

Report of the Chief Executive

APPLICATION NUMBER:	22/00228/FUL
LOCATION:	Gardeners Inn, Awsworth Lane, Cossall, Nottinghamshire NG16 2RZ
PROPOSAL:	Demolish public house and construct five detached dwellings and associated parking

1. Purpose of the Report

The application is brought to the Committee at request of Councillor L A Ball BEM.

2. Recommendation

The Committee is asked to RESOLVE that planning permission be granted subject to conditions outlined in the appendix.

3. Detail

- 3.1 This application was first brought before Planning Committee on 7 September 2022 with a recommendation to refuse the application. Members deferred making a decision on the application to provide local residents the opportunity to buy the public house. Further to this, additional time was given for the applicant to submit a viability assessment and a coal mining risk assessment.
- 3.2 It should be noted that all matters relating to the principle of development, design, amenity and highway safety were discussed at the previous Planning Committee meeting, detailed within the original report at Appendix 2. The following report within Appendix 1 includes the following key considerations: coal mining legacy, viability of the public house and ecology.
- 3.3 In response to the decision at the previous planning committee the agent has submitted a coal mining risk assessment which has been assessed and is deemed acceptable. Furthermore, the applicant has submitted a further viability information to justify the demolition of the public house. No offer has been made to the applicant to purchase the public house from any third party.
- 3.4 The Committee is asked to resolve that planning permission be granted subject to the conditions outlined in the appendix.

4. Legal Implications

The comments from the Head of Legal Services were as follows: The Legal implications are set out in the report where relevant, a Legal advisor will also be present at the meeting should legal considerations arise.

5. Financial Implications

The comments from the Head of Finance Services were as follows:

There are no additional financial implications for the Council with the costs/income being within the normal course of business and contained within existing budgets. Any separate financial issues associated with Section 106s (or similar legal documents) are covered elsewhere in the report.

6. Data Protection Compliance Implications

Due consideration has been given to keeping the planning process as transparent as possible, whilst ensuring that data protection legislation is complied with.

7. Background Papers

- Planning Statement
- Design and Access Statement
- Bat survey
- Viability assessment
- Coal mining risk assessment

APPENDIX 1

1. Details of the Application
2. The application seeks full planning consent for the demolition of the public house and the erection of 5 detached dwellings. The site includes the Gardener's Inn, public house off Awsworth Lane within the built up area of Cossall.
3. Site and Surroundings
 - 3.1 The site is in a predominantly residential area including residential properties to the south, west and north. To the east includes a farm yard and open fields beyond forming the Nottingham Derby Green Belt. It should be noted that the neighbouring site was granted planning permission for 3 dwellings on land that formed part of the public house car park 20/00298/FUL. The 3 dwellings are currently under construction.
4. Consultations
 - 4.1 **Coal Authority** – no objections subject to conditioning intrusive site investigation works.
 - 4.2 **Nottinghamshire Wildlife Trust** – no objections subject to conditioning ecological protection and enhancement measures.
 - 4.3 **Resident comments** – 2 comments received raising the following concerns:
 - Loss of community public house would be detrimental to the community.
 - Concerns regarding accuracy of the application details.
 - Properties unlikely to be affordable housing.
5. Assessment
 - 5.1 Appraisal
 - 5.2 The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.
 - 5.3 The applicant has submitted a site specific coal mining risk assessment which has been reviewed by the Coal Authority. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. As a result, a scheme of intrusive site investigations has been conditioned accordingly. As such, it is considered that this has addressed concerns previously raised in respect of the lack of a coal mining risk assessment.

