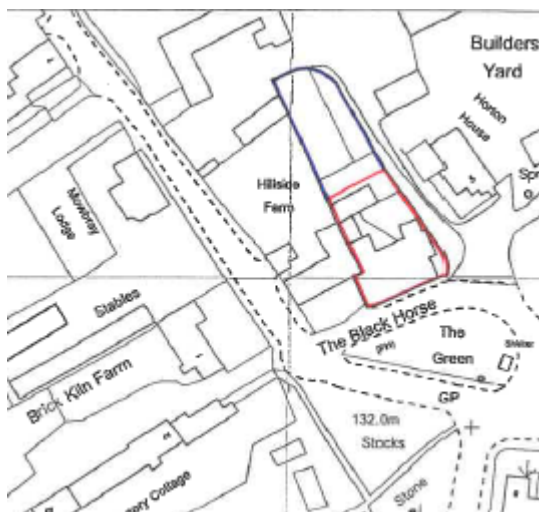


20/00391/FUL – 3 Main Street Grimston Melton Mowbray LE14 3BZ - Change of use: Part conversion of public house to 2 bedroom flat. Alterations to first floor flat access. Conversion of outbuilding to 2 bedroom dwelling. Retain part public house.

Applicant: Mr And Mrs D And S Wakefield

Corporate Priority:	Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	Ronan Browne (Frisby on the Wreake)
Date of consultation with Ward Member(s):	20 April 2020
Exempt Information:	No

1 Summary



- 1.1 The application site currently comprises a Public House, which includes a residential flat above, with land and outbuildings to the rear. The site is located within the Conservation Area for Grimston.
- 1.2 The site is adjacent to The Green, immediately to the south of the Green there are three protected trees and the grade II listed stocks. Beyond The Green is the Grade II listed War Memorial Cross.
- 1.3 The building itself is a 'non-designated heritage asset', providing a raised backdrop to this particularly attractive area of the village. It is painted white which is a distinctive characteristic of buildings in Grimston, and is particularly evident in the buildings surrounding The Green.
- 1.4 Hillside Farm lies to the north of the site and to the east and west are residential dwellings.
- 1.5 Access is currently via an unadopted highway to the front of the building and parking for the Public House is on street as there is no parking provision within the site.

2	Recommendation(s)
2.1	It is recommended the application is REFUSED.

3 Reasons for Recommendation

- 3.1 In the opinion of the Local Planning Authority the proposal would, if approved, result in the provision of additional dwellings in an unsustainable location. The development occupies a location where there are limited local amenities, facilities and jobs, and where future occupiers are likely to depend highly on the use of a private motor vehicle. The proposal does not meet an identified proven local need and would be contrary to Policy SS3 of the Local Plan which seeks to restrict development in such settlements to that which is based on a local proven need (and subject to other criteria).
- 3.2 The proposed development would result in the loss of a valuable community facility, to the detriment of the life of the community, contrary to Policy C7 of the Melton Local Plan and Paragraphs 83 and 92 of the National Planning Policy Framework. Insufficient justification has been supplied that shows compliance with these policies with limited other facilities in the village. It is not considered that sufficient detail has been submitted to demonstrate that the Public House can no longer be utilised as such.

4 Key Factors

4.1 Reason for Committee determination

- 4.1.1 This application is being considered by the Committee due to the level of representation that has been received.

4.2 Relevant policy context

- 4.2.1 The Melton Local Plan 2011-2036 was adopted on 10th October 2018 and is the Development Plan for the area.
- 4.2.2 No inconsistency with the NPPF has been identified that would render Local Plan policies 'out of date'.
- 4.2.3 Please see Appendix B for a list of all applicable policies.

- 4.2.4 Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the Local Planning Authority when determining applications to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses and, the desirability of enhancing or preserving the character and appearance of the Conservation Area/
- 4.2.5 There is no 'made' Neighbourhood Plan which covers the application site.

4.3 **Relevant history**

- 4.3.1 There have been alterations and extensions to the public house in the past with permissions granted in 2002, 2004 and 2009. It is not considered that these are relevant to the current proposal.

4.4 **Main issues**

- 4.4.1 The key issues for this application are considered to be:
- Principle of development
 - Loss of Community Facility and Asset of Community Value
 - Impact upon heritage assets
 - Impact upon residential amenities of neighbouring properties
 - Impact upon highway safety and parking

5 **Report Detail**

5.1 **Principle of development (dwellings) : policies SS1 – SS3**

- 5.1.1 Policy SS2 sets out the development strategy for the Borough for housing. It identifies a sustainable approach to development, establishes settlements as Service Centres, Rural Hubs or Rural Settlements and sets out the type of development appropriate to each.
- 5.1.2 Grimston is identified as a Rural Settlement. Policy SS2 states alongside Service Centres and Rural Hubs, Rural Settlements will accommodate a proportion of the Borough's housing need, to support their role in the Borough through planning positively for new homes as windfall sites within and adjoining settlements by 2036.
- 5.1.3 This development will be delivered through small unallocated sites which meet the needs and enhance the sustainability of the settlement in accordance with Policy SS3.
- 5.1.4 Policy SS3 supports new dwellings in or adjoining such villages **only where there is a proven local need**.
- 5.1.5 The policy requires a demonstration that the development provides housing which meets a proven local need as identified by substantive evidence, for example within a Neighbourhood Plan or appropriate community-led strategy or a housing needs assessment or other evidence provided by the applicant. Grimston does not have a Neighbourhood Plan.
- 5.1.6 A Housing Needs Assessment was carried out in Grimston in 2017 but no requirement for market housing was identified. The Borough wide housing needs survey established a general, Borough wide need, for two and three bedroom properties and this proposal

seeks permission for part conversion to provide 2 x 2 bed apartments at Ground Floor and a 4 bed apartment at first floor which already exists.

