

Planning Committee 20<sup>th</sup> December 2022  
Report of the Planning Manager

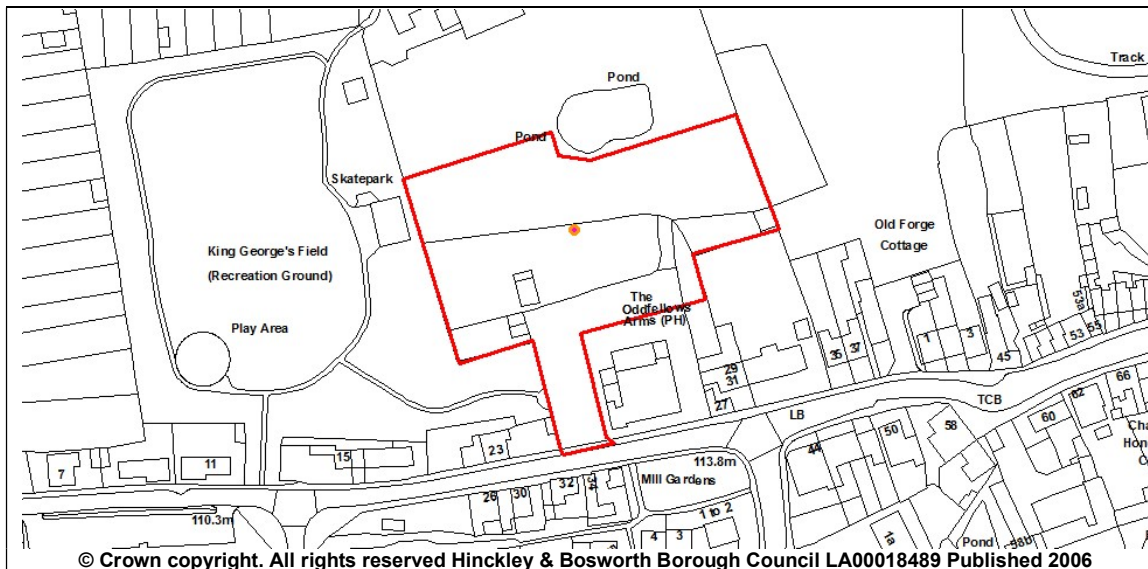


Hinckley & Bosworth  
Borough Council

Planning Ref: 22/00124/FUL  
Applicant: AR Cartwright Ltd/Eleanor Cartwright  
Ward: Ambien

Site: Oddfellows Arms 25 Main Street Higham On The Hill

**Proposal: Hybrid application for the residential development of 9no. dwellings to include: (1) Full Application for erection of 3no.dwellings, with associated access, parking and landscaping and (2) Outline application for the erection of 6no. dwellings (Outline Application - all matters reserved except from access)**



## 1. Recommendations

1.1. **Refuse planning permission** for the reasons at the end of this report.

## 2. Planning Application Description

2.1. The application is a hybrid proposal that seeks full planning permission for the erection of three detached dwellings and outline permission for the erection of a further six detached dwellings. All matters are reserved except for access on the outline element of the proposal. The three dwellings subject to the full application, Plots 1, 2 and 9 are those closest to Main Street, one to the west of the proposed access, one to the rear of the public house and sited partly on the pub car park and one that backs on to the eastern boundary. Each are traditional two storey pitched roof dwellings with chimneys and brick detailing and two have four bedrooms and the third has three bedrooms. The four bed dwellings have double garages with two additional parking spaces and the third has a single garage with two additional tandem parking spaces.

2.2. The public house, the Oddfellows Arms, is not included within the application but is within the ownership of the applicant, as is the remainder of the field to the rear of the site. The public house, including its car park, is registered as an Asset of Community Value (ACV).

- 2.3. The site layout shows a single access point into the site from Main Street to the west of the pub which would serve the nine plots. The layout shows that the right of way from Main Street to the adjacent playing fields to the west of the site is retained.
- 2.4. The application is supported by the following reports and documents:
- Design and Access Statement
  - Archaeological Assessment
  - Heritage Statement
  - Transport Statement
  - Tree Report
  - Landscape and Visual: Addendum
  - Drainage Strategy Report
  - Ecology Report
  - Bat Survey
  - Great Crested Newt Report

### **3. Description of the Site and Surrounding Area**

- 3.1. The site is located on the northern side of Main Street. It includes the area of parking to the west of the pub and part of the car park to the rear. It also includes the grassed area to the rear of the pub car park and approximately half of the small field/paddock beyond this grassed area which has been identified as a possible Local Wildlife Site. As stated above one of the two the existing pedestrian access points to the playing field and children's play area from Main Street is located adjacent to the access into the site.
- 3.2. The pond in the field to the north of the pub car park lies just outside of the application site. The rear part of the site is wider than the frontage that abuts Main Street. To the east the site borders a similar small paddock beyond which are further fields and paddocks linking to open countryside to the north-east. To the west is the King George V Playing Field and to the north, beyond the small field, are dwellings on Hilary Bevans Close. To the immediate south, beyond Main Street, is a small, grassed area containing five trees. The site covers an area of 0.5 hectares in total including the access.
- 3.3. Levels on the site vary. The car park area is roughly level with Main Street, but the northern field area of the site is lower than Main Street with levels falling from south to north and from west to east. This levels difference is clear from Main Street as only the roofs and part of the upper storeys of the dwellings on Hilary Bevins Close, which is to the north of the paddock, are visible.
- 3.4. The site is located partly within the defined settlement boundary of Higham on the Hill, which includes the pub and its car park, with the remainder of the site outside the settlement boundary and so within the countryside. In the Council's Site Allocations and Development Management Policies Development Plan Document (SADMP), the pub building is identified as a community facility and the car park is included within the extent of the community facility boundary, where Policy 25, which relates to community facilities, applies.
- 3.5. The pub and car park are located within the Higham on the Hill Conservation Area and the pub is identified as a significant local building within the Conservation Area Appraisal. The Conservation Area Appraisal also identifies views and vistas of the site from Main Street looking north which are to be protected. There are listed buildings close to the site on the southern side of Main Street (60, Methodist Church, 68 and Elms Farmhouse – all Grade II) and to the east of the site is St Peter's Church (Grade II\*). The pub is considered to be a non-designated heritage

asset. The majority of Plot 1, the detached double garage to Plot 2 and the front garden of Plot 9, and its porch, lie within the Conservation Area.

- 3.6. The Higham on the Hill Conservation Area Appraisal identifies the view from Main Street to the west of the pub looking north as vista to be protected. It should be noted though that since the Conservation Area Appraisal was undertaken the development of dwellings at Hilary Bevins Close has been completed.
- 3.7. The churchyard of St Peter's Church which is a Grade II\* Listed building lies approximately 188 metres to the east of the site.
- 3.8. This is a revised proposal compared to previous planning applications with the extent of the site boundary reduced to exclude the public house, most of its ancillary land and the pond within the field to the rear.

