting factors have made it difficult to find a buyer
- 19) Loss of a valuable local resource, community and historical asset to Thornton
- 20) The building has not been properly marketed
- 21) There is a greater need for parking rather than housing in Thornton

## **6. Consultation**

- 6.1. No objections have been received from:  
LCC Highways  
HBBC Environmental Services- Drainage  
HBBC Environmental Services- Pollution
- 6.2. HBBC Conservation Officer objects to the application as it will result in the total loss of its historic and purposeful community use and harm it's historic and community value. As a result the proposal is considered to have an adverse effect upon the significance of this local heritage asset.
- 6.3. No comments have been received from Leicester CAMRA, Friends of Charnwood Forest, National Forest Company and Thornton Action Group.
- 6.4. Bagworth and Thornton Parish Council objects to the application on the following grounds:
  - 1) The loss of an employment site on an already restricted employment village would be detrimental to the area resulting in an unwarranted form of development
  - 2) The proposal would be contrary to policies DM1, DM4 and DM19 of the Site Allocation and Development Management Policies DPD
  - 3) The proposal is not sustainable as it removes a contribution to the economic growth of the village along with job opportunities
  - 4) The Borough Council must seek to retain such sites in their entirety
  - 5) If the application is recommended for approval it should be reported to the planning committee

## **7. Policy**

### **7.1. Core Strategy (2009)**

- Policy 7: Key Rural Centres
- Policy 10: Key Rural Centres within the National Forest
- Policy 19: Green Space and Play Provision

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- 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

### **7.3. National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

### **7.4. Other relevant guidance**

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highways Design Guide
- Open Space, Sports and Recreational Facilities Study (2016)
- Community, Cultural and Tourism Facilities Review (2013)

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Loss of the community facility and marketing
- Design and impact upon the character of the area and impact on significance of non designated heritage asset
- Impact upon residential amenity
- Impact upon highway safety and parking
- Infrastructure contributions
- Planning balance

### **Assessment against strategic planning policies**

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications.

8.3 Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan permission should not usually be granted.

8.4 The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).

- 8.5 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.
- 8.6 Core Strategy Policies 7 and 10 identifies Thornton as a Key Rural Centre within the National Forest and supports applications for new homes within the settlement boundaries of Bagworth and Thornton. To support its role as a Key Rural Centre focus is given to limited development in these areas that provides housing development within settlement boundaries that delivers a mix of housing types and tenures.
- 8.7 Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate five years of deliverable housing at 1 April 2020. However due to the change in the housing figures required for the borough paragraph 11d of the NPPF is triggered 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.
- 8.8 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 state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. This is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD 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.
- 8.9 Given that the application site is located within the settlement boundary of Thornton, new residential development is supported by Policies 7 and 10 of the Core Strategy. The development is therefore acceptable in principle. This is subject to satisfying all other relevant policies and material planning considerations.

#### Loss of the community facility and marketing

- 8.10. Spatial Objective 3 of the adopted Core Strategy seeks to ensure rural communities have access to a range of shops, education, community, leisure facilities and employment opportunities in the Key Rural Centres to support, enhance and improve the sustainability, vibrancy, and vitality of rural areas.
- 8.11. Policy 7 of the adopted Core Strategy states that to support the Key Rural Centres and ensure that they can provide key services to their rural hinterland the Council will resist the loss of local shops and facilities in Key Rural Centres unless it is demonstrated that the business or facilities can no longer operate in a viable manner.
- 8.12. Paragraph 92 of the NPPF states that to deliver social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
- Plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
  - Guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

- 8.13. Policy DM25 of the adopted SADMP relates to community facilities and states:

Retention of Existing Provision

- 8.14. The Borough Council will resist the loss of community facilities including ancillary areas. The redevelopment or loss of community facilities will only be appropriate where it can be demonstrated that:
- An equivalent range of replacement facilities will be provided in an appropriate location within a reasonable distance of the local community; or
  - There is a surplus of the facility type within the immediate locality exceeding the needs of the community; or
  - The loss of a small portion of the site would result in wider community benefits on the remainder of the site

