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## Appeal Decision

Hearing held on 6 August 2025

Site visit made on 7 August 2025

by **K A Taylor MSC URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 September 2025

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**Appeal Ref: APP/K2420/W/24/3357570**

**Oddfellows Arms, 25 Main Street, Higham-On-The-Hill, Nuneaton, Leicestershire CV13 6AE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by AR Cartwright Ltd against the decision of Hinckley and Bosworth Borough Council.
  - The application Ref is 24/00229/FUL.
  - The development proposed is development of 7 dwellings – the conversion of the existing building into 2 dwellings and 5 new build properties.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) was published in December 2024. In the interests of natural justice both main parties have had the opportunity to make representations. In reaching my decision I have had regard to the revised Framework and the PPG.
3. The Council have confirmed that there is a typographical error on the decision notice relating to the plans and the Belvoir house type. Therefore, the correct plan reference is '*Proposed Floor Plans and Elevations Belvoir 22/85 52*'. I have considered the appeal on this basis.
4. At the Hearing several additional documents were handed up including late evidence from the main parties. These documents related to the conservation area, and ecology which were already in the public domain. Relevant caselaw the appellant intended to rely upon, a relevant appeal decision omitted from the Council's original evidence and an email relating to a conversation thread between the parties relating to the Framework. In considering whether to accept the evidence and any procedural unfairness. The Council, the appellant and interested parties were given an opportunity to comment orally. In considering those made I do not consider that any prejudice and/or unfairness would arise to any party and have therefore accepted these documents.
5. Evidence was received following the closure of the Hearing from interested parties and the Parish Council relating to securing funding for a public works loan. The letter was issued by the Local Government Finance Directorate, Ministry of Housing, Communities & Local Government dated 7 August 2025. Both the main

parties were invited to make submissions in writing, as set out in accordance with Rule 14 (3) of the Town and Country Planning (Hearings Procedure) (England) Rules 2000. The information was factual relating to discussions which had already taken place and was not available on the day of the Hearing. Having regard to caselaw<sup>1</sup> and, It would not prejudice any party if I were to accept it. It has not necessitated the Hearing to be re-opened, and I have had regard to the written submissions.

## **Main Issues**

6. The main issues are:

- The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the impact on the significance of the Oddfellows Arms as a non-designated heritage asset, nearby listed buildings, and whether it would preserve or enhance the character or appearance of the Higham on-the-Hill Conservation Area;
- Whether the proposal provides adequate justification for the loss of the public house, with particular regard to the loss of an Asset of Community Value (ACV); and
- Whether the proposal would provide acceptable living conditions for future occupants, with regard to Plot 1 and outlook.

## **Reasons**

### *Significance of Heritage Assets*

7. The appeal site relates to a building, the Oddfellows Arms, its car park and beer garden. The site is some 0.29 hectares to the northern side of Main Street and beyond the site to the north is a paddock with a pond. The building is a non-designated heritage asset (NDHA), and the site falls within the Higham-on-the-Hill Conservation Area (CA).
8. As the appeal site is within the CA, I have had special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) 'the Act' to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
9. The appeal site lies nearby to several Grade II listed Buildings on Main Street, and particularly the setting of the Grade II\* Church of St Peter (listing 1178178), which has a C12 west tower with the nave dated 1790, refenestrated in 1854 with a south aisle and porch, single-bay chancel, blocked archway of a former crossing tower. There is an oval monument in the chancel and a first world war memorial on the north side of the nave. The church played an important part in the religious life of the village and parish from the 18<sup>th</sup> and 20<sup>th</sup> centuries. Therefore, special regard should be given to the desirability of preserving the setting as required under 66 (1) of the Act.