- 5.1.7 Policy SS3 states that in rural settlements planning permission will be granted for new residential development in the rural area within or on the edge of existing settlements, provided it is in keeping with the scale and character of the host settlement and where:
1. The development provides housing which meets a proven local need as identified by substantive evidence, for example within in a Neighbourhood Plan or appropriate community-led strategy, or a housing assessment or other evidence provided by the applicant; and
 2. Through repeated application, will not result in a level or distribution of development that is inconsistent with the development strategy, and
 3. The development respects the Borough's landscape and settlement character such that it conforms with policies EN1, EN4 and EN6; and that (where relevant), the design conforms with Policy D1 and applicable environmental policies in any relevant Neighbourhood Plan; and
 4. The development will be served by sustainable infrastructure and or provide new infrastructure or services to the wider benefit of the settlement; and
 5. The development respects ecological, heritage and biodiversity features and where appropriate provides mitigation to prevent any potential harm; and
 6. Where possible the development does not result in the loss of best and most versatile agricultural land; and
 7. The development can be adequately drained and would does not increase the risk of flooding, in accordance with Policy EN11.
- 5.1.8 Whilst there is identified need for dwellings in the Borough as whole these are fully met by the Local plan and planning permissions, and there is no Neighbourhood Plan for Grimston, nor is there a community led strategy which identifies such a need for additional housing of this type in the village.
- 5.1.9 The support the applicants have received is noted, however no substantive evidence has been provided to demonstrate why the proposed housing is required in this particular village which is recognised to be poor in sustainability terms, and consequently it has no allocated sites for housing in the adopted Local Plan. The nearby settlements of Old Dalby, Asfordby and Ab Kettleby have allocated sites for housing and are preferred sites for housing development in terms of sustainability.
- 5.1.10 In addition to the above, Policy SS3 states that development should be served by existing sustainable infrastructure or provide new infrastructure or services that would benefit the wider settlement. No additional benefits are proposed by the applicant. The local services are extremely limited, which would increase reliance on private vehicles to access day to day services and employment options.
- 5.1.11 No evidence was submitted to show how the additional dwellings would impact the existing infrastructure or for the provision of new infrastructure or services that would benefit the wider settlement. This is contrary to the aims and objectives of Policy SS3.

5.1.12 Extensive supporting information has been provided by the applicants, namely

- An overview of the site and access to facilities including the Village Hall and Church
- Part retention of the Public House to remain as a social hub
- Provide a range of homes that will meet the present demand of smaller dwellings
- Character of the building will be enhanced and retained
- The front of the Public House will remain to retain character
- Bus service to Melton Mowbray every hour
- Well routed highways
- Reference is made to National Planning Policy in terms of Rural Housing and Supporting a prosperous rural economy
- The local community is served by a door to door service with local produce and online shopping can be achieved.
- 2 bedroom dwellings are considered appropriate within this rural settlement
- Ageing population requires smaller dwellings
- Appropriate for first time buyers/renter
- Local Survey for Grimston dated 2017 has given a benchmark of 5 years for dwellings to become available in that time frame.
- Estate Agent has confirmed that there is a need for smaller dwellings in the local area of Melton.

5.1.13 In this case it is concluded that the proposal does not meet the criteria of SS3 in terms of evidence demonstrating a need, whilst it is recognised that there may be a desire for people to move to Grimston this differs from the threshold set by Policy SS3 in demonstrating a 'proven local need'. Therefore, in this case it is considered that the proposal does not currently present sufficient justification to meet the criteria of SS3 in terms of evidence demonstrating a need.

5.1.14 **The creation of additional dwellings is therefore not considered to represent sustainable development in respect of the location, and would conflict with policies SS2 and SS3 of the adopted Local Plan. In this instance it is considered that the applicants have failed to demonstrate a sufficient need to justify the principle of the proposed dwellings.**

5.2 **Loss of Community Facility and Asset of Community Value (Policy C7)**

5.2.1 Community facilities are defined in the Local Plan and specifically included Public Houses, although any facility or service which enjoys wide support could be regarded as to the "community" facilities. Proposals for a change of use or for development which will result in the loss of community facilities and/or services must be fully justified.

5.2.2 Under Local Plan Policy C7 they must demonstrate that all options for continued use have been fully explored and that retention would not be economically viable.