Loss of Existing Facilities

Where replacement facilities will not be provided or a surplus cannot be demonstrated and the scheme would not result in wider community benefits on the remainder of the site, the loss of a community facility would only be considered acceptable where it can be demonstrated that:

- The facility has been proactively marketed for a community use for a reasonable period of time at a reasonable marketed rate as supported and demonstrated through a documented formal marketing strategy.
  - It has been offered to the local community for them to take ownership of the facility.
- 8.15. The supporting text to Policy DM25 states that community facilities are identified and defined through the Community, Cultural and Tourism Review and include public houses in rural areas. Public houses can represent a social focal point for communities and community activities and can form part of the character and charm of rural settlements. Locally the borough is also suffering a decline in public houses with the loss in the rural areas having the greatest impact on rural community life and the sustainability of settlements. The loss of an existing facility should not result in a reduction in the community's ability to meet its day to day needs as set out in paragraph 192 of the NPPF. There is another public house within Thornton (Bricklayers Arms) and a Working Men's Club, both of which are in close proximity of the site and situated on Main Street. There are therefore equivalent facilities within reasonable distance of the community facility proposed to be lost, which would enable the community to continue to meet their day to day needs, in compliance with policy DM25 of the SADMP and paragraph 92 of the NPPF.
- 8.16. The supporting text to policy DM25 of the SADMP outlines that where a site or premises is to be marketed for community use, this should be done in line with the Developer Marketing Standards outlined in the Borough Council's most up to date Employment Land and Premises Review. This outlines the various marketing tools that should typically be used to market the interest and the length of time they should be marketed for. The application is supported by the marketing information which shows that the property changed ownership several times and has been marketed since May 2019 with little interest. The property has been vacant since September 2018. Some of the marketing being carried out included the circulation of a letting brochure to interested parties, promotion on the letting agents website, a hoarding erected on the exterior of the building and the property being promoted on popular search sites including Zoopla, EARCH, Realla and CoStar. It is considered that many of the means of marketing outlined in the Employment Land and Premises Review have been carried out. The applicant has also stated they have offered the building to

the Parish Council. There were 8 viewings of the property but none materialised with one of the reasons being too much competition in the area with an oversupply of licensed premises in the village. Other comments received include the layout of the building is not suitable for modern public houses, the condition of the building is not great and that the level of investment in the building is too great. The marketing information therefore concludes that an alternative use for the building is recommended.

8.17. Relative to the age of the building the length of marketing and length of closure is not a significant length of time. However there is not a specific period of time such uses should be marketed for. Each application is assessed on a case-by-case basis. It is considered that the building has been marketed for a reasonable amount of time via a number of methods and medias. In addition the longer the amount of time the building is left empty the more it will fall into decline. The proposal will prevent that by bringing it back into use.

8.18. Overall the proposal shows evidence that the building has been marketed for a reasonable period of time using a number of satisfactory methods and that there are equivalent facilities in the village still available, therefore the loss of the community asset would not result in a reduction in the community's ability to meet its day to day needs. The proposal therefore complies with policy DM25 of the SADMP and policy 7 of the Core Strategy and paragraph 92 of the NPPF.

Design and impact upon the character of the area and impact on significance of non designated heritage asset

8.19. Section 16 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. Paragraph 189 of the National Planning Policy Framework (NPPF) states that in determining planning applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance.

In determining planning applications, local planning authorities should take account of (paragraph 192):

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 197 states that "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

8.20. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage assets. Policy DM12 states that "assets identified on the Locally Important Heritage Asset List" should be retained and enhanced wherever possible. The significance of the assets illustrated in the List and the impact on this significance should be demonstrated and justified in line with Policy DM11". The SADMP DPD also states that "development proposals should make every effort to retain the significance of locally listed heritage assets". Policy DM11 requires that all development proposals

which have the potential to affect a heritage asset or its setting will be required to demonstrate:

- An understanding of the significance of the heritage asset and its setting, and
  - The impact of the proposal on the significance of the asset and its setting, including measures to minimise or avoid these impacts; and
  - How the benefits of the proposal will outweigh any harm caused
- 8.21. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.22. The Borough Council are currently compiling a list of Local Heritage Assets. The list is yet to be formally ratified but a formal selection criteria was adopted in 2017 and these form the basis of identifying and assessing the significance of any non designated heritage asset when considering development proposals. As specified in the Planning Practice Guidance (Historic Environment Section Paragraph 040) local planning authorities may identify non designated heritage assets as part of the decision making process.
- 8.23. The Borough Councils Conservation identifies that the first reference of the property is from Pigot's Directory of 1822 when it was known as the Bulls Head. Given that its appearance reflects the architectural and construction methods and materials that are contemporary with this period there is the possibility that the existing building was purpose built as a public house. Since this time the public house has changed names several times. Public house names often reflect cultural or social circumstances at the time of their founding with the name the Bulls Head likely to reflect the agricultural origins of the village. Taking into account the above it is considered that the building has an illustrative historic interest that contributes to the character of Thornton and allows for people to understand the social, economic and cultural development of the settlement over time. In addition the historic interest offered by its purposeful use as a public house, up until its very recent closure the building had been a source of social interaction for an extensive period of time, offering a communal value for the local community through their collective experiences of the village.
- 8.24. Architectural interest is provided by the buildings plan form. This is in part due to its orientation to the street and the differing site levels, with the core of the building being L-shaped. Further single storey flat roof extensions have been added as the building evolved and expanded during the 20<sup>th</sup> century. The numerous chimney stacks are prominent features and the building also includes small architectural detailing and features from the early-19<sup>th</sup> century including eaves brick detailing and rise and fall gutter brackets. Although the pub name the Reservoir Inn is a more recent incarnation the hanging sign to the front gable clearly communicates the use of the building and is considered to be of artistic interest.
- 8.25. The building has historic, aesthetic and community value ensuring it is of heritage interest. The principal building is historic (other than the flat roof extension) with a purposeful community use associated with it for at least 200 years. Despite some modern additions, the aesthetic value of the building remains appreciable and it has a visual prominence as you travel through the village due to its position close up to the highway edge. For these reasons the building should be considered as a locally important heritage asset (a non-designated heritage asset).
- 8.26. Due to the limited extent of the external alterations to the building the proposal is considered to have a negligible impact upon the aesthetic value of the building. However the change of use of the building to a residential use would result in the total



loss of the historic and purposeful community use harming its historic value. The proposal is therefore considered to have an adverse effect upon the significance of this local heritage asset. The proposal therefore fails to comply with Policies DM11 and DM12 of the SADMP.

- 8.27. Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The relative merits of the application are assessed later in the report.

#### **Impact upon residential amenity**

- 8.28. Policy DM10 of the SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.29. The proposed use is residential, in a residential area. Therefore the change of use is compatible within the surrounding context. It is not considered that residential use of the site would have any greater potential for noise and disturbance to surrounding residential properties than from the use of the site as a Public House.
- 8.30. The proposal shows amenity space at the rear of the flats. Whilst not a huge area there are no minimal space standards for flats in terms of amenity space. The applicant has stated occupiers of all of the flats would have access to the amenity space which is acceptable.
- 8.31. Objection letters have been received relating to the issues of privacy and overlooking. The proposed layout includes principal upper floor side windows. These include a kitchen window to flat D and a bedroom window to flat E facing the neighbouring property at number 288 Main Street. On the other side there is a living room and bedroom windows to flat D facing the neighbouring property at number 280 Main Street. However, this is the same as with the existing first floor flat. Notwithstanding that there is an opportunity through the proposal for betterment so it is considered reasonable that the first floor side facing bedroom window to flat E shall be obscure glazed via condition to reduce the overlooking issues to the neighbouring property. This can be achieved as it is a secondary window therefore reasonable outlook to this room would still be provided.
- 8.32. The flat sizes are of a reasonable size that they would provide a suitable living environment for future occupiers. Amendments have been received showing roof lights to the open plan kitchen/living room space to flat B to allow more light into that space. The position of many of the principal rooms is acceptable in providing suitable outlook. There is a separation distance of 8 metres from the principal windows facing the side elevation to the neighbouring property at number 280 Main Street, which does not comply with the Good Design Guide recommended separation distances. However this is the existing situation for the occupiers of the first floor flat and the side windows on the ground floor are located towards the front so there would be some outlook towards the front onto Main Street.
- 8.33. An objection letter has been received from a neighbour on the opposite side of Main Street on the grounds of loss of privacy from the front windows. Due to the narrowness of Main Street and the position of the buildings close to the road the separation distance is approximately 12 metres. However there are similar separation distances between residential properties facing each other along other parts of Main Street. The Good Design Guide sets out where windows face out over a public highway separation distances can be reduced from the normal minimum recommended distance of 21 metres.