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<sup>1</sup> *Akhtar v SSCLG & LB of Barking & Dagenham* [2017] EWHC 1840 (Admin)

10. The PPG explains that there are a number of processes through which non-designated heritage assets may be identified, including conservation area appraisals and reviews. The building is not identified on a locally important heritage asset list, due to this being not formally adopted by the Council. However, it is recognised as a significant local building within the Conservation Area Appraisal, 2009 (CAA).
11. The CAA identifies the Oddfellows Arms built in 1791 as two cottages but in 1862 converted to one property. It was subsequently purchased by William Webb in 1874 and became a public house associated with Manchester Unity Oddfellows Club, a friendly society. The building is also identified within the Leicestershire and Rutland Historic Environment Record and in further documentation that it was purpose built for a public house, known as the Gardeners Arms. There is some dispute concerning the context of the two cottages, and the Council acknowledge that its arrangement is more typical as a single premises with a central door with features more reflective in form and scale of a typical late-18<sup>th</sup> to early-19<sup>th</sup> century farmhouse, with likely early agricultural origins. In 1992, substantial alterations to the building and site were undertaken.
12. The significance of the NDHA is derived from its historic and architectural importance, with local vernacular style, and the building's historic use as a public house and its prominence fronting Main Street which is apparent due to its central landmark position in the village. The topography of the site provides key vistas from and to its surroundings within the linear context of the village adding to the visual openness of the immediate and local character and appearance including the verdant areas and vegetated boundaries. These are all positive factors contributing to its significance.
13. The CAA suggests the origins of Higham on the Hill is of Anglo-Saxon and is a prevailing image of an agricultural settlement. Although a ridge top linear village, the Main Street is not straight with subtle bends and gentle curves which are reinforced by key buildings and has several series of linked spaces from one end to the other of the townscape. It acknowledges that overall few buildings have been lost but many buildings have been severely altered and retaining historic features and using traditional materials are important. The CA boundary covers the historic core of the village including the fields with public rights of way and open spaces to the north and south of the linear ridge top development along Main Street.
14. The CAA sets out general guidance to maintain the distinctive character and appearance of the CA, and at section 11 advises it will be necessary to retain listed buildings and buildings of local interest, and ensure new development contributes positively including siting, scale, design and materials. It resists development proposals in key areas, identified on the map. The CAA and its map identify views from Main Street to the west and vistas to be protected. Therefore, the significance of the CA is derived from the linear settlement pattern arising from medieval times, buildings of local and national significance and importance including the NDHA and the appeal site with its landscape setting which positively contribute to the CA taken as a whole.

*The appeal proposal and its effects*

15. For the purposes of the development plan, Policy 12 of the Hinckley & Bosworth Borough Council, Core Strategy 2009, (CS) identifies Higham on the hill as a rural village. The Council confirmed that the vast majority of the site and all the proposed built development lies within the settlement boundary. There is no dispute that the site is previously developed land, however, I do not consider that it is identifiable as being within an urban location even if there is other built form on either side of the appeal site.
16. Policy 12 of the CS requires new development to respect the character and appearance of the CA incorporating local distinctive features. Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document, 2016 (SADMP) seek to protect, conserve and enhance the historic environment and their setting, including protection or enhancement and contribute to the distinctiveness of areas. Policy DM10 of the SADMP relates to complementing and enhancing the character with regard to scale, layout, density, mass, design, materials and architectural features. These policies are generally consistent with the good design and heritage aims of the Framework.
17. *Public house* – the building is of brick and 3 storeys accessible via 2 entrances on the east and west of the site. It would be converted to a residential end use of 2 dwellings and would incorporate the removal of existing unsympathetic and unsightly extensions to the side and rear. A new access would be formed, designed to adoptable standards and parking provided for the development.
18. Given the passage of time, the building clearly requires some modernisation and repair as architecturally it has diminished. The existing paraphernalia does little in retaining any historic core context and previous detailing of the building. A two-storey extension and single storey side extension would be erected of appropriate siting, scale, form and appearance having a minor positive impact upon architectural interest. Suitably worded conditions could agree the finer details of windows, doors and materials.
19. Nevertheless, whilst the proposed alterations and design appearance are welcomed, the changes would erode its original function as a community building thus resulting in the loss and value of the buildings historic significance. In this case, significance derives not only from its physical presence, but also from its setting and in the context of historic interest it can be an interest in past lives and events and assets can illustrate or be associated with them. Neither do I agree with the appellant's contention that it would return the asset back to its original intended use, i.e. as two dwellings as set out in their Cambridge '*Built Heritage*' statement.
20. The PPG considers that heritage assets with historic interests not only provide a material record of our nation's history but can also provide meaning for communities derived from their collective experience of a place and can symbolise wider values. In addition, Historic England (HE) have objected to the proposals, advising that the building has a strong sense of street presence and of clear interest with age. Therefore, the proposal would cause harm to the significance of the NDHA, this would be relatively minor and be of a limited scale, however, it must follow that there would be some, albeit it limited harm to the CA.