#### **4. Relevant Planning History**

##### **14/00367/OUT**

- Erection of 10 dwellings (outline - access and layout).
- Refused
- 15.10.2014

##### **15/00381/COU**

- Change of use of land from agricultural to equestrian (re-submitted application).
- Planning Permission
- 03.06.2015

##### **20/00153/FUL**

- Demolition of the former Oddfellows Arms public house the erection of eight dwellings and associated infrastructure.
- Withdrawn
- 03.04.2020

##### **20/01065/HYB**

- Hybrid application consisting of full permission for the part demolition/part conversion of former public house to a dwelling house and construction of five dwellings with access and outline permission for the erection of up to 20 dwellings and associated infrastructure.
- Withdrawn
- 23.11.2021

#### **5. Publicity**

- 5.1. The occupiers of 15 neighbouring properties have been notified of the application. In addition the application has been advertised by means of both site and press notices.
- 5.2. A total of 47 representations have been received, 46 objecting to the application and one in support. The following comments have been made:
  - 1) The fact that the public house is an Asset of Community Value (ACV) is being ignored by the developers – the Council should be doing all it can to enhance community assets. Policy DM 25 says that the Council will resist the loss of community facilities

- 2) Plot 1, the garages to Plot 2 and the front garden to Plot 9 and the majority of the access road have encroached into the ACV leaving insufficient space for a viable pub to operate
- 3) The village has lost its shop and this pub needs to be retained as a community asset and for the Community Hub to be successful the whole of the ACV area needs to be retained – the proposal removes 47% of the curtilage area designated as ACV. This space is needed to ensure sufficient parking space, thus ensuring street parking is minimised
- 4) Higham has no shop and a limited bus service (no evenings, Sundays or Bank Holidays) – residents would rely on private cars. Buses are currently unreliable
- 5) The application results in the loss of trees from the playing fields, this is not acceptable
- 6) The infrastructure does not exist for additional traffic – the access is at the narrowest point where there are lots of parked cars – this will be dangerous
- 7) Loss of privacy and overlooking
- 8) The village needs a public house more than it needs new housing – 61 dwellings have recently been approved in the village (21/01147/OUT)
- 9) Detrimental effect on the Conservation Area and countryside setting – Higham needs to retain its identity as a rural village
- 10) Detrimental effect on views from the Church and from Footpath T49
- 11) Historic England previously said that development “would cause harm to the rural setting of the village and the Higham on the Hill Conservation Area” and that “The Oddfellows Arms has a strong street presence within the conservation area and the proposal to build ne large houses so close to this historic building does not seem appropriate within a designated conservation area
- 12) Contrary to DM11 as the proposal fails to preserve key views in and out of the conservation area
- 13) Support the application as the site is an eyesore
- 14) Insufficient parking is provided, people don’t use their garages for parking
- 15) The houses seem overlarge for this part of the village
- 16) Detrimental effect on wildlife – 50% of the area around the pond is closed off by new houses
- 17) Drainage problems will increase
- 18) Highway safety problems due to the access being right next to the access to the playing field – there have been several accidents that have resulted in damage to property and in one instance a car being written off
- 19) The scheme cannot achieve sufficient visibility splays
- 20) If there is to be development, then it should be for affordable homes
- 21) The application documents contain many errors
- 22) The applicant has a history of buying public houses and waiting for them to deteriorate and then be converted to flats or demolished for more housing (the Fox and Crane in Weddington)
- 23) The proposal doesn’t provide a mix of housing
- 24) The unsustainable nature of the proposal is contrary to the NPPF
- 25) The houses could be removed so the pub, open views of the countryside and the Conservation area were not affected resulting in a ‘win-win’ for both the developer and the local community
- 26) Disruption, dust, pollution and loss of safety during construction
- 27) The school is already at capacity
- 28) The site lies outside of the village boundary and so is contrary to Core strategy Policy 12 that supports housing within settlement boundaries
- 29) The proposal offers no benefits for the village

- 5.3. A letter of objection has been received from the Save The Oddfellows Pub (STOP) group/Higham Community Benefit Society Limited on the following grounds:
- 1) The designation of the pub and its car park has been confirmed by the Council in part as it was recognised that the principal use of the asset in recent years has been for furthering the social wellbeing or cultural, recreational or sporting interests of the local community. The proposal results in the removal of 47% of the car park area and this is grounds alone for rejecting the application.
  - 2) The pub is a designated community facility under policy DM25, which applies to ancillary areas as well as buildings.
  - 3) The STOP group continues to seek to engage with the developer, but the application effectively undermines the basis on which the pub could be used as a community facility. Some of the information submitted with the application is misleading and inaccurate.
  - 4) Funding has been secured and other applications for funding/loans are awaiting confirmation from the applicant that they are willing to proceed with a sale of the pub and its ancillary areas within the ACV.
  - 5) The exclusion of the pub from the proposals is very reminiscent of the situation with the same developer at the former Fox and Crane pub in Weddington where the listed pub was allowed to deteriorate until the developer was required to maintain it at which point it was converted into apartments.
  - 6) In discussions with the Council and the developer the STOP group had sought to establish development proposals that included the pub as a community hub and pub.
  - 7) Assumptions made in the application about traffic flows are unrealistic. The nearby junction and visibility are already challenging, and additional traffic would make the area more dangerous.
  - 8) The proposal would cause harm to the Higham on the Hill Conservation Area. English Heritage objected to a previous application and while the current application is for fewer homes, they are still clustered close to the pub and to the Conservation Area.

- 5.4. An objection has been received from the local branch of CAMRA (Campaign for Real Ale). The scheme makes significant inroads into the amount of space identified as an ACV. Without sufficient surrounding land the sustainability of a re-opened pub and community hub would be severely compromised. The proposal should also be rejected as it is contrary to policy DM25. Policy CLT02 of the draft replacement Local Plan recognises the important role that pubs play in being focal points for communities and community activities, particularly in rural areas.

## **6. Consultation**

- 6.1. Higham on the Hill Parish Council – objects to the application. “The Parish Council and the community have shown emphatically that we want to have the option of owning the Oddfellows building as a Community Hub. Applying for an ACV when the first plan was put in showed our determination. However, it is clear that if the community is to get what they want we need to compromise and accept some development. This present plan shows little regard for the open space enjoyed at the rear of the building. The erection of a house facing the back of the Oddfellows

building is not acceptable. It is far too close to the potential car park of the Community Hub. We would like to see this house removed from the plan.

If the application is approved we would like to see the following conditions apply:

- The Oddfellows is sold to the community to provide a Community Hub
- Sufficient land is left green in order to guarantee the outlook and protect the rural aspect of the site. Part of it is in the conservation area
- The access to the playing fields is maintained
- Sufficient space is allowed for parking at the potential Community Hub
- S106 monies are provided to be used by the Parish Council for the benefit of parishioners

The Design and Access Statement suggests we are desperate for houses as a Parish. We are not, but we are desperate for a Community Hub that can provide us with facilities to shop, meet and socialise.”

- 6.2. LCC Highway Authority (LHA) – The impacts on highway safety would not be unacceptable and the impacts on the road network would not be severe.

Main Street at the site access is an adopted, unclassified road subject to a 20mph speed limit although speed records show that speeds in this location are higher. The width of the access is acceptable. Visibility splays of 36m and 32m are required but given that this is an existing access, on balance, the LHA considers that the 25m indicated on the submitted plans is acceptable. The scale of the development would not lead to a severe or unacceptable highway impact in the context of paragraphs 110 and 111 of the NPPF.

The Personal Injury Collision database has no recorded collisions in the vicinity of the site in the last five years.

The LHA is mindful that the pub could in theory re-open and generate a level of trips in its own right. The LHA are satisfied that trips associated with the proposed development will not lead to an unacceptable impact on highway safety.

The LHA would not consider the internal layout for adoption in its current form as it currently serves only two properties as opposed to the minimum number of six usually considered necessary for a road to be adopted.