- 8.34. Concerns have been raised that the flat roof area at the rear could be used as a balcony have been raised. This would cause privacy issues and would be a health and safety issue. It is considered reasonable that a condition is added that this flat roof is area shall not be used as an external balcony area.
- 8.35. Overall it is considered the proposal would not have a significant impact on the residential amenity of existing and future occupiers in accordance with policy DM10 of the SADMP.

#### **Impact upon highway safety and parking**

- 8.36. 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 appropriate to the type and location of the development.
- 8.37. The Local Highway Authority has been consulted on the application. The existing access serving the public house will be re-used. Given the proposed development will provide less parking spaces than existing, the LHA does not require the existing access point with the highway to be improved. The 4.25 metre wide access is in accordance with the Leicestershire Highways Design Guide (LHDG). The LHA also considers the existing vehicle visibility splays to be appropriate and suitable 1mx1m pedestrian visibility splays have now been received. A bin collection point at the front of the site is now being shown indicating refuse vehicles will not enter the site. it does ensure a suitable place close to the edge of the public highway is provided on collection days. A separate bin storage area is also provided at the rear of the site.
- 8.38. Some of the objection letters received refer to issues relating to a lack of parking provided and ongoing parking problems within Thornton. On the original plans eight parking spaces were provided. Highways recommended two spaces per flat and requested that the number of spaces provided be increased to 10. A revised plan has been received showing 10 spaces, equating to two per flat, which is an improvement. This increase would also slightly improve the on street parking demand on Main Street.
- 8.39. There is currently a barrier close to the access preventing vehicles entering the rear of the site. It would be considered reasonable to attach a condition that this barrier is removed prior to commencement of the works thereby providing access to the car park.
- 8.40. Overall the revised proposal would have a minimal impact on parking and highway safety in compliance with policies DM17 and DM18 of the SADMP.

#### **Infrastructure Contributions**

- 8.41. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.42. In this instance the development is not 'major' development, as such contributions towards affordable housing can not be sought in accordance with the Planning Practice Guidance.
- 8.43. The request for any planning obligations (infrastructure contributions) must be considered alongside the requirements contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.

- 8.44. The nearest public amenity space to the application site is Thornton Reservoir (THO12) which has a quality score of 76% in the Open Space and Recreation Study (2016) which is close to the target quality score of 80%.
- 8.45. Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant.
- 8.46. However, in this case, the proposal is for five additional units of one, two and three bedrooms, it would not have any significant impact on existing play and open space facilities. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