21. *The new dwellings* – the existing parking area and rear land would be used for the construction of 5 new dwellings. These would be constructed in brick with render detailing, chimneys and pitched tiled roofs with the design concept of a simple rectangular plan form. The Council acknowledged that in general terms, the form, appearance and construction materials would reflect some traditional characteristics of the CA. However, the layout of plots 4-7, situated behind the frontage of development of Main Street would not reflect the traditional urban grain, being that of existing residential layouts and siting which would be to the detriment of the character and appearance of the area and the CA.
22. The siting of these plots would be unacceptable in terms of the scale and massing, which is likely to be exacerbated by boundary treatments to the plots, domestication of the site through long plots and some harm from the positioning of the new dwellings along Main Street. In totality the new dwellings would be uncharacteristic, urbanising and eroding the existing open character and appearance of the area, including the negative impact on the openness of the surrounding countryside and would cause harm to the significance of the CA as a whole.
23. From the surrounding viewpoints and vistas along the interlinking footpaths there is a clear distinction where properties along Main Street building lines finish at the rear. The development would extend further back into the open character and overall impacting negatively on the character and appearance of the area despite development not extending wider into the paddock or pond areas. This is further acknowledged to be the case set out by HE, and I would dispute that in any way they excluded any focus on this planning application or that it is erroneous. Furthermore, the new dwellings would interrupt the protected views and vistas, which results in further harm to the character and appearance of the area and the CA.

*The effect of the proposal on other heritage assets*

24. As I saw, there were significant views of the appeal site, due to its topography within the immediate and wider area. Notably, was the view from the graveyard at the Grade II\* Listed Church of St Peter and from the footpaths that interlink the site around the village. These views and protected vistas, despite the distance from the site they are still within the CA. The proposed development would clearly be discernible in the views from this part of the Church, and I acknowledge that there has been some change in views and vistas over time with the intervening residential development at Hilary Bevins Close.
25. However, I do not agree to an extent with the appellant that there would be no harm to the significance of other heritage assets including the significance of vistas, and consideration should be given solely to evolving time lapses of other built form since the CAA was published. Policy DM12 of the SADMP requires the preservation and enhancement of key views and/or vistas in and out of the CA. Therefore, given the above I find that there would be harm to the setting of the listed church, and thus, it must follow that some harm, albeit at the lower end of the scale would be to the CA in this instance, of which I attribute moderate weight.
26. In response to the other listed buildings, including Higham Hall, 60, 66, 68 and 70 Main Street, there is clear intervening presence between the site and there is no known historical functional or other relevant relationship between the appeal site

and them. The archaeological value relates to its evidential value, and the settlement remains dating from Roman times. The appellant has undertaken an archaeological survey, and the parties do not dispute it meets the requirements of the Framework; matters could be dealt with by suitably worded conditions during any construction phase for recording and preservation if necessary, which would comply with Policy DM13 of the SADMP. For these reasons, I do not consider that the proposal would harm the setting and/or significance of these.