- 5.2.3 They must show that there is no reasonable prospect of the established use being retained or resurrected, and that there is little evidence of public support for the retention of the facility.
- 5.2.4 In the case of public houses and shops, it must be demonstrated that all reasonable efforts have been made to sell or let (without restrictive covenant) the property as a public house or shop and that it is not economically viable.
- 5.2.5 Where permission is given for a change of use of a community facility and/or land, preference will be given to the premises remaining in some form of community or employment use, provided that the proposal adheres to other policies in the Local Plan.
- 5.2.6 The Localism Act 2011 allows community groups to nominate "assets of community value". This gives communities an opportunity to bid to acquire and operate those assets should they become available. This national initiative complements the objectives of Policy C7. However, the process of nominating assets and bidding for the right to acquire them would not form an important part of the assessment of a proposal through Policy C7.
- 5.2.7 The building and land comprising the Black Horse Public House has been listed and confirmed on 04.06.2020 via a review conducted by the Director for Governance and Regulatory Services as an Asset of Community Value, this forms a material consideration of the application for the proposed change of use.
- 5.2.8 The owners are offering the community the opportunity to purchase the Black Horse. The sale price is £600,000. The proposition was put to the Parish Council on 14.06.2020 on a strictly 'no offers' basis. Melton Borough Council were informed of the situation on 15.06.2020 and awaits confirmation of the response .
- 5.2.9 Policy C7 states that: Support will be given to proposals and activities that protect, retain or enhance existing community services and facilities or that lead to the provision of additional assets that improve community cohesion and well-being to encourage sustainable development. Proposals for the change of use of community facilities, which would result in the loss of the community use, will only be permitted where it is clearly demonstrated that either:
1. there are alternative facilities available and active in the same village which would fulfil the role of the existing use/building, or
 2. the existing use is no longer viable (supported by documentary evidence), and there is no realistic prospect of the premises being re-used for alternative business or community facility use. The proposal must also demonstrate that consideration has been given to:
 - a) the re-use of the premises for an alternative community business or facility, and that effort has been made to try to secure such a re-use; and
 - b) the potential impact closure may have on the village and its community, with regard to public use and support for both the existing and proposed use.
- 5.2.10 Evidence submitted to support the application cites the Village Hall as an alternative facility. However the Village Hall is not a licensed premises therefore would not fulfil the role of a Public House in the same way, however it is noted that subject to further consent being gained this situation could alter in the future.
- 5.2.11 The documents submitted in support of the application aim to establish that the existing use is no longer viable as a business. Evidence submitted includes accounts from April to
-

September 2018 which show that the business was operating at a loss during that time and the liquidation account of the tenant at the time has been provided as the financial state of affairs prior to the closure of the Public House in January 2020.

- 5.2.12 It is not considered that the evidence submitted is sufficient to demonstrate that there is no realistic prospect of the business having the potential to be successful as a community facility within the next five years. Public comments submitted in objection to the application for change of use assert that in recent times the facility has been well used and there is no evidence to suggest that this could not be the case again.
- 5.2.13 Evidence of attempts to secure the sale or let of the premises have also been provided. This has been to either let the Public House to new tenants, which has failed, or to sell the Public House for other business use. In this case an approach to a Funeral Director was made, however the location was not one that the business considered acceptable for this type of business and again the offer was declined.
- 5.2.14 Details submitted include a statement from the applicant whereby details of marketing is included, in summary the Public House was placed on the open market in 2018 and the applicant has confirmed that only 2 viewings took place.
- 5.2.15 Further Public House chains were contacted and evidence has been provided within the submission of approaches that had been made by the applicant. After an unsuccessful attempt to sell the business, the Black Horse was leased on a 5 year contract.
- 5.2.16 On the basis of the information submitted, it is not considered that all possible avenues were fully explored, nor was the property marketed extensively such to engage appropriate interest.
- 5.2.17 Within the submitted information, financial accounts have been provided which detail a decline in profit and confirmation of the lease holder going into liquidation, new tenants were put in place but this arrangement was unsuccessful due to correct licences not being in place.
- 5.2.18 A further attempt was made to sell the business and auction agents involved in the sale of the property, at this point the business was marketed for other uses including a funeral directors as previously mentioned.
- 5.2.19 Although the proposal retains a portion of the existing public house, it removes the existing bar and snug area and transfers the facility completely to the current lounge area, meaning that the bar would now only utilise one room whilst also providing WC and Kitchen as opposed to the current layout which includes a large snug and bar area along with the retained lounge.
- 5.2.20 It is considered that the loss of the majority of the floor area to residential use would result loss of the type and character of facility currently and historically present due to the nominal proportions of the floor area retained for this use.
- 5.2.21 It is clear from the extent of opposition to the proposal that public support for the existing facility is substantial, therefore the potential impact of the reduced facility on the village and its community is considered to be detrimental.
- 5.2.22 **It is concluded that the proposal does not protect, retain or enhance the existing provision made by the community facility, nor does it lead to the provision of additional assets that improve community cohesion and well-being to encourage**

sustainable development. Therefore the proposed change of use is not considered to be in accordance with Policy C7 – Rural Services.

5.3 Impact on heritage assets

- 5.3.1 The application site lies within the Conservation Area; Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (The Act) imposes a requirement in relation to the consideration and determination of planning applications which affect conservation areas, that special attention should be paid to the desirability that the character or appearance of the conservation area should be persevered or enhanced.
- 5.3.2 NPPF Para 192 requires that LPA's should consider the desirability of new development making a positive contribution to local character and distinctiveness. Para 193 advises that great weight should be given to the asset's conservation (regardless of extent of harm) and 196 that "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal."
- 5.3.3 Whilst the principle of the change of use is not supported as set out above, it is not considered that harm would arise to the outer appearance of the heritage asset, however it is noted that there is an element of historical culture and tradition which could potentially be lost.
- 5.3.4 On this basis it is considered that the development would satisfy the requirements of Policy EN13 and the intentions of the NPPF. Views of the application site from the wider Conservation Area and The Green, where there are listed assets are not affected. No alterations to the appearance of the building are proposed.
- 5.3.5 The Conservation Officer has no objections to the proposal, stating that: The intention is to remove the asbestos roofing and replace with slate to match the existing. As such these are enhancements to the character of the building and the surrounding area and any harm is considered to be outweighed by this proposal.
- 5.3.6 **Overall it is considered that the development would have a neutral impact upon the setting of the Conservation Area and nearby listed buildings given the nature, scale and design of the development and the separation distances to the listed buildings. The proposal is therefore considered to accord with Policy EN13 and satisfies the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990.**

5.4 Impact upon residential amenities of neighbouring properties

- 5.4.1 The National Planning Policy Framework (NPPF) requires that planning should "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"
- 5.4.2 Policy D1 of the Melton Local Plan states that the amenity of neighbours and neighbouring properties should not be compromised.
- 5.4.3 It is not anticipated that the impact on existing adjacent dwellings would be detrimental due to the existing use as a Public House along with existing residential use already provided at the first floor.