### **Planning balance**

- 8.47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.48. The site is located within the settlement boundary for Thornton. Core Strategy policies 7 and 10 support residential development within the settlement boundary for Thornton. The Council is satisfied that the proposed change of use meets the requirements of Policy DM25 and Paragraph 92 of the NPPF in that the loss of the use would not prevent the community from meeting its day to day needs with equivalent alternative premises available. Further to this, adequate marketing information has been provided to demonstrate the building is no longer viable in its current use, including the building being offered to the community, via the Parish Council, who have not subsequently taken ownership of the property.
- 8.49. However the proposal would result in the loss of the historic and purposeful community use of the building through its change of use to residential. This would impact upon the significance of the identified local heritage asset in conflict with policies DM11 and DM12 of the SADMP. Paragraph 197 of the NPPF requires a balanced judgement in weighing applications that affect directly or indirectly non-designated heritage assets.
- 8.50. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the 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. Paragraph 11 of the NPPF states that any harm identified should be significant and demonstrably outweigh the benefits of the scheme. It is therefore important to identify any benefits.
- 8.51. The proposal would result in the delivery of market housing which weighs in favour of the application and makes a small contribution to the Boroughs housing supply. By providing flats the proposal would provide a different mix of housing not commonly found in Thornton and the potential contribution future occupants may make to the local economy and community offer social benefits of the scheme
- 8.52. Economic benefits would include some short-term employment offered as a result of implementing the conversion works.
- 8.53. There are no known environmental benefits from the proposed development.

- 8.54. Whilst the proposal would result in the loss of its historical use as a public house resulting in harm to the significance of a non-designated heritage asset, and it is considered that the proposal can demonstrate no heritage benefits, its loss has been justified through the supporting information. Therefore, in this instance, when taken as a whole the level of the public benefits demonstrated by the proposal outweigh that harm.
- 8.55. Therefore, the presumption in favour of sustainable development does apply in this case and material considerations outweigh the conflict with some elements of the development plan.

#### **Other matters**

- 8.56. The Borough Council Drainage Officer has been consulted on the application. They recommend that surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata. They also recommend that access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system. It is considered reasonable that these recommendations are added as an informative to any consent granted.

### **9. Equality implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning 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. Conclusion**

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. This is confirmed in paragraph 2 of the NPPF (2019).
- 10.2. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. Therefore, the 'tilted' balance in

paragraph 11(d) of the Framework applies where the 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.

- 10.3. The application site is within the settlement boundary of Thornton where residential development is acceptable in principle. It would provide a mix of tenure and types of housing in compliance with Core Strategy policies 7 and 10.
- 10.4. The property has a historical association as a public house. Whilst the loss of this use may have some historic and community impact the proposal would bring the building back into use ensuring its viability, whilst providing a mix of housing to serve the village.
- 10.5. The presence of similar equivalent uses within the village would mean the loss of the community facility would not have a significant impact on the ability of the village to meet its day to day needs for its population.
- 10.6. The revised proposal would have a minimal impact on the residential amenity of current and future occupiers. The revised proposal would also have a minimal impact on parking and highway safety.
- 10.7. The proposal is therefore in compliance with Core Strategy policies 7 and 10 and Policies DM1, DM10, DM17, DM18 and DM25 of the adopted SADMP.

## **11. Recommendation**

### **11.1 Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

### **11.2 Conditions and Reasons**

1. 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. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site location plan received 7 April 2020

Amended proposed site plan ref no. 1259.DM.20.006 received 18 June 2020

Amended proposed elevations ref no. 1259.DM.20.007 received 18 June 2020

Amended proposed ground floor 1259.DM.20.004 received 18 June 2020

Amended proposed first floor 1259.DM.20.005 received 18 June 2020

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Prior to first occupation, the first floor side facing bedroom window serving flat E shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable. Once so provided the window shall be permanently maintained as such at all times thereafter.

**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).

4. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary.

**Reason:** To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

5. The development hereby permitted shall not commence until such time as the existing barriers on the vehicular access have been permanently removed.

**Reason:** To enable a free and safe passage of traffic including pedestrians into and out of the public highway and to provide access to the proposed parking area in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

6. The development shall not be occupied until a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

**Reason:** To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The communal garden shall be laid out within one month of the first occupation of any of the flats within the development and be permanently available for use by the occupants of all the flats to which this permission relates.

**Reason:** In the interests of residential amenity, as this communal garden is an essential element of the development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. The flat roofed area at the rear shall not at any time be used as a balcony or sitting out area neither shall any balustrade, railings, wall or other means of enclosure be erected on any part of the flat roof.

**Reason:** In the interest of the residential amenity and privacy in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

### 11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

2. 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.
3. 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).