### *Heritage Balance*

27. Given the above, I find the proposal would fail to preserve the significance of the NDHA and would negatively impact on the setting of the nearby listed church. The proposal would harm the character and appearance of the area, including the CA and would not conserve or enhance the CA taken as a whole. In this case, I find the harm to be at the lower scale of less than substantial in this instance but nevertheless of considerable importance and great weight.
28. Paragraph 212 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation (and the more important the asset, the greater weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Paragraph 213 goes on to advise that significance can be harmed or lost through the alteration or destruction, or from development within its setting of those assets and that any such harm should have a clear and convincing justification.
29. Where the proposal would lead to less than substantial harm to the significance of a designated heritage asset, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use.
30. Paragraph 216 of the Framework requires that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. I therefore, find that the proposal would cause harm and lead to the loss of the significance of the NDHA and attach moderate weight.
31. The appellant contends that the proposals would preserve the character and appearance of the area, and that the proposal represents a viable optimal use for repairing, enhancing and sustaining the heritage asset in the long term. There are heritage benefits, and this would include the removal of the poor-quality extensions to the building and the renovations to bring the building back into use, and the general design and materials, including energy efficiency of new dwellings would sustain the significance of the CA, which attract moderate weight.
32. It could secure a viable end use for the long-term future incorporating some economic and social benefits, environmental benefits would be provision of landscaping and ecology provisions which I ascribe moderate weight. I accept that the proposal would provide much needed housing including a balanced mix of unit sizes. This is a substantial benefit given the Council's inability to demonstrate a 5-year housing land supply, and the emphasis of boosting the supply of housing and efficient use of land, and that it is PDL. However, the matter of a proven track

record for disposing and developing other sites without any exception, are not public benefits and only serve as individual benefits to the appellant.

33. I accept that if the appeal is to be dismissed, the future of the building would continue and be uncertain and, if it were to remain vacant, its condition could deteriorate further. However, there is little benefit in securing a new residential use for the building and site, if, as I have found in this case, the totality of the proposed development would compromise its conservation to an unacceptable degree.
34. Consequently, the combined weight of the public benefits would not tip the balance in favour of the appeal scheme when set against the great weight and importance placed on the identified harm to the special historic interest and significance of the NDHA, setting of the nearby listed building, and the character or appearance of the CA would neither be conserved nor enhanced.
35. For this reason, it would fail to satisfy the requirements of the Act, paragraphs 213, 215 and 216 of the Framework. It would be contrary to Policy 12 of the CS, Policies DM10, DM11 and DM12 of the SADMP. Taken together, among other things, requires protection and enhancement of heritage assets and their settings, in a manner appropriate to their significance.

#### *Loss of the Public House / ACV*

14. The provisions for ACV are set out in the '*Localism Act 2011*' which came into force on 21 September 2012 alongside the regulations '*The Assets of Community Value (England) Regulations 2012*'. By definition, a site or property listed as an ACV is considered of value to the community. The property was nominated by the Parish Council and first listed as an ACV on 1 December 2018 with the listing expiring in December 2025.
15. Policy 12 of the CS 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. Policy DM25 of the SADMP designates the site also as a community facility. The policy gives importance that the Council will resist the loss of community facilities including ancillary areas subject to where certain criterion is demonstrated which includes for the retention of existing provision and the loss of existing facilities.
16. The policy criterion of DM25 sets out 'or' scenarios (*my emphasis*) which include at criteria a) an equivalent range of replacement facilities will be provided in an appropriate location within reasonable distance of the local community, or b) a surplus of the facility type within the immediate locality, or c) the loss of a small proportion of the site would result in wider community benefits.
17. The policy continues where there is a loss of existing facilities and replacement facilities are not provided or a surplus cannot be demonstrated and the scheme does not result in wider community benefits on the remainder of the site, it is only acceptable where it is demonstrated at (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*'.