The nearest bus stops are on Main Street, approximately 125 metres from the site and provide a regular service to Hinckley and Nuneaton. The route is serviced hourly to Nuneaton and runs between 07:17 and 17:17 on weekdays and between 08:18 and 18:17 on Saturdays.

Given the pub does not form part of the application site, the LHA have not been able to consider any implications the proposals would have on the pub's parking. Should the proposals be granted permission, should the pub re-open it would do so with a reduced car parking capacity.

Due consideration should be given to waste collection provision; refuse vehicles are unlikely to access the site given that it is located more than 25m from the highway boundary and via a private road.

Conditions are requested regarding visibility splays and the provision of parking spaces.

- 6.3. LCC Ecology – no response to date.

*Officer comment: In January 2021, on application 20/01065/HYB, in response to a report regarding Great Crested Newts, the County Ecology team confirmed that the pond within the remaining part of the field to the rear of the site was unlikely to support great crested newts. The bat survey was also considered acceptable. Concern was expressed though regarding the loss of the Local Wildlife Site and the ability to provide a net gain in biodiversity. The current application leaves approximately half of the field containing the pond undeveloped, and it is therefore considered that a net gain in biodiversity could be achieved. This is addressed in greater detail below.*

- 6.4. HBBC Drainage – No objection subject to conditions regarding surface water drainage.

- 6.5. HBBC Environmental Services – No objections.

- 6.6. HBBC Conservation - Overall, the proposals will cause no harm to the significance of the Oddfellows Arms as a local heritage asset through changes to its setting. However, the proposed development would have an urbanising effect and by introducing such considerable change into important views and vistas would therefore reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area. Given the level of adverse impacts arising from the development the level of harm upon the significance of the conservation area is considered to be less than substantial and likely between the lower end and middle of that spectrum of harm.

- 6.7. Historic England – No response to date.

*Officer comment: In December 2020, with regard to application 20/01065/HYB which related to partial demolition and modifications to convert the pub to a dwelling and provide new dwellings in closer proximity to the pub as well as development of the entire field to the rear of the pub Historic England considered that the proposals would result in an alien development within the centre of the village that would fail to preserve or enhance the character and appearance of the conservation area and that the proposed development of the rear field would result in further harm to this character and appearance. Historic England was not concerned regarding the works to the pub as the demolitions related to later single storey elements of little or no architectural and historic interest.*

*Historic England was concerned though regarding the loss of the protected view identified in the Conservation Area Appraisal, despite the development of the houses on Hilary Bevins Close. Historic England was also concerned at the grain of development, the detailed design of the five dwellings covered by the full aspect of the application and that the development of the rear field would have a further harmful impact on the character and appearance of the conservation area. In November 2021 Historic England also confirmed that they were also concerned regarding the effect of the scheme for up to 20 dwellings on the setting of the Grade II\* Listed Church of St Peter to the east of the site given views from the churchyard across the site and that the rural setting of the church could be appreciated from the public footpath (T49) that runs close to the application site providing a clear link between the church, the historic public house and the playing field. Historic England was concerned that the development of the northern part of the application area would have an adverse impact on the rural, open setting of the church. Additionally, by interrupting the views and visual links between the church, the pub and the*

*playing fields, which were identified as key focal points within the local community, development in this area may also create a spatial disassociation which would be harmful to the significance of the designated Conservation Area.*

## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 14: Rural Areas: Transport
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 17: Rural Needs
- 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 DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM9: Safeguarding natural and semi-natural open spaces
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- 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) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

### 7.4. Other relevant guidance

- Good Design Guide (2020)
- Landscape Character Assessment (2017)
- Leicestershire Highway Design Guide
- Higham on the Hill Conservation Area Appraisal and Map (2009)

## **8. Appraisal**

### 8.1. It is considered that the key issues in the determination of this application are:

- Principle of Development
- Impact on Heritage Assets
- Design and Impact upon the Character of the Area
- Residential Amenity
- Ecology, Biodiversity and Trees
- Highway Safety
- Flood Risk and Drainage



## Principle of Development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) 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. 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.
- 8.3. 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. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP). There is no Neighbourhood Plan for Higham on the Hill.
- 8.4. The Emerging Local Plan for 2020-39 has reached Regulation 19 draft stage (February to March 2022) and thus can be given only limited weight at this stage.
- 8.5. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough Council 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 National Planning Policy Framework (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.
- 8.6. Higham on the Hill is a rural village. The Core Strategy sets out that rural villages have more limited services than key rural centres and that a primary school and bus service are considered essential and that a public house is considered desirable. These services are considered key to the functioning of a village as they provide a community 'heart'. Higham on the Hill used to benefit from all three of these services until the Oddfellows Arms closed in 2018.
- 8.7. To support local services in rural villages, Policy 12 of the Core Strategy states that the Council will support housing development within settlement boundaries, that provides a mix of housing types and tenure (which is not required in this instance given that the scheme relates to nine dwellings rather than ten and the developable site area is less than 0.5 hectares). Paragraph 8.1 of the SADMP states that rural villages are the focus of limited development to ensure existing services are supported and community cohesion is maintained.
- 8.8. Policy 12 states that the loss of local shops and facilities will be resisted unless it is demonstrated that the business or facilities can no longer operate in a viable manner. The policy states that a minimum of 40 dwellings will be allocated in Higham on the Hill. Developers will be required to demonstrate that the number, type and mix proposed will meet the needs of the village, taking account of the

latest evidence, in line with Policies 15 and 16 of the CS, which relate to the provision of affordable housing.

- 8.9. The SADMP explains that at 1 September 2014, the 40 dwelling minimum requirement for Higham on the Hill had been met and so no housing sites were allocated in that Plan. Planning permission for up to 61 dwellings on land to the south of Wood Lane, to the west of the application site, was issued in September 2022 following completion of a S106 Agreement.
- 8.10. The majority of the site is located outside the settlement boundary of the village as set out in the SADMP inset map to the extent that all nine proposed dwellings lie at least partly within the countryside. Only part of plot 1 lies within the settlement boundary. The existing pub and the car parking are located within the settlement boundary. Therefore, the proposal fails to accord with Core Strategy Policy 12
- 8.11. The fourth bullet point of CS policy 12 that the loss of local shops and facilities will be resisted unless it is demonstrated that the business or facilities can no longer operate in a viable manner. In addition, Policy 25 of the SADMP states that the Council will resist the loss of community facilities, including ancillary areas. The policy states:
- “The loss of community facilities will only be appropriate where it can be demonstrated that:*
- (a) An equivalent range of replacement facilities will be provided in an appropriate location within a reasonable distance of the local community; or*
  - (b) There is a surplus of the facility type within the immediate locality exceeding the needs of the community; or*
  - (c) The loss of a small portion of the site would result in wider community benefits on the remainder of the site.*
- 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:*
- (d) 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.*
  - (e) It has been offered to the local community for them to take ownership of the facility.”*
- 8.12. The NPPF is a material consideration. Paragraph 79 states that to promote sustainable development, housing should be located where it will enhance or maintain the vitality of rural communities. Paragraph 84(d) states that to support a prosperous rural economy, decisions should enable the retention and development of accessible local services and community facilities such as public houses. Paragraph 93 states that to provide the services the community needs, decisions should: plan positively for the use of community facilities such as public houses 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, and ensure that established facilities are able to develop and modernise and are retained for the benefit of the community.
- 8.13. The pub and its car park are registered as an Asset of Community Value. The effect of this is that the pub cannot be sold to a third party without the local community first

having the opportunity to purchase the site. In this instance the fact that the pub and car park are an ACV is of limited relevance given that the owner intends not to sell the pub but to develop a significant proportion of the car park (47% according to representations received) to provide the access road into the site as well as to provide a significant part of plot 1, a small part of the detached double garage to plot 2 and a small part of plot 9.