- 5.4.4 The proposed dwellings would be in close proximity to the remaining smaller Public House facility and proposed alfresco dining area which could result in some disturbance to occupiers of the proposed dwellings in terms of noise and potential loss of privacy.
- 5.4.5 Access to the proposed dwellings is in direct conflict with the outside space of the proposed retained Public House area which could give a rise to perception of no useable amenity space for the occupants of the proposed dwellings.
- 5.4.6 Outdoor amenity space for the proposed dwellings has not been detailed, whilst smaller apartments and conversions of previous businesses to residential don't always have the offer of garden areas when considering the aims of Policy D1 of the Melton Local Plan which is to raise the standard of design, whilst not a necessity it is considered a modest negative aspect of this proposal.
- 5.4.7 **It is therefore not considered that the proposal would comply with Policy D1 of the Melton Local Plan which requires new development to ensure the amenity of neighbouring properties is not be compromised.**
- 5.5 **Impact upon highway safety and parking**
- 5.5.2 Policy D1 states that: All development proposals will be assessed against the following criteria: Makes adequate provision for car parking.
- 5.5.3 Parking provision is not detailed for the existing 4 bedroomed flat above the Public House, however the design and access statement indicates that parking will be on street at the front and side of the property as it is currently.
- 5.5.4 Four parking spaces are detailed to the rear of the building to provide parking for the two proposed ground floor flats.
- 5.5.5 The parking plan is not to scale and the spaces are not marked out. No dimensions are given.
- 5.5.6 The parking area indicated is not within the red line application area.
- 5.5.7 The Local Highways Authority has been consulted however the comments have not been received to date, comments will be provided verbally at the Committee meeting.
- 5.5.8 **It is not therefore considered that adequate parking provision has been provided at present, however conditions can be used to secure adequate parking provision for the proposed additional residential accommodation and the existing residential use would continue as currently therefore having a neutral impact upon current parking arrangements for this particular apartment.**
- 5.6 **Other issues**
- 5.6.1 Given the level of representation, it is considered appropriate to identify the points raised which do not form a material planning consideration and to reinforce that as such **they should not be taken into account.**
- 5.6.2 Comments have been received regarding the future intentions of the applicant in relation to further applications for change of use. Each application is considered on its own merits and will be determined against the national and local plans which are in place at the time of determination.

- 5.6.3 Comments have been received relating to the proposal becoming a micro pub, the proposal is to retain a smaller amount of the existing Public House, not to form a new micro-pub.
- 5.6.4 Comments received in relation to the applicant personally are not material planning considerations, the proposal is considered in relation to Local and National Policy and the use of the building, nor as judgement of an occupant and or applicant or their business acumen etc.
- 5.6.5 Rights of access and ownership disputes are civil matters between the parties involved and are not material planning considerations.
- 5.6.6 Devaluation of properties in the surrounding area is not a material planning consideration.
- 5.6.7 Fire escape and disabled access are matters for Building Regulations, which requires a separate application process.

6 Conclusion

- 6.1.1 The creation of additional dwellings is not considered to represent sustainable development in respect of the location, and would conflict with policy SS3 of the adopted Local Plan. In this instance the applicants have failed to demonstrate a sufficient 'proven need' to justify the principle of the proposed dwellings.
- 6.1.2 Grimston is a rural settlement. There is no identified essential need for the proposed development. The proposal would, if approved, result in the provision of an additional dwelling in a location with poor sustainability, where there are limited local amenities, facilities and jobs, and where future residents are likely to depend highly on the use of a private motor vehicle.
- 6.1.3 The proposal does not meet an identified proven local need and would be contrary to Policy SS3 of the Local Plan which seeks to restrict development in such settlements to that which is based on a local proven need. In the absence of any evidence to demonstrate an identified housing need the proposal is contrary to Policy SS3 of the Local Plan.
- 6.1.4 The proposal does not protect, retain or enhance the existing community facility, nor does it lead to the provision of additional assets that improve community cohesion and well-being to encourage sustainable development. Therefore the proposed change of use is not considered to be in accordance with Policy C7 – Rural Services. It is not considered that sufficient evidence has been provided to demonstrate that the pub is not viable, is not needed or that it has been marketed sufficiently.
- 6.1.5 The proposal does not ensure that the amenities of neighbouring properties are not compromised. Therefore the proposal is not in full accordance with Policy D1 – Raising the Standard of Design.
- 6.1.6 Adequate parking provision has not been demonstrated at present. Therefore the proposal does not comply with Policy D1 – Raising the Standard of Design.
- 6.1.7 **It is not considered that the proposal would comply with the relevant policies of the Melton Local Plan and the overall principles of the National Planning Policy Framework.**

7 Consultation & Feedback

7.1 Immediately adjoining occupiers were notified and a site notices posted at the site.

7.2 179 representations of objection from 149 addresses, 1 neutral, and 9 in support have been received and these are summarised in Appendix B below.

8 Financial Implications

8.1 None identified

Financial Implications reviewed by: N/A

9 Legal and Governance Implications

9.1 Legal implications have been included in the main body of the report. No specific issues are identified. This application is being considered by the Committee under the scheme of delegation within the Constitution due to the level of public representation. Legal advisors will also be present at the meeting.