18. The Framework at paragraph 98, aims to promote healthy and safe communities and amongst other matters requires policies and decisions to plan positively for the provision and use of shared spaces, community facilities including public houses and other local services to enhance the sustainability of communities and residential environments. It requires to guard against the unnecessary loss of valued facilities and services, particularly where it would reduce the community's ability to meet its day-to-day needs.
19. Therefore, combined with this, its status as an ACV, and development plan policies for the purposes of the appeal scheme I consider that the contention of the appellant that the building shouldn't be classed as a community facility and should be considered as a conversion of a building to residential is not justified. Moreover, there is nothing before me to suggest that the building has an alternative use, or there is theoretical and/or a genuine fallback consideration position in this case.
20. Nonetheless, there has been a significant amount of time since the public house permanently closed in 2018. A previous closure of the business happened in 2009 but appears to be this was for only a limited time. During the periods up to 2018 it was owned with leased tenants and then purchased by the appellant in around late August 2019 for some £500k. The licence was surrendered in 2020 but was not revoked until 2023 under the licensing regime, and it was agreed this was likely due to the passage of time it had been closed.
21. The 'Save The Oddfellows Pub' group (STOP) are residents and interested persons representing the community. The group was established some time ago with the support of the Parish Council. They have undertaken their own business plan, including obtaining professional advice and applying for grants and funding registered as The Higham Community Benefit Society. I have had regard to their comments including information and documentation. I have also had regard to the comments from the Parish Council and the local branch of CAMRA in that pubs are vital for a community and valuable assets.
22. Turning to the policy requirements and criteria, there are no other public houses within the village, the nearest ones are within the adjoining settlements. The local shop closed some time ago and bus services are limited and/or non-existent late night and weekends. However, with the benefit of access to a car, there are a good selection of public houses, social clubs and services within a short distance. Given this, and that the policy falls silent on distance I consider these would be of reasonable distance and within the immediate locality.
23. Whilst it was disputed that these pubs are not accessible by foot or cycle, the appeal site has not traded for a significant amount of time and evidently it has not thus been serving the community in this way for a considerable period of time. Furthermore, the evidence that the Oddfellows ever functioned in that manner is not decisive to lead me to an alternative conclusion on this matter that the community have not been using facilities elsewhere including those remaining in the village such as the local hall, church and school.
24. In addition, it was confirmed and as I saw from my site visit the noticeboard on the Methodist Church offers facilities for the community. This included a weekly food bank with other items accepted on Wednesday and Fridays, sessions for craft, coffee and chat and mobile library. There were several religious ceremonies and services shown offered throughout the summer/autumn months at the Methodist

- Church and St. Peters Church. Therefore, I do not consider there is not any range of services offered to the community and village. These would also likely be available to residents who were limited to or unable to travel outside the settlement.
25. Moreover, the Framework at paragraph 83 promotes rural housing, and where there are groups of settlements, development in one village it may support services in a village nearby, and at paragraph 110 it recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
26. As such, it is not necessary for me to consider the further limbs / scenarios of the 'Or' policy. Nevertheless, whilst there would be limited community benefit in terms of a new public house or community hub, and the appeal scheme would not necessarily result in a small loss, the proposal would contribute to the lack of housing supply and this would be a benefit in terms, of the economic and social contributions that would likely derive to the community.
27. The criteria at (d) of the Policy DM25, does not stipulate a timeframe for a community facility to be proactively marketed or what the requirements are for a marketing strategy. The pre-amble gives an indication that marketing should be done in line with the Developer Marketing Standards in the most up to date Employment Land and Premises Review.
28. At the Hearing the Council did not provide a view on what may be a reasonable timeframe, nor have the Council presented any criteria of what would constitute a reasonable period of time or an acceptable marketed rate. The policy falls silent on whether this should only be by an owner and not the appellant to undertake a marketing exercise. The Council did not offer up any evidence on the viability of retaining the public house nor alternative development. They further did not, challenge the appellant's evidence in terms of their economic viability assessments<sup>2</sup> and in the signed Statement of Common Ground at paragraph 5.6, agrees it was subsequently marketed.
29. Furthermore, the appellant confirmed details at the Hearing that it was marketed for some 12 months, it was advertised as a public house and alternative uses. It was marketed with a guide rent of £35,000 per annum with a leasehold interest. It was confirmed that approaches were made for other uses including leisure and commercial retail operators.
30. This is supported by the marketing evidence by the Everard Cole Report, albeit conducted by the previous owner. A full inspection was undertaken in September 2018, and marketing commenced on 26 September 2018 offering a free of tie leasehold. The property was advertised in ten media outlets and online as 'e-marketing'. In October 2018, the marketing strategy was amended to incorporate a freehold and it was advertised on a dual basis. The appellant confirms that there were enquiries, with 15 viewings conducted with only 2 parties interested in continuing the licenced use. In November 2018, an offer for the freehold was accepted. This offer was withdrawn following the listing of the property as an ACV on 1 December 2018.
31. An economic viability assessment (VA) has been provided, supported by a condition report and schedule of repairs required. The VA includes figures of for an open market sale and reintroducing the property back as a public house. The VA