- 8.14. The 'Save The Oddfellows Pub' group (STOP) are a group of local residents and they have submitted a lengthy objection to the proposed development, as they did to the previous application. It is considered that the STOP group has shown that they are a local community group willing to take ownership of the facility and have formally offered to purchase it. Key to the determination of whether the proposal is in principle contrary to Policy DM25 is whether the loss of approximately 47% of the car park results in the loss of the community facility.
- 8.15. The proposed development retains the public house but significantly reduces the area available for car parking and any ancillary activities that residents have reported took place on the adjoining grassed area between the car park and the small field. As set out in detail above, Policy DM25 states that the Council will seek to retain existing community facilities including ancillary areas. In this instance the ancillary area includes the pub car park. It is noted though that the grassed area beyond the car park is excluded from the confirmed ACV boundary.
- 8.16. Policy DM25 goes on to state that the redevelopment of community facilities will only be appropriate where it can be demonstrated that replacement facilities are provided or where there is a surplus of the type of facility or the loss of a small part of the site would result in wider community benefits on the remainder of the site. It is considered that in this instance none of those three instances is the case as no replacement parking is proposed, the Oddfellows was the only pub in the village and there are no wider community benefits that result from development of part of the car park. Furthermore it is considered that the loss of such a significant part of the parking area, combined with the proximity of the new dwellings, which is discussed in greater detail below, would be likely to result in the loss of the Oddfellows Arms as a community facility.
- 8.17. Turning to countryside issues Policy DM4 of the SADMP states that the countryside will first and foremost be safeguarded from unsustainable development, to protect its intrinsic value, beauty, open character and landscape character. The policy sets out the circumstances (a to e) where development in the countryside will be considered sustainable and such development needs to also meet certain criteria (i to v). The proposed development does not meet any of the criteria a to e. Policy DM4 is out of date, however, the policy is in accordance with the Framework and has significant weight.
- 8.18. The planning history of the site is a material consideration. An outline application for 10 dwellings (access and layout only) reference 14/00367/OUT was refused in October 2014 on the same field as this proposed 20 dwellings for two reasons. The previous refusal was for a different scheme to what is now proposed, in that it proposed open space between Hilary Bevins Close and the 10 dwellings. The two refusal reasons were that the development would exceed the housing requirement of the village contrary to CS Policy 12, and secondly, that the development would cause harm to the rural setting of the village and the Conservation Area contrary to policy BE7 of the then Local Plan. At the time of that decision, permission had been granted for 43 dwellings to the north (14/00503/FUL) and the site is now developed as Hilary Bevins Close. The development of Hilary Bevins Close was therefore taken into account in that refusal decision.

- 8.19. Since that decision, there have been changes in both national and local policy. National policy is clear that housing requirements are minimum figures and not maximums. Although policy BE7 is no longer part of the Development Plan, the rural setting of the village and the impact on the Conservation Area and its setting are still key considerations. The weight that can be given to the previous refusal is reduced by the fact that the proposal is now nine dwellings not ten, and the policy context has changed.
- 8.20. As set out above the site lies adjacent to but outside of the settlement boundary for the village. Therefore the site lies within the countryside and Policy DM4 of the SADMP is applicable. Policy DM4 states that that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes, and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
  - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
  - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
  - It relates to the provision of stand-alone renewable energy developments; or
  - It relates to the provision of accommodation for a rural worker; and
  - It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
  - It does not undermine the physical and perceived separation and open character between settlements; and
  - It does not create or exacerbate ribbon development
- 8.21. The proposed development does not fall within any category of sustainable development that is considered acceptable in the countryside. The proposal is not supported by either Policy 12 of the Core Strategy or Policy DM4 of the SADMP. The purpose of Policy DM4 is to protect the intrinsic beauty, open character and landscape character of the countryside. As such, the proposal conflicts with Policy DM4 of the SADMP.
- 8.22. Although there is clear conflict with the spatial policies of the development plan paragraph 11(d) of the NPPF is engaged and therefore a 'tilted balance' assessment must be made. This must take into account all material considerations and any harm arising from the conflict with Policy DM4 must therefore be weighed in the planning balance along with the detailed assessment of the other relevant planning considerations in this case. Other material considerations are set out within the next sections of the report.

#### Impact on Heritage Assets

- 8.23. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications to pay special attention to the desirability of preserving or enhancing the character or appearance of any Conservation Area. Section 66 of the same Act places a duty on the local planning authority when determining applications that affect a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 8.24. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. In determining planning applications, local planning authorities should take account of paragraph 197 of the NPPF and:
- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) The desirability of new development making a positive contribution to local character and distinctiveness.
- 8.25. Paragraphs 199-202 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.26. Paragraph 203 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.”
- 8.27. Paragraph 206 of the NPPF states that local planning authorities should look for opportunities for new development within conservation areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 8.28. Policy DM11 states that the Council will protect, conserve and enhance the historic environment throughout the Borough. Development with the potential to affect a heritage asset or its setting will be required to demonstrate and understanding of the significance of the asset and its setting, the impact of the proposal on the asset and its setting, how benefits of the proposal may outweigh any harm caused and any impact on archaeology in accordance with policy DM13.
- 8.29. Policy DM12 states that all development proposals affecting heritage assets and their setting will be expected to secure their continued protection or enhancement, contribute to the distinctiveness of the location and contribute to the wider vibrancy of the Borough. Proposals need to accord with DM10 and the DM11. Development should ensure the significance of a Conservation Area is preserved and enhanced through consideration and inclusion of important features, as identified in the Conservation Area Appraisal and Management Plan, including consideration of boundary treatments, views, trees/hedgerows, street pattern and plan form, street furniture, local materials and key spaces. Locally important heritage assets should be retained and enhanced where possible.
- 8.30. Policy DM13 states that where a proposal has the potential to impact a site of archaeological interest, developers should set out in their application an appropriate desk-based assessment and, where applicable, the results of a field evaluation detailing the significance of any affected asset.
- 8.31. The Higham on the Hill Conservation Area Appraisal (HHCAA) provides general guidance and states that to maintain the distinctive character and appearance of the conservation area it will be necessary to (aspects of relevance to this proposal are listed only):

- retain buildings of local interest;
  - ensure new development contributes positively to the character of appearance of the conservation area in terms of siting, scale, design and materials used; and
  - ensure views out into the countryside are protected.
- 8.32. The Council's Good Design Guide (2019) also identifies design objectives for the settlement of Higham on the Hill to retain its key characteristics.
- 8.33. In determining applications, paragraph 194 of the National Planning Policy Framework (NPPF) and Policy DM11 of the Site Allocations and Development Management Policies (SADMP) DPD requires an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. Paragraph 195 of the NPPF also requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal, including by development affecting the setting of a heritage asset. That required assessment has been undertaken in the body of this section. A Heritage Statement has been prepared to accompany the application which identifies the significance of affected heritage assets; this document is proportionate and meets the requirements of paragraph 194 of the NPPF and Policy DM11 of the SADMP.