Legal Implications reviewed by: Deputy Monitoring Officer

10 Background Papers

10.1 None

11 Appendices

A: Summary of Statutory Consultation responses

B: List of applicable Development Plan policies

C: Representations received

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Appendix A : Summary of Statutory Consultation Responses

Parish Council

- Objection received.

1. INTRODUCTION

The Black Horse is the most prominent and most important building in Grimston after the church. It is central to the village both geographically and spiritually and has served as a much-loved meeting place for many years.

The Black Horse was formerly a thriving and popular pub, but its fortunes declined following its acquisition by the current owners. In their Design and Access Statement they freely admit that '*local trade was down by 70% due to the change of landlords*'.

Having been unable to operate the pub profitably the owners now propose to redevelop the property. Not surprisingly, their plans have caused outrage among parish residents and visitors alike, the extraordinary number of objections on the Planning Portal website (152 as at 18 May 2020) reflecting the strength of feeling of those who wish to ensure its survival.

Similar objections have appeared on social media, some questioning the applicants' motives: the Design and Access Statement itself draws attention to an extract from the Melton Times Facebook page which alleges that '*the planning application of 3 flats and a micro pub is a ruse to end up shutting the pub*'. This suspicion seems to be shared by many, who suspect that a small pub element is retained in the redevelopment scheme solely to meet planning requirements but is actually designed to fail. If that is the case then it would at least account for the applicants' failure to undertake any pre-application consultation within the community and would explain the design drawbacks, lack of detail and errors and omissions in the application documentation.

The Parish Council nevertheless regard this as a *bone fide* application and set out below the many objections to it.

2. THE SCHEME

The PC has the following observations on the scheme.

2.1 THE PROPOSED PUBLIC HOUSE

- Capacity. The proposed bar/dining room is approximately one third of the size of the existing front of house space and appears too small to accommodate the numbers mentioned in the D&A Statement (Seats 30; Dining 22; al fresco dining 30).
- Al fresco courtyard dining area. The al fresco courtyard dining area is not shown on the plans but is assumed to be between the back of the pub and the car parking spaces for the flat, which may cause a conflict between customers and residents.
- WCs. Confirmation is required that the required number of WCs, urinals and wash basins for the number of customers anticipated can be provided. The WCs and sanitary fittings are not shown on the plan.
- Means of escape in case of fire. There are two exit doors but both exit routes lead past the kitchen which is the most likely source of fire. Confirmation that the layout meets Fire Regulations is required.

2.2 PROPOSED FLATS

- Access. The proposed side access to the converted 2 bed dwelling at the rear relies on the existence of a right of access over an adjoining owner's property.
- Outside space. The scheme provides two 2 bed flats and one 4 bed flat. It is not clear whether any flat has access to a garden. There is no provision for bin storage.
- Noise. One flat will adjoin the pub, another will be above it, the third adjoins the service yard. All will suffer disturbance from customers, deliveries and cooking smells. Their capital and rental value will be limited by the bar.

2.3 CAR PARKING

- The provision of two car spaces in the back yard for the rear flat is adequate. There is no parking provision for the 2 bed ground floor flat or the 4 bed first floor flat, which could result in 4 additional residents' cars having to park around the village green, in addition to pub customers' cars.

3. LISTING AS AN ASSET OF COMMUNITY VALUE

When trading ceased earlier this year (prior to the Covid-19 lockdown) and the future of the Black Horse became increasingly uncertain the Parish Council nominated it for listing as an Asset of Community Value (ACV) to protect it for the long-term benefit of members of the Parish, for those from neighbouring villages without public houses of their own and for visitors from further afield. Melton Borough Council confirmed its listing as an ACV on 7 April 2020, the Decision Notice confirming that

'the Black Horse furthers the social wellbeing and interest of the community as follows:

'... It is the only pub in the village. There are no shops or other amenities in the village

save for the Village Hall. The nomination provides evidence of a once thriving community pub which was frequented by locals and visitors on a regular basis, testimonials from social media and Trip Advisor were included in the submission. The

pub had darts and petanque teams in the recent past providing a social environment for the community. The pub was also frequented by local agricultural workers due to its location. There is strong local support for this nomination and several letters were included in the submission noting that this was a "quintessential British village pub". The local B&B also had strong ties to the pub and would direct guests to eat and drink there during their stay...'

In considering the proposal the Parish Council had no doubt that the conversion and change of use would threaten its continued existence as a community pub and would be clearly incompatible with its status as an ACV and voted unanimously to oppose it.

Tellingly, the applicants have lodged an appeal against the listing, effectively acknowledging that their own proposal is incompatible with its ACV status: there can have been no reason for the appeal had they not believed that the listing would present an obstacle to their planned redevelopment of the property.

4. MELTON PLAN 2018

The proposal is incompatible with various sections and policies of the Melton Plan 2018, including but not limited to:

Policy SS3 – Sustainable Communities (unallocated sites)

In rural settlements outside the main urban area, the Council will seek to protect and enhance existing services and facilities...

PC comment:

- The proposal does not protect the existing facility.

Policy EN6 – Settlement Character.

Development proposals will ... be supported where they do not harm individual features of a settlement which contribute towards settlement character as identified in a Neighbourhood Plan, including non-designated heritage assets.

PC comment:

- The proposal will do irretrievable harm to the Black Horse PH which, though a non-designated asset, makes a considerable contribution towards the settlement character.

Chapter 5: Melton's Communities – Strong, Healthy and Vibrant

5.1 Strong, healthy and vibrant communities are crucial to the sustainability of places, and contribute greatly to quality of life and wellbeing.