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<sup>2</sup> The Economic Viability of Sustaining Public House Use, Anthony Barnes, dated 24 February 2025

- states that it would not be financially viable or prudent venture as a public house. I accept that there are disagreements between interested parties on the VA undertaken, however this matter is not disputed by the Council or formed a reason for refusal. Therefore, having regard to the evidence before me, I consider that the relevant reasonable steps were undertaken, and it was proactively marketed for a range of community uses. This is demonstrated through consideration of a documented marketing strategy, and it would meet the aims of the policy.
32. Criterion e) of Policy DM25, requires to be demonstrated that the facility has been offered to the community for ownership. The property was listed as an ACV by the Council on 1 December 2018. The Parish Council were given the opportunity to purchase, during the moratorium period of 6 months but did not do so. STOP at that time did not consider they were able to purchase the property or provide a realistic offer.
  33. I acknowledge the comments made by interested parties concerning the building and its status as an ACV. This is a material consideration in the appeal, and one of planning judgement to what weight is given to the listing of the public house as an ACV. It would appear that the listing of it at that time in 2018 satisfied the tests of the Localism Act. I have no reason to doubt that it would not have been frequented by members of the local community and may have even been a thriving pub many years ago prior to its closure. The Council at the Hearing could not advise on any contention that the ACV would be reviewed, following its expiry. The letter from the Council suggests it would be removed from the register with effect on 9 December 2025.
  34. From the oral evidence, and written evidence what is clear to me from all parties is that there have been ongoing discussions between the appellant and the interested parties, including the Parish Council and STOP going back to 2019. These have included discussions to outlay their desire to purchase the pub and several ballpark figures. Notably, the timelines set out an offer of purchase from STOP in June 2020 at a figure of £265k for the full site. In August 2020 the offer was not accepted by the appellant on the basis that it did not reflect the true value of the site, and that the appellant gave STOP the opportunity to submit a revised offer.
  35. Discussions appear to have continued, and STOP raised £599 by a GoFundMe page with other monies and grants in the process of being secured. Figures suggested in the evidence were the amounts needed to be in the region of some £305k - £375k to put the building and pub back to a suitable condition, £275k could be a purchase price with the final costs being anticipated to be around some £590k - £665k to acquire land and put into a condition fit for trading depending on market circumstances and acquisition type.
  36. In 2022, discussions also took place on land outlined in blue as a compromise. It appears from STOP further offers were submitted in June 2023, December 2023 and 2024 rising to some £250k which was refused subject to survey and legals, the last correspondence on this matter was said to be in February 2025. The MJD Hughes, market appraisal and valuation report survey, highlights that there is a valuation uncertainty with an estimated valuation of £220k but the estimated reinstatement costs would be £750k. The external inspection by Morgan & Clarke is dated back from 2021 and was at a time it had ceased to trade. This included that there was regular email dialogue between the parties and formal acceptable to allow the funds to be brought together. The report of 2021 by James Slater & Co,

suggests several repairs with a total project cost of some £254k to bring the building back into use.