*Higham on the Hill Conservation Area*

- 8.34. The Higham on the Hill Conservation Area Appraisal (HHCAA) identifies that the prevailing image of Higham is that of an agricultural settlement. The conservation area boundary covers the historic core of the village as well as part of its immediate setting, including fields and open spaces to the north and south of the historic linear ridge top development along Main Street.
- 8.35. In the vicinity of the application site the conservation area can be approached by road from the west via Main Street and from the south via Nuneaton Lane. There are also several public footpath approaches including from the north via a public footpath (T49) which spurs off in two directions slightly beyond the north-eastern corner of the application site, where one footpath flanks most of the eastern boundary of the site. The HHCAA also indicates the location of key views and vistas within, to, and out from the conservation area.
- 8.36. The special character and appearance, and hence the significance of the conservation area is derived from a number of key elements, below is a list of those considered relevant for this proposal:
- The linear settlement pattern which is of historic interest in illustrating the development of the village from the medieval period onwards;
  - The positive contribution that the many non-designated heritage assets (identified as significant local buildings within the HHCAA) within the area boundary make to the historic and architectural interest of the area; and
  - The importance of key spaces, including green spaces, all of which contribute to the historic interest of the area, allowing for its mixed domestic and agricultural character and the character of the street scape of Main Street to be appreciated.
- 8.37. In addition it is also considered that elements of its setting also contribute to the heritage significance of the conservation area. These include:
- The King George Playing Field to the north-west which is an important area of green space immediately adjacent to the conservation area boundary; and
  - The wider rural landscape which is visible from parts of the conservation area and is illustrative of the agricultural origins and setting of the village.

- 8.38. The southern section of the application site is located within the western part of the conservation area. The HHCAA identifies the Oddfellows Arms, specifically the original building, as a significant local building of local heritage significance, with this building being within the conservation area and the immediate setting of the application site.
- 8.39. The HHCAA acknowledges that the village's prominent ridge top location enables good views out into the countryside which reinforces the rural character of Higham on the Hill. From Main Street a vista and a view are identified on the HHCAA map, where at the time of adoption in 2009 there were clear views of the countryside to the north when positioned on Main Street over the open space and car park either side of the Oddfellows Arms and over the land to the rear which includes the application site. The subsequent residential development at Hilary Bevins Close immediately to the north of the application site since the adoption of the HHCAA has materially altered the view and vista, and although the extent and nature of the countryside view and vista have been diminished due to the presence of the dwellings in the middle ground, due to the elevated position of the observer on the ridge top the countryside remains discernible in the long distance and the rural setting of the conservation can continue to be appreciated and experienced from these positions. However, due to the material changes within the views it is considered the level of importance of these views and the ability to appreciate the rural setting of the conservation area is now only minor.
- 8.40. The northern part of the site is grassland and has a rural, undeveloped and open character. As identified within the section above, when positioned within the northern part of the site and upon the immediately adjacent public footpath to the east, the undeveloped and open nature of these parcels of land and the associated topography allow for clear views of the rear elevation and form of the Oddfellows Arms and surrounding development along Main Street. The northern part of the application site and adjacent paddock to the east therefore makes a minor contribution to the significance of the conservation area by reinforcing its rural character and allowing for the observer to appreciate the heritage interest of the Oddfellows Arms and the historic linear and ridge top development of the village when positioned within the immediate setting of the conservation area.
- 8.41. The HHCAA also identifies an additional important vista looking westwards from the churchyard of the Church of St Peter, which is located within the northern section of the conservation area. Again there have been material changes in this vista since the adoption of the HHCAA with a small number of dwellings constructed within the rear of plots along Main Street (key space G within the HHCAA), the construction of the new dwellings at Hilary Bevins Close, and the establishment of a manège immediately to the west of the churchyard. The new dwellings along Main Street are relatively dominant within the vista, whilst the new dwellings at Hilary Bevins Close are largely concealed by boundary vegetation and the position of this development on lower ground. The paddock immediately to the north of application site is visible in the middle distance in views from the churchyard over the boundary blue brick wall, adjacent manège and intervening paddocks. However the application site itself is not discernible from this viewpoint given the reduction in the extent of the application site boundary compared to the previous submitted application and the presence of the intervening built form and boundary treatments.

*The Oddfellows Arms*

- 8.42. The Oddfellows Arms is located within the westernmost part of the historic settlement core of Higham on the Hill. The heritage significance of the Oddfellows Arms is largely embodied within the original late 18<sup>th</sup> to early 19<sup>th</sup> century building, which possesses historic and architectural interest as a prominent and landmark

building, symmetrically formed and of some age. The building was in use as a public house since at least the late-19<sup>th</sup> century and despite its recent period of vacancy the number of submissions in previous applications involving its change of use and designation as an Asset of Community Value confirm the community value attributed to its use as a public house and this subsequently makes a contribution to the historic interest of the building. Its architectural interest has been diminished by the subsequent alterations so is considered to be of low value, and whilst the extensions illustrate the 20<sup>th</sup> century development of the public house they do not make any particular contribution to the historic interest of the building, rather they are considered to detract from the overall significance of the building due to their poor quality appearance. The building is identified as a significant local building within the HHCAA and for the above reasons the building should be considered as a local heritage asset when assessed against the Borough Council's adopted local heritage asset selection criteria (2017) and be considered a non-designated heritage asset in terms of the NPPF.

- 8.43. As identified within the section above, the local heritage interest of the Oddfellows Arms is principally derived from its considerable historic interest (which includes its historic use) and also some low architectural interest. It follows a local vernacular style and is a prominent landmark building in views along Main Street. Although the character and appearance of the building has been undermined by the unattractive modern alterations and extensions to the original building, for the above reasons it is still considered that the original building makes a positive contribution to the significance of the conservation area. The porch to the front elevation and car park surroundings, which allows for a sense of openness around the public house, are considered to make a neutral contribution to the significance of the conservation area.
- 8.44. The setting of the building also makes some contribution to its heritage significance. The NPPF (Annex 2) defines the setting of a heritage asset as "the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral." Historic England provide advice on the setting of heritage assets in their Good Practice in Planning Note 3 (2015).
- 8.45. The curtilage of the building makes a minor contribution to its heritage significance by illustrating the historic function of the building, providing physical separation from neighbouring plots, and creating a sense of openness around the building. Main Street is the main historic thoroughfare that the public house was designed to front onto and attract passing trade so is therefore a positive element of the building's setting to the south. The historic settlement core of Higham on the Hill was the community that the public house historically served and also contributes to the significance of the building by being part of its setting. Whilst the field to the rear of the Oddfellows Arms (the northern part of the application site) makes no direct contribution to the significance of the building as there is no clear evidence of relationship with the public house in terms of landownership or functional use, its currently undeveloped and open nature does allow for clear views of the rear elevation and form of the building when positioned within this field, from which a minor appreciation of the historic and architectural interest of the building can be obtained.

*Listed Buildings (including the Church of St Peter)*

- 8.46. There are six listed buildings located within Higham on the Hill. These are the grade II\* Church of St Peter and the grade II Higham Hall, 60 Main Street, 66 Main Street, 68 Main Street and 70 Main Street.