5.2 The Local Plan aims to support and strengthen local communities throughout Melton Borough...

Development which will result in loss of community assets

5.11.5 ... Proposals for a change of use or for development which will result in the loss of community facilities and/or services must be fully justified. They must demonstrate that all options for continued use have been fully explored and that retention would not be economically viable. They must show that there is no reasonable prospect of the established use being retained or resurrected, and that there is little evidence of public support for the retention of the facility.

PC comment:

- The PC believes that there is a very good prospect of the established use as a public house being resurrected.
- There is overwhelming public support for the retention of the facility.

5.11.6 In the case of public houses and shops, it must be demonstrated that all reasonable efforts have been made to sell or let (without restrictive covenant) the property as a public house or shop and that it is not economically viable.

PC Comment:

- It has not been demonstrated that all reasonable efforts have been made to sell or let the property as a public house: according to the Design and Access Statement the property appears not to have been marketed more recently than two years ago, before the letting to JC Inns in August 2018.
- As an ACV, the owners are now required to give the community an opportunity to bid to acquire the property should it become available; the PC is not aware that it has become available.
- The PC does not believe that it has been demonstrated that it is not economically viable. Previous landlords have stated that the business used to be profitable. Its gradual recovery under the management of tenants in the period immediately prior to its closure by the applicants also suggests that a return to economic viability is possible.

5.11.7 Where permission is given for a change of use of a community facility and/or land, preference will be given to the premises remaining in some form of community or employment use, provided that the proposal adheres to other policies in the Local Plan.

PC Comment:

- Given the small size of the proposed bar (approximately one-third of the floor area of the present pub) its economic viability must be doubtful. Its retention as an asset for the community and/or employment use are likely to be short-lived.

5.12 Community Right to Buy

5.12.1 The Government has introduced legislative changes, as part of the Localism

Act, which allows community groups to nominate "assets of community value". This gives communities an opportunity to bid to acquire and operate those assets should they become available. This national initiative complements the objectives of Policy C7. However, the process of nominating assets and bidding for the right to acquire them would form an important part of the assessment of a proposal through Policy C7.

PC Comment:

- The Black Horse has been listed as an ACV which requires the owners to give the community an opportunity to bid to acquire the property should it become available.

Policy C7 – Rural Services

Support will be given to proposals and activities that protect, retain or enhance existing community services and facilities or that lead to the provision of additional assets that improve community cohesion and well-being to encourage sustainable development.*

Proposals for the change of use of community facilities, which would result in the loss of the community use, will only be permitted where it is clearly demonstrated that either:*

- 1. there are alternative facilities available and active in the same village which would fulfil the role of the existing use/building, or*
- 2. the existing use is no longer viable (supported by documentary evidence), and there is no realistic prospect of the premises being re-used for alternative business or community facility use.*

The proposal must also demonstrate that consideration has been given to:

- a) the re-use of the premises for an alternative community business or facility, and that effort has been made to try to secure such a re-use; and*
- b) the potential impact closure may have on the village and its community, with regard to public use and support for both the existing and proposed use.*

** including facilities such as community/village halls, village shops, post offices, schools, health services, care homes, public houses, playing fields and allotments.*

PC Comment:

- This proposal will result in the loss of an important community asset.
- It has not been demonstrated that there are alternative facilities available: the village hall is not suitable.
- It has not been demonstrated that the existing use is no longer viable; the PC believes the opposite to be the case.
- It has not been demonstrated that consideration has been given to the re-use of the premises for an alternative community business or facility, or that effort has been made to try to secure such a re-use. (The suggestion in the Design and Access Statement that the Co-operative might have considered the property for use as a shop/undertakers seems unlikely to be regarded as a genuine attempt to meet this requirement).
- It has not been demonstrated that any consideration has been given to the potential impact closure may have on the village and its community. The application form shows that the applicants undertook no local consultation regarding either the existing or proposed use.

Policy C9 – Healthy Communities

All development proposals should make a positive contribution to the following promoters of health and well-being:

- a. Good quality, accessible green spaces, public realm, sports and recreational facilities close to where people live and work... and to maximise opportunities for*

social interaction'

PC Comment:

- This proposal minimises opportunities for social interaction.

Policy EN13 – Heritage Assets.

The National Planning Policy Framework (NPPF) provides national policy for considering proposals which affect a heritage asset. This includes the need to assess the effect of a proposal on the significance of an asset and the need for a balanced judgment about the scale of any harm or loss and the significance of the heritage asset. Melton Borough has a number of important historic assets. These include ... non-designated heritage assets...

The Borough of Melton contains heritage assets that are at risk through neglect, decay or other threats. These will be conserved, protected and where possible enhanced.

The Council will take a positive approach to the conservation of heritage assets and the wider historic environment through:

*A) seeking to ensure the protection and enhancement of Heritage Assets including non-designated heritage assets when considering proposals for development affecting their significance and setting. **Proposed development should avoid harm to the significance of ... buildings...***

*C) ensuring that new **developments in conservation areas are consistent with the identified special character of those areas...***

*D) seeking to **secure the viable and sustainable future of heritage assets through uses that are consistent with the heritage asset and its conservation'***

PC Comment:

- The proposal will cause harm to the significance of the property as a non-designated heritage asset.
- The conversion of the property into three self-contained flats and small public bar is not consistent with the special character of the area.
- The proposal threatens the viability and sustainable future of the property as a community public house.

5. NATIONAL PLANNING POLICY FRAMEWORK

The proposal is incompatible with various sections and policies of the National Planning

Policy Framework (NPPF) which directs as follows:

Supporting a prosperous rural economy

83. Planning policies and decisions should enable:

c) the retention and development of accessible local services and community facilities, such as local ... public houses...'