37. It was further set out at the Hearing that the Council had been party to some of the discussions. Therefore, the Council's contention that the appellant has been genuinely unwilling to sell the pub to the local community are somewhat unfounded and this is not what the policy wording sets out, or the requirements of the regime and legislation relating to an ACV. In addition, from the history of the site, previous planning applications were submitted with the intention to provide a community space with dialogue taking place. There is also correspondence from interested parties to suggest that they made some good progress based on their independent valuation of the site until the schemes were withdrawn.
38. Despite, the negative outcomes of discussions for the community, STOP, the Parish Council and that they have now secured a public works loan. I must consider whether the policy criteria have been met, having regard to the specific wording of the policy in that it has been offered to take ownership. The policy does not provide any assurance or guidance that any offer must be taken up or that a seller must then sell to them even if some funding including a loan is secured. The policy further falls silent on how this should be assessed as a whole or omits reference to the legislation or regulations. The appellant confirmed at the Hearing that the site is now not for sale.
39. Furthermore, the Localism Act and the Regs does not stipulate that any owner must sell to a community group or force a sale, irrespective of their intentions to retain the facility for community use. Neither does it discourage alternative uses for such buildings. I have also had regard to caselaw<sup>3</sup> which was brought to my attention, in that the desirability of preserving an existing use of land may be a material consideration when a decision is made on a proposal for a different use, and there is a reasonable probability that such use will be preserved if permission for the new use is refused.
40. It was clearly apparent that there is a significant amount of local interest in the building and that a future use is established. The matters of a community hub to facilitate various desired needs, including aspects of physical, social and mental health does not lead me to a different conclusion on determining the appeal based on the evidence. It is not for me to consider the requirements of many of the residents as what a future community hub should include or entail including how the appeal site could be divided up. What, however, is clear is the policy wording in this case, and the requirements that have been satisfied under the relevant legislation and regulations for consideration of the appeal scheme. Moreover, It is not within my remit in the appeal process to conclude on how discussions should have been carried out or ascribe weight to the level or how the negotiations were conducted.
41. Planning law requires that planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework objectives are to significantly boost the supply of housing, including that substantial weight is given to the value of using suitable brownfield land within settlements for homes, for which should be approved unless substantial harm is caused. Therefore, for the reasons given, I consider that criterion e) of the policy

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<sup>3</sup> *Mainwaring & Carroll [2017] EWCA Civ 1315 [2016]/EWHC 2462 (Admin)*

has been demonstrated. However, the matters of heritage harm I have found above, do not outweigh that I have found no conflict with the policy or this main issue.

42. Consequently, taking all these matters into account, I conclude that the proposal and the loss of the ACV would not lead to the reduction to the community's ability to meet its day to day needs, which is a requirement of the Framework, and that adequate justification has been provided for the loss of the public house, including its status as an ACV. For the reasons given above, I must therefore conclude that the proposal would not conflict with Policy 12 of the CS and DM25 of the SADMP as already set out above.

### *Living Conditions*

43. The Council contend that Plot 1 would not be sufficient in terms of the separation between the rear of the plot and the side gable of Plot 7. They say that it would only be some 11m and the required distance should be some 14m and this would impact on the future occupier by the door and window positions, having an oppressive outlook.
44. My attention was drawn to The Good Design Guidance, 2020 (SPD) which sets out some basic principles. However, the relevant section at 5) accordingly refers mainly to the context of existing residential development including distances back to rear. Policy DM10, of the SADMP does not specifically include matters of outlook for future occupiers. The policy makes no reference to the design guidance which the pre-ample states it does not enforce design codes or prescribe excessive detail, which is what the Framework requires, and I note the policy was not included on the Council's decision notice in the reason for refusal.
45. Nevertheless, even in considering the principles of the guidance, the proposed layout and siting including that there would be an intervening boundary treatment between the plots, likely to be a fence and the inclusion of a driveway for Plot 7 between Plot 1 and the gable. I find that the deficiency in this case, is justified including that there is no disagreement that the garden sizes are not acceptable for the relevant plots. Therefore, the proposal would provide adequate levels of amenity, in terms of outlook and would not cause significant adverse harm to future occupiers living conditions.
46. For the reasons given above, I conclude that the proposal would provide acceptable living conditions for future occupants, with regard to Plot 1 and outlook. I find it would not be generally in accordance with the requirements in the SPD and would not be in conflict with the aims of the Framework, at paragraph 135 relating to the provision and standards of amenity, or that it warrants refusal on this issue.