- 8.47. Due to both the topography and the presence of intervening built form and vegetation there is no inter-visibility between the application site and any of the grade II listed buildings located within the village, nor is there any known key historic, functional or other relevant relationships between the application site and these heritage assets. The application site is therefore not considered to fall within their setting and due to the form of the proposal and the reduced application site boundary it is considered they would not be affected by the development.
- 8.48. There is some very limited inter-visibility between the application site and the grade II\* listed Church of St Peter, although there is no known key historic, functional or other relevant relationships between the application site and this heritage asset. Whilst the site may be positioned within the wider setting of the Church it is considered that the significance of the Church would not be materially affected by the proposed development and that the ability to appreciate its significance would not be reduced by the proposed development due to the very limited intervisibility between the site and the Church and the peripheral positioning of the site from the Church in any such views.

Impact of the proposal upon heritage assets

*Higham on the Hill Conservation Area*

- 8.49. The proposed adoptable road situated to the western side of the Oddfellows Arms would replace the existing area of hardstanding so it is considered that the visual change resulting from the aspect of the proposal would be negligible and have no adverse impacts upon the conservation area.
- 8.50. Of the proposed new dwellings for which full permission is sought plot 1 and its garden are located mostly within the conservation area boundary, whilst plots 2 and 9 are partially within the conservation area boundary with the dwellings themselves located within its immediate setting. The three proposed dwellings and associated garages have a simple rectangular plan form, dual pitched roof form and simple front elevations with appropriately styled fenestration and architectural detailing. The proposed construction material of red brick respects the prevalent walling material of the wider area, but a concrete roof tile and upvc material for the window frames are modern materials that do not respect the traditional characteristics of the conservation area. Alternative traditional materials such as natural blue clay tiles roofs and timber window frames are strongly advised. Further details confirming the acceptability of materials could be request via planning condition if the application was to be approved. The design, form, appearance and some of the construction materials of the new dwellings and garages reflect the traditional characteristics of the conservation area so these aspects of the proposal are considered to preserve the significance of the conservation area and its immediate setting.
- 8.51. Due to the positioning and height of the 1.8m close boarded fence to bound the garden to plot 1 the important long distance view northwards of the countryside from Main Street when positioned to the east of the Oddfellows Arms will be lost. Due to the positioning of the new site access road there is the possibility that some limited visibility of the countryside would remain in views along this road and over or in between the new outline development (assuming these plots would be two storeys in height to follow the prevailing scale of development within the settlement) and the recent development at Hilary Bevins Close beyond. What is clear is that the important vista currently available looking northwards when positioned to the west of the Oddfellows Arms would be interrupted and its immediate context altered with plot 1 itself and the proposed 1.8m close boarded fence along the rear of plot 1

being a clear presence within the middle ground. The development of the site will alter the rural character of the conservation area (where located within the application site) and the setting of the conservation area via the domestication of the site. The approach to the village from the public right of way to the east of the site would also be affected by development in the northern section of the site with the approach to the village from its current largely rural setting being domesticated. The proposed development would urbanise the site and by introducing considerable change into important views and vistas would therefore reduce the ability to appreciate the rural setting of the conservation area, so the development will have an adverse impact upon its significance.

#### *Oddfellows Arms*

- 8.52. Due to the siting of the new dwellings and garages being set back from the Oddfellows Arms a reasonable sense of openness around it and physical separation from neighbouring plots will be maintained. The extent of the views of the rear elevation of the building will be reduced following the development of the application site, but views of this elevation would still be achievable from a reasonable extent of the new access road and further within the site due to the raised position of the building. The existing minor appreciation of the historic and architectural interest of the building would continue to be obtained from these positions. It is therefore considered that any impact upon the significance of the building resulting from changes to its setting are considered to be negligible.
- 8.53. Due to the layout of the proposal the grassed garden area of the public house would be lost to development. This aspect of the proposal has no direct impact upon the Oddfellows Arms as a local heritage asset.

#### Harm vs benefits exercise and summary

- 8.54. Overall, the proposals will cause no harm to the significance of the Oddfellows Arms as a local heritage asset through changes to its setting. However, the proposed development would have an urbanising effect and by introducing such considerable change into important views and vistas would therefore reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area. Given the level of adverse impacts arising from the development the level of harm upon the significance of the conservation area is considered to be less than substantial and likely between the lower end and middle of that spectrum of harm.
- 8.55. As currently proposed the harm caused to the Higham on the Hill Conservation Area must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP and paragraphs 199, 200 and 202 of the National Planning Policy Framework. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
  - Reducing or removing risks to a heritage asset
  - Securing the optimum viable use of a heritage asset in support of its long term conservation

It is considered though that the proposals do none of these things and instead would actively work against each possible public benefit.

- 8.56. Paragraph 199 of the NPPF states that great weight should be given to the conservation of designated heritage assets, and the more important the asset, the greater the weight should be. This is irrespective of the level of harm to the significance of the asset.
- 8.57. Paragraph 200 of the NPPF states that any harm to the significance of a designated heritage asset should require clear and convincing justification. The need for justification is re-iterated in Policy DM11 of the SADMP. The Heritage Statement provides no particular justification for the mutually agreed less than substantial level of harm caused to the conservation area resulting from the new development within its immediate rural setting.
- 8.58. The proposed new dwellings on plots 1, 2 and 9 that are all partially within the conservation boundary and its immediate setting are of an appropriate design, form and appearance, subject to revisions regarding construction materials, and would sustain the significance of the conservation area resulting in a heritage benefit. has an urbanising effect on important views and vistas that reduce the ability to appreciate the rural setting
- 8.59. The weight afforded to the public benefits arising from the proposal will need to be determined. The ultimate conclusion of the balancing exercise is set out below.

#### Design and Impact upon the Character of the Area

- 8.60. Policy DM10(c), (d) and (e) of the 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 the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.61. The Good Design Guide SPD provides guidance upon how to design an appropriate new residential development. This includes appraising the context, creating appropriate urban structures through blocks, streets, enclosure, open space and landscaping, parking, amenity space and design detailing. The SPD advocates the use of a Building for Life Assessment. The SPD sets out minimum separation distances between dwellings and a general guideline for garden sizes of 7.0m minimum length and of 80sqm in area for a 3 bed house.
- 8.62. The SPD states that Higham on the Hill is a linear, early medieval village situated on a ridge-top overlooking rolling farmland. Two design objectives are set out:
- Protecting the main approaches focussing on low-density development , reflecting the rural agricultural precedent.
  - Retaining the diverse but unified character of the undulating Main Street, halting the encroachment of generic modern styles/elements that will ultimately lead to a disjointed street scene, instead responding to a rural vernacular style.
- 8.63. Paragraph 134 of the NPPF states 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. Local policy is considered to accord with the NPPF.
- 8.64. The south of the site that contains the access, most of plot 1, part of plot 2 including its double garage and the porch and front garden of plot 9, is located within the defined settlement boundary and the larger northern part, that contains almost all the buildings, is open countryside. The 2.5 storey pub building, set back from the

road, with a key vista to the west and a key view to the east, and set within a large open car park clearly stands out in the street scene. The pub and car park are relatively level with Main Street but the land falls to the north towards the dwelling in the distance on Hilary Bevins Close. Due to levels changes and trees/hedges, the roofs and part of the upper storeys of those dwellings are visible from Main Street.