PC Comment:

- The proposal does the opposite.

Promoting healthy and safe communities

92. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

c) '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;

d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community...'

PC Comment:

- The proposal does not guard against the unnecessary loss of this valued facility, nor does it ensure its retention for the benefit of the community: it does the opposite.

6. APPLICATION DOCUMENTATION

There are a number of omissions, factual inaccuracies and inconsistencies between the

information given in the Application Form and Design and Access Statement and the information provided verbally by the Applicants' son to the Parish Council meeting on 4 May 2020.

6.1 APPLICATION FORM

Section 5. Pre-application advice.

- The application states that no prior advice was sought. The Design and Access statement refers to consultation ref. 20/00097/ENQG.

Section 8. Neighbour and Community Consultation.

- The application states that neither the neighbours nor the community were consulted about the proposal. If correct, this seems extraordinary as the Design and Access Statement purports to show that 'the owners are willing to put their heart and soul into retaining a community asset so that it is not lost forever'.

Section 11. Car parking.

- The application states that there are four existing car parking spaces for both the existing 4-bedroom flat and the public house. No additional car parking is proposed for the two new 2-bedroom flats.
- The car parking indicated in photographs in the Design and Access Statement is on the section of Main Street between the village green and the front of the property, not within the curtilage of the property.
- At the PC meeting the Applicants' son confirmed that there would be only two car parking spaces, in the back yard of the property next to the al fresco courtyard dining area. The spaces are not shown on the plans.

Section 18. Residential Units (Including Conversion).

- The application omits mention of the existing 4-bedroom first floor flat.

Section 19. All Types of Development: Non-residential Floorspace

- The application states that the proposal does not "involve the loss, gain or change of use of non-residential floorspace". The proposal actually involves the loss of approximately 60% of the existing 'front of house' floorspace and the change of use of non-residential floorspace.
- The form requires figures for the existing gross internal non-residential floorspace, the gross internal non-residential floorspace to be lost by change of use and the total gross non-residential floorspace to be provided. None of this information is provided.

6.2 DRAWINGS AND PLANS

- The plans omit the front (SE) elevation, facing the village green.
- It appears from the proposed ground floor plan that the proposed bar area will be too small to accommodate the numbers mentioned in the D&A Statement (Seats 30; Dining 22; Al fresco courtyard dining 30). The Applicants' son confirmed that the chimney breast is to be removed to increase floorspace, but the floorplan shows the chimney breast is to be retained.
- The WCs appear too small to meet building regulations for 60 customers.
- Larger scale (1:50) plans showing table and seating layout, WC layout and kitchen layout are not provided.
- There is no kitchen shown in the proposed 2 bed flat at the back.

6.3 DESIGN & ACCESS STATEMENT

The Design and Access Statement contains a number of errors and inconsistencies, including but not limited to, the following:

SS3 -Sustainable Communities.

- The D&A Statement that Grimston does not have any affordable housing is incorrect as there are several council houses in the village.
- The PC questions the suitability of the proposed residential units next to a micro-pub for the 'older generations wanting to retire and downsize' mentioned.

Use of the Village Green by the Black Horse. The statement presents the PC decision of 14 May 2018 not to allow the Black Horse to trade on the village green as having been intended to prevent its growth, whereas the decision was taken that no commercial activity of any kind should be permitted on the green in order to preserve it as an open space for the enjoyment of all, not just pub customers.

7 CONCLUSION

The PC considers that the redevelopment and conversion of the Black Horse to create flats is wholly inappropriate in the centre of the conservation area. The small public bar element would be a miserable substitute for an historic village inn and its design seems likely to render it economically unviable. The fear is that it too will be forced to close and that the pub will be lost to the community forever. The Parish Council regards this proposal as a serious threat to the heart of our quintessential Leicestershire village and urges the Planning Committee to reject the application outright.

LCC Highways

- No response to date.

MBC Conservation

- No objection.

MBC Building Control

- No objection.

Appendix B : Summary of representations received

Objection

1. Micro pub would not be viable and would result in closure followed by a further application for change of use.
2. Applicant has no intention of opening micro pub.
3. Intentions have been stated by applicant to build on land to the rear.
4. Only pub in the village. Loss detrimental to the community.
5. Numerous objections.
6. ACV designation.
7. Conflict within Design and Access Statement – Protection of the community asset by maintaining as micro pub versus appeal against ACV status.
8. Proposed micro pub not adequate for communities needs.
9. Not in accordance with Local and National Policy.