### **Other Matters**

47. The proposal was accompanied by an ecology survey which indicates there is no bats present, matters pertaining to the provision of mitigation including bat boxes and enhancements for birds and wildlife including soft landscaping could be dealt with by suitably worded conditions. The proposal is exempt from biodiversity net gain, due to when it was submitted, therefore there would be no conflict with Policy DM6. Although letters of support have been received, these do not alter my findings and are a neutral consideration.

48. Interested parties have raised further concerns regarding highway safety and parking in the village. However, I have no substantive evidence to support these concerns, and a traffic impact assessment was provided with the Highway Authority confirming the impacts would not be severe, indeed they set out that the proposal is likely to generate less traffic than a pub at certain times. The Council raised no concerns pertaining to service infrastructure shortages, flood risk and drainage or archaeology and advised these could be dealt with by suitably worded conditions, I have no reason to disagree.
49. There is no evidence to suggest that the recreation ground access would be restricted which is confirmed on the revised block plan. I afford no weight to comments relating to the other developments by the appellant's company which have been undertaken as these are not the proposals before me. However, these matters weigh neither for nor against the development.
50. I have been directed to or provided with several appeal decisions from both the main parties. However, I have no substantive information provided on each of those appeal schemes which led to their decisions. Nevertheless, whilst having regard to them in so far as being relevant, ACV, housing land supply and that they raise some similar issues, I have determined the appeal on the basis of oral evidence, written submissions and my own site observations.

### **Planning Balance and Conclusion**

51. Since the determination of the planning application, the Council's housing position has changed, and an interim statement was provided prior to the Hearing. Applying the standard method as of 1 April 2025 gives a maximum of 4.08 years supply. When applying the 5% buffer, this results in a 3.89 years supply. The Council, point out that these are indicative, but nonetheless the Council are unable to demonstrate a 5-year supply of housing and this is not disputed by the appellant. Therefore, in these circumstances paragraph 11(d) of the Framework is engaged.
52. However, in light of my findings in relation to heritage matters the application of policies in the Framework that protect heritage assets (footnote 7 to paragraph 11 d) i) provides a strong reason for refusing the development, consequently the presumption in favour of sustainable development does not apply in this case.
53. I have identified the benefits of the appeal scheme and have undertaken the necessary balancing exercise in relation to public benefits. However, having considered the appeal scheme it would be unacceptable on heritage assets which overall attracts significant weight against the grant of planning permission.
54. The proposal conflicts with the above cited policies of the development plan and the Framework, and the material considerations advanced do not outweigh this conflict. For the reasons given above, I conclude that the appeal should not succeed.

*KA Taylor*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

|                 |                                            |
|-----------------|--------------------------------------------|
| N Lea           | Appellant, Land Manager, AR Cartwright Ltd |
| T Leader        | Counsel – St Johns Chambers                |
| M Robson        | Director, Cerda Planning Ltd               |
| H Hayes         | Senior Planner, Cerda Planning Ltd         |
| A Barnes        | Fleurets                                   |
| M J Billingsley | Cambridge Heritage                         |
| A Cartwright    | Managing Director, AR Cartwright Ltd       |

### FOR THE LOCAL PLANNING AUTHORITY:

|           |                                             |
|-----------|---------------------------------------------|
| T Hartley | Team Leader, Development Services           |
| P Grundy  | Senior Planning Officer, Conservation & GIS |

### INTERESTED PARTIES:

Councillor Jenkins – Parish Council  
K Phillips  
M Phillips  
C Merrian - CAMRA  
M Flemming  
J Melaney  
B Boulstridge  
A Hawkins  
J Francis

### DOCUMENTS/EVIDENCE:

Interim statement on housing land supply  
Conservation Area Management Plan Photographic Survey  
Conservation Area Management Plan  
Ecology and Biodiversity Consultation dated 17 September 2024  
Email between the Main Parties dated 24 July 2025  
Appeal Decision 3317090  
Judgement - *Mainwaring & Carroll [2017] EWCA Civ 1315*[[2016] EWHC 2462 (Admin)]  
Draft Planning Condition & Revised Condition List  
MHCLG Public Works Loan Letter dated 7 August 2025