- 8.65. The Council's Good Design Guide (GDG) sets out that Higham is an early medieval agricultural village set on a ridge overlooking rolling farmland. As the village has expanded the GDG points out that the village has lost its intrinsic historic character in places as a result of modern development. The Higham on the Hill Conservation Area Appraisal (HHCAA) points out at paragraph 4.7 that specifically with regard to this western stretch of Main Street long distance views of the countryside and hedge boundaries reinforce the rural character of the settlement. It is considered that while those views will be most readily perceived when travelling along the highway as dwellings peter out and views of the countryside open up they are also importantly viewed when walking along the street and looking north between gaps in development.
- 8.66. Two of those key vistas and views, which the HHCAA, at paragraph 5.1 states it is important to protect, are set out on the Appraisal's map as being to the immediate west and east of the Oddfellows Arms where views of the field to the rear of the car park that links with other fields through to the countryside to the north and east as well as long distance views of the wider countryside over the tops of the roofs of dwellings on Hilary Bevins Close are considered to be very apparent. These key vistas and views and the strong visual links to the countryside and the original linear character of the settlement would be lost as a result of the proposal.
- 8.67. The proposed development would also be prominent in views from the network of public rights of way in and around the village that form several circular routes making use of the local road network. In particular the development would be prominent in views looking west along the footpath (T49) that leads from the church directly towards the site and that skirts the Conservation area before heading north and running alongside the development on Hilary Bevins Close. The scheme would also be prominent in views from the north when heading south on footpath T49. The footpath runs along the edge of the Hilary Bevins development and then emerges into the countryside that border the village on its northern flank. The Grade II\* Listed St Peter's Church would be prominent in its countryside setting in views to the east with the historic core of the village on the ridge of higher ground in the foreground. In these views the linear origins of the village are clearly discernible. The proposed development would detrimentally intrude into those views.
- 8.68. It is considered that the proposed development fails the requirement set out in Policy DM10 that development is required to complement or enhance the character of the surrounding area with regard to scale, layout, density and mass.
- 8.69. The proposed development, as a result of its urbanising effect, would have a significantly harmful effect on the character of the site and surrounding area contrary to the requirements of Policy DM10 of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

#### Residential Amenity

- 8.70. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that 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.

- 8.71. 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.
- 8.72. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.73. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.74. The nearest residential properties to the site are to the south of the site on Main Street and are over 35m from the side gable of Plot 2. Plot 2 does have a bedroom window facing the shared boundary, but it is over 9m from the boundary. The garden to the existing dwelling that shares this boundary is over 30m long though and the bedroom window is approximately 40 metres from habitable room windows to the rear of the existing dwelling that are directly facing
- 8.75. To the north there is a distance of at least 32 metres between the northern boundary of the site and the rear boundary of dwellings on Hilary Bevins Close. Although the application site is elevated in comparison the application is submitted in outline only for the dwellings at the rear of the site.
- 8.76. There are no other existing neighbouring dwellings that might be affected by the proposed development. Given the layout and distances between the three proposed dwellings that comprise the full element of the application it is considered that any future residents would benefit from adequate levels of amenity with regard to garden space and issues of privacy and overlooking. The illustrative layout shows that the six dwellings that are subject to the outline element of the scheme would also benefit from adequate levels of amenity with regard to those same issues.
- 8.77. The Council's Environmental Services Team has been consulted and has no objections to the proposal. There are concerns though that the garden to plot 1 is directly adjacent to the car park and that noise from the public house, particularly on warm evenings when any occupiers of plot 1 were seeking to enjoy their private rear garden, and from customers leaving the premises in their cars might be a source of noise and disturbance to future occupiers.
- 8.78. Officers are also mindful that Policy DM25 of the SADMP seeks to resist the loss of community facilities. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. There are no planning restrictions on the hours of use of the public house, which in common with all licensed establishments has its hours controlled by other means. The Environmental Services Team have been reconsulted and members will be updated on their response in the Late Items report.

- 8.79. It is considered though that the proposed development is likely to result in the future occupiers of plot 1 suffering a significantly detrimental standard of amenity contrary to the requirements of Policy DM10 of the SADMP and the NPPF as a result of noise and disturbance generated by activities within the adjacent public house and its car park. Furthermore the proposed development is likely to result in restrictions being placed on the use of the public house that would significantly reduce its value as a facility enjoyed by the community, particularly so when it is the last remaining public house in Higham and has been identified as an ACV and the current lack of a working public house has been identified as an issue facing villagers within Higham, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.

#### Ecology, Biodiversity and Trees

- 8.80. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.81. 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 and by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services, which includes trees.
- 8.82. The presence of protected species is a material consideration in any planning decision, it is essential that the presence or otherwise of protected species, and the extent to which they are affected by proposals is established prior to planning permission being granted. Furthermore, where protected species are present and proposals may result in harm to the species or its habitat, steps should be taken to ensure the long-term protection of the species, such as through attaching appropriate planning conditions.
- 8.83. Neighbours have raised concerns regarding the development of greenfield land, the loss of countryside, the impact on habitats and the loss of trees.
- 8.84. The County Ecologist has previously advised that the Bat Survey and Great Crested Newt Survey submitted under the previous application on the larger site, were acceptable. The habitats in the full application part of the site are of limited biodiversity value. However, while the northern field part of the site is a Local Wildlife Site and is likely to be of ecological value a significant proportion of this small field remains undeveloped. It is considered therefore that subject to a condition requiring that development of the site resulted in enhancements to biodiversity across land within the applicants' control, a net gain could be secured by making use of the remaining part of the field in accordance with the requirements of Policy DM6 and the NPPF.
- 8.85. With regard to trees the submitted landscape strategy drawing and Tree Report shows that 15 trees are proposed to be removed from the site and that 14 new trees would be planted either within or adjacent to the site bordering the pond. All the trees on the site are Category C trees (third in a ranking of four categories). There are only two Category B trees that border the site, one is to the rear of the field and so is unaffected by development. The better of the two trees though is close to Plot 9 and the submitted tree report shows that the proposed dwelling lies within the root protection area of the tree. Had the recommendation been for

approval of the application it is considered that officers would have sought further information or amendments to the siting of Plot 9 or would have attached a condition relating to the retention of this tree.

- 8.86. As the tree is part of a larger group of trees between the site and the entrance to the playing fields though it is not considered that an additional reason for refusal is warranted regarding the impacts of the current scheme on this tree. Additional tree planting would be able to be secured via condition. As such it is considered that the application does not result in impacts that are contrary to the requirements of Policy DM6 of the SADMP or to the requirements of the NPPF.

#### Highway Safety

- 8.87. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)). Dwellings of 3 beds or less require 3 parking spaces and dwellings of 4 beds or more require 3. For a garage to be classed as a parking space, it requires an internal measurement of 6m by 3m for a single and 6m by 6m for a double (minimum door width 2.3m) and a planning condition will be required to restrict its loss/conversion. Parking spaces should be 2.4m by 5.5m minimum (with an extra 0.5m width if bounded by a wall/fence etc).
- 8.88. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development. Developments within the town centre should demonstrate that they would not exacerbate existing problems in the vicinity with increased on-street parking. Policy DM10(g) states that where parking is to be provided, charging points for electric or low emission vehicles should be included, where feasible. This would be assessed and secured at reserved matters stage.
- 8.89. 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.
- 8.90. The objections to the application also raise concerns about the impacts of the development on highway safety close to a junction in the centre of the village on a narrow section of Main Street.
- 8.91. The applicant has submitted a Transport Statement. It notes that the site is located on an unclassified road within a 20mph home zone, and the development is proposed to be accessed from Main Street via a 4.8m wide carriageway with 2m wide footways on both sides. The site fronts onto Main Street which already has a pavement which abuts the southern site boundary. Visibility splays of 25m by 2.4m are provided at the site entrance. The internal road layout would be built to relevant standards. The site contains an existing pedestrian link to the adjacent park to the south-western corner. This would be retained. The Statement concludes that there are opportunities for sustainable travel although it does also refer to the presence of a convenience store within the village that closed in 2020.
- 8.92. As set out above the County Highway Authority has been consulted and while the road would not be adopted it has no objections to the application on highway safety grounds subject to conditions. The garage sizes and the amount of parking proposed for plots 1, 2 and 9 accord with the Highway Design Guide.