10. Loss of Community facility. Lack of evidence required to satisfy Policy C7 re. viability.
11. Unsustainable location. Lack of evidence of specific local housing need required to satisfy Policy SS3
12. Non-designated heritage asset not protected – contrary to Policy EN13
13. Loss of village pub harmful to settlement character – contrary to Policy EN6
14. Market rather than affordable housing proposed contrary to Design and Access Statement – no evidence of affordable housing provision.
15. Application form states no pre-application advice sought. D&A statement contradicts this with reference to pre-application advice received.
16. Parking not within application site and not in applicants control.
17. Inadequate parking provision for number of bedrooms proposed.
18. Deed on land to side limiting parking.
19. Application form section 15 incorrect stating site not vacant. Tenants left 18.01.2020.
20. Application form Section 19 incorrect re. loss, gain or change of use of non-residential floorspace.
21. Application form section 31 incorrect stating site cannot be seen from public road, footpath, bridleway or other public land.
22. Lack of kitchen in proposed 2 bed flat.
23. Two of the dwellings have no outside space.
24. No bin storage – detriment to conservation area.
25. Proposed access from land not in applicants control.
26. Proposed storage space for micro pub disconnected from pub and out of proportion with required storage for proposed use.
27. Large storage area will increase business rates and running costs which will negatively impact on viability of micro pub.
28. No provision for dwelling associated with micro pub.
29. Inadequate fire escape provision for micro pub.
30. Conflict between operation of micro pub and amenity of occupiers of proposed dwellings.
31. D&A statement states no affordable housing in parish however there are council houses in Grimston.
32. Viability of micro pub linked to income from proposed dwellings.
33. Two of the proposed dwelling not accessible to persons with mobility issues.
34. Village Hall will not provide the same facility as the pub.
35. Alleged that the applicants intention is to eventually develop entire site to residential in incremental steps to include a further application for dwellings on land to rear.
36. Insufficient space for stated capacity of micro pub.
37. Viability of micro pub reliant on food sales.
38. Alfresco dining area impractical due to climate.
39. Lack of business plan for micro pub.
40. Alleged untruthful statement in D&A regarding other interested parties at time of

purchasing the premises.

41. Alleged untruthful statement regarding success of business prior to purchase.
42. CAMRA review implies business was viable prior to sale to current owners.
43. Previous owner's accounts show profitable business.
44. Mismanagement of business by applicants led to failure of business.
45. Lack of evidence to support stated percentages regarding local trade – D&A statement.
46. D&A statement suggests that trade from outside local community is negative however this is necessary to support the business.
47. Conflicting information in D&A regarding non-viability of business whereas sales particulars (2018) stated business was successful.
48. No interest from potential purchasers in 2018 due to over-inflated valuation. Property was not marketed accurately, the local community were not made aware that the property was for sale, and no for sale sign displayed.
49. Claims that the Parish and community were unsupportive of the business are untrue. Explanation of reason for Parish Councils refusal of permission to use village green – not appropriate for the area to be used for commercial purposes.
50. Alleged untruthful statements made in D&A regarding the tenancy of JC INNS.
51. Coronavirus cited as one of the reasons for the closure when the lockdown began 2 months after the closure.
52. Accounts not provided for period when applicants ran the business.
53. Applicants approached co-op in attempt to elicit purchase of property for an inappropriate / unviable business type.
54. Proposal conflicts with NPPF guidance paras. 83, 92,
55. Legal issue re. right of access to side
56. Loss of local employment opportunities.
57. House prices in the local area will decrease.
58. Loss of historical part of British culture.
59. The use of the Public House supports other local businesses such as B&Bs and campsites.
60. Asking price at time of applicants purchase reflected a residential property rather than the commercial pub market. Asking price was increased from applicants purchase figure on marketing the property according to sales literature. Current commercial value much lower in current climate.

Support

1. Great to keep a small independent pub going after this crisis.
2. Blank no comment
3. Welcoming affordable living to the village and new customers to the pub rather than boarding up the windows forever.
4. Giving something back after the pandemic, creating a few jobs by having a smaller pub rather than closing the pub forever.

5. In keeping with local area.
6. Would be good to have a unique rural pub serving real ales.
7. Suggestion to incorporate additional services such as selling local eggs, bread, milk and also making it a local collection point for receiving parcels for the parish, as the only other local amenity in the area is the village hall and the nearest shop is Asfordby.
8. The Public House would still be open if the community was supportive.

Neutral

1. Questions were raised and directed to the applicant regarding:-
 - a) Lack of community consultation prior to application.
 - b) Reason for pub being closed from January prior to lockdown.
 - c) Rental / sales value for proposed residential units.
 - d) Promotion plans for micro-pub – no social media presence.

Appendix B : List of applicable Development Plan policies

- **Policy SS1 – Sustainable Development** seeks to secure development proposals which promotes and improves economic, social and environmental conditions in an area;
- **Policy SS2 - Development Strategy** sets out how development will be distributed across the Borough in accordance with a spatial strategy that states that Service centres and Rural Hubs will accommodate up to 35% of new housing on a proportionate basis through allocated sites and the delivery of a proportion of windfall development, and allows smaller scale housing within or adjacent to Service Centres and Rural Hubs.
- **Policy SS3 – Sustainable Communities (unallocated sites)** seeks to protect and enhance existing services and facilities.
- **C7 - Rural Services** seeks to protect, retain or enhance existing community services and facilities.
- **Policy EN2 – Biodiversity and Geodiversity** states that development proposals will protect and enhance biodiversity, ecological networks and geological conservation interests
- **Policy EN5 Local Green Spaces** Local Green Space Development proposals will be required to protect designated Local Green Spaces in the Borough. Proposals should not harm the key features, value and functionality of a Local Green Space such that its character is protected.

- **Policy EN6 – Settlement Character** states that development proposals will be supported where they do not harm open areas which; Contribute positively to the individual character of a settlement; Contribute to the setting of historic built form and features; Contribute to the key characteristics and features of conservation areas; and Form a key entrance and/or gateway to a settlement.
 - **Policy EN8 – Climate Change** sets out that all new development proposals will be required to demonstrate how the need to mitigate and adapt to climate change has been considered, subject to considerations of viability.
 - **Policy EN13 – Heritage Assets** The Council will take a positive approach to the conservation of heritage assets and the wider historic environment
 - **Policy IN2 – Transport, Accessibility and Parking** sets out that all new developments should, where possible, have regard to supporting and promoting an efficient and safe transport network which offers a range of transport choices
- Policy D1- Raising the Standard of Design** requires all new developments to be of high quality design.