- 8.93. As such, it is not considered that the proposal will have any significant negative impact on the highway network to the extent that refusal or amendment of the application is required. The proposal therefore satisfies Policy DM17 and DM10(g) of the SADMP and the NPPF.

#### Flood Risk and Drainage

- 8.94. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.95. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.96. The site is located within flood zone 1 indicating a low risk of surface water flooding. The public comments have raised concerns regarding drainage issues.
- 8.97. The applicant has submitted a Report for Foul and Storm Water Drainage. A SuDS scheme is proposed using permeable paving, large diameter pipes, cellular attenuation, a pumping station and a Hydrobrake chamber. Combined these measures are reported to provide a 30% betterment over the existing run-off rates. It is proposed that the foul drainage and surface water drainage will connect to the existing system under Main Street.
- 8.98. The HBBC drainage officer has no objection and recommends that conditions are imposed to secure a scheme for surface water drainage, management of surface water on site during construction and details of the long term maintenance of the sustainable surface water drainage system.
- 8.99. Subject to this condition the development is considered to be acceptable with respect to flooding and surface water runoff issues and satisfies Policy DM7 of the SADMP and the NPPF.

#### Other matters

- 8.100. Archaeology – the interests of the archaeology of the site could be secured via condition.

#### Planning Balance and Conclusion

- 8.101. 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.
- 8.102. This application relates to the erection of nine dwellings on a site the majority of which lies within the countryside. That small part of the developable area of the site that does not lie within the countryside lies within the settlement boundary and within the Higham on the Hill Conservation Area. There is a history on the wider site that includes the refusal of 10 dwellings and of an application for 20 dwellings being withdrawn before the application was refused. There is also a history of the local community seeking to retain the villages last remaining public house as a community hub and pub.



8.103. The most recent housing land monitoring statement for the period 2020 -2021 indicates, that the Council cannot demonstrate a 5-year housing land supply. This is also a key material consideration and under these circumstances, the NPPF 2021 sets out, in paragraph 11d) that, for decision makers:

*“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:*

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

8.104. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.

8.105. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.106. Paragraph 8 of the NPPF sets out three overarching objectives for sustainable development which are interdependent and need to be pursued in mutually supportive ways.

8.107. The scheme would provide economic benefits through the creation of jobs and demand for services during the construction phases and from the future occupation of the development supporting the local economy. This is balanced though by the economic disbenefits that are considered likely to result from the significant reduction in the size of the car park to the Oddfellows Arms and the likely difficulty in then making the public house a successful concern as a result.

8.108. Socially, the scheme would provide a modest contribution towards housing supply within the borough. Any social benefits though are considered to be outweighed by the likely impossibility of making the public house a successful concern described above and by the impact of noise from the public house on the amenity of future residents of Plot 1 and the likely difficulties and restrictions that would likely be placed on what the local community wish to retain as a community hub and pub. It is realistic to expect that the scheme would cause significant harm to the vibrancy of the community, contrary to the social objective of sustainable development contained in the NPPF.

8.109. Environmentally, as the site lies within the countryside and is not allocated, there would be conflict with the spatial strategy of the development plan and the NPPF which is clear that the planning system should be genuinely plan led with plans acting as a platform for local people to shape their surroundings. Overall, the proposed development would have an urbanising effect and by introducing such considerable change into important views and vistas it would therefore reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area.

Given the level of adverse impacts arising from the development the level of harm upon the significance of the conservation area is considered to be less than substantial and likely between the lower end and middle of that spectrum of harm. There would also be significant harm caused to character and appearance of the site and wider area that predominantly lies outside of the Conservation Area. The proposed development conflicts with Policy DM4 of the SADMP and the NPPF as the majority of the site lies within the countryside. It is considered that the impact on the character and appearance of the area would be severe given the nature of the site and the important role that it plays in connecting the village to its origins as an agricultural settlement with views and vistas over rolling countryside.

- 8.110. Paragraph 8.1 of the SADMP states that rural villages are the focus of limited development to ensure existing services are supported and community cohesion is maintained. Approval of the application is considered to achieve the opposite of that intended in that the development is considered to result in the loss of the villages remaining public house thereby failing to support community cohesion.
- 8.111. The loss of a significant part of the car park with no replacement provision and where the pub was the only such facility in the village means that the proposal is also contrary to Policy DM25 of the SADMP. In addition, the application is considered to be contrary to paragraphs 84(d) and 94 of the NPPF.
- 8.112. The proposal conflicts with Policies DM1, DM4, DM10, DM11 and DM12 of the SADMP and the relevant paragraphs of the NPPF as a result of the less than substantial harm on the setting of the Higham on the Hill Conservation Area, a designated heritage asset of particular importance and the significant harm to the character and appearance of the site and surrounding area.
- 8.113. Having assessed the application it is considered that the adverse impacts of the proposal significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the development plan and the NPPF as a whole. Consequently the presumption in favour of development set out within policy DM1 and the NPPF does not apply, and material considerations do not indicate that planning permission should be granted for a scheme that is not in accordance with the development plan.

## **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 **Refuse planning permission** for the reasons set out below.

10.2 That the Planning Manager be given powers to determine the final detail of planning conditions.

## **10.3 Refuse planning permission**

10.4 Reasons

1. By virtue of the location of the application site within the countryside, the proposed scheme would result in new residential development in the designated countryside beyond the settlement boundary of the rural village of Higham on the Hill and the resulting urbanisation of the site would result in significant and permanent environmental harm to the intrinsic value, beauty, open character and landscape character and verdant appearance of the site and its contribution to the surrounding area. The proposal would therefore be contrary to Policy 12 of the adopted Core Strategy and Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2021) and this harm would significantly outweigh the benefits when considered against the Framework as a whole.
2. The introduction of significant new built form onto open land and fields directly adjacent to the Higham on the Hill Conservation Area would have a significantly detrimental urbanising effect on important views and vistas that would reduce the ability to appreciate the rural setting of the Higham on the Hill Conservation Area. For these reasons the proposal has adverse impacts upon the significance of this designated asset and this significant but less than substantial harm is not outweighed by the identified public benefits of the scheme. The proposal is therefore contrary to Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
3. By virtue of its scale and massing the proposal for nine dwelling on this undeveloped site that has a rural, open character would result in an incongruous form of development that would be prominent in views from public vantage points and would detract significantly from the character of the application site and the area, contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).
4. The proposed development is considered likely to have a significant detrimental effect on the amenity of future occupiers of Plot 1 as a result of noise and disturbance from the Oddfellows Arms public house contrary to the requirements of Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (SADMP) and the National Planning Policy Framework (2021). Furthermore the proposed development is likely to result in restrictions being placed on the use of the public house that

would significantly reduce its value as a facility enjoyed by the community, particularly so when the lack of a public house has been identified as an issue facing villages within the parish, contrary to Policy DM25 of the SADMP and the overarching aims of the NPPF to support strong, vibrant and healthy communities.