- 5.4 Policy 13 – Culture, Tourism and Sport of the Aligned Core Strategy 2014 states that where appropriate, existing cultural, tourism and sporting facilities will be protected and their further development will be supported. As such, existing facilities will be protected and enhanced where there is a continuing viable need for them.
- 5.5 Paragraph 93 a) of the NPPF states that to provide the social, recreational and cultural facilities and services the community needs, planning decisions should plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments. Paragraph 93 c) of the NPPF states planning decisions should 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.
- 5.6 Since the application was deferred at the September 2022 planning committee the applicant has not received any offer for the purchase of the public house. This also includes the period of time during the application was valid since 12th March 2022. Whilst the public house has been boarded up and closed for business temporarily, it would appear that the applicant has made efforts prior to the submission of the application for the pub to be offered for lease or freehold purchase to any interested party. No formal interest has been forthcoming.
- 5.7 In support of the application, the applicant has submitted information relating to the viability of the public house. It is important to note that the applicant has been unable to access information held by the previous occupier of the public house and therefore this has reduced the level of detail available to be submitted in support of the application. Notwithstanding this, information submitted identifies that accounts in relation to the previous company which operated the public house show minor levels of profit which indicate that the business potentially struggled to be viable.
- 5.8 It is noted that the Gardener's Inn public house previously was listed as an asset of community value, however in 2021 it was removed from the list as it was judged that there was no evidence of realistic continued use. It is also noted that there are 2 public houses within less than 1 mile of the site to the north including: The Crown Inn off Croft Crescent and The Gate Inn off Main Street.
- 5.9 Trading conditions in the hospitality sector are currently the most difficult they have been for a number of years. Rising energy costs, rising staff costs, and rising wholesale prices are further impacting all operators. The absence of a beer garden and children's play area resulting from the three residential properties being built within a few metres of the pub, greater local competition, lack of maintenance and repair to the subject property are all matters that have been considered in the assessment of the loss of the public house.

- 5.10 On balance, it is considered that due to the lack of interest to operate the public house in over approximately 7 months this carries weight in the assessment of the loss of the public house. It is considered that there is limited evidence to demonstrate that there is a viable need for the public house to be retained. As such, it is considered that the application complies with Policy 13 - Culture, Tourism and Sport of the Aligned Core Strategy Part 1 Local Plan 2014 which seeks to protect existing community facilities. The application also complies with Part 8 - Promoting healthy and safe communities of the NPPF 2021 which seeks to guard against the unnecessary loss of valued facilities and services.

6. Other Matters

- 6.1 Nottinghamshire Wildlife Trust have reviewed the submitted bat survey and have provided no objections. The bat surveys show no detrimental impacts to roosting bats on the site. Nottinghamshire Wildlife Trust have recommended that the retention of existing hedgerows and mitigation measures to reduce the impact of the construction period on any potential existing habitats on the site. A Landscape and Ecological Management Plan has been conditioned to include ecological enhancement measures including bird and bat boxes and an appropriate mix of native soft landscaping and hedgerow retention. As such, it is considered that the proposed development would not be detrimental to any existing wildlife habitats and would deliver a biodiversity net gain through the implementation of enhancement measures.

7. Conclusion

- 7.1 The benefits of the scheme are that the proposal would provide new housing for the Borough in a sustainable location; and would provide a good standard of living for the future occupiers. The negatives of the scheme are that the proposal would result in the loss of an existing public house which serves as a wider community facility.
- 7.2 The proposed development would help to enhance the character and appearance of the locality by redeveloping a boarded up closed public house.
- 7.3 The proposed scheme has been designed to ensure there is no significant impact in terms of any potential overlooking, overbearing or overshadowing impact on any neighbouring properties whilst providing an acceptable standard of amenity for future occupiers.
- 7.4 On balance, it is considered that any potential concerns would be outweighed by the benefits of the scheme, which is considered to be in accordance with the policies contained within the development plan. This is given significant weight.
- 7.5 It is recommended that planning permission is granted, subject to the conditions set out below.

<u>Recommendation</u>	
The Committee is asked to RESOLVE that planning permission be granted subject to the following conditions.	
1.	<p>The development hereby approved shall be begun before the expiration of three years from the date of this permission.</p> <p><i>Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended.</i></p>
2.	<p>This permission shall be read in accordance with the following plans: Existing Site Plan and Elevations 879 001 (Received by the Local Planning Authority 11/03/22), Amended Proposed Site Plan 879 010 E, Amended Proposed Street Scene 879 013 D (Received by the Local Planning Authority 04/08/22), Amended Proposed Plots 1-4 879 011 D, Amended Proposed Plot 5 879 012 D (Received by the Local Planning Authority 19/08/22).</p> <p><i>Reason: To ensure that the development takes the form envisaged by the Local Planning Authority when determining the application.</i></p>
3.	<p>No development shall take place until samples of the materials and finishes to be used for the external elevations and roof of the proposal have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those materials, unless the Local Planning Authority gives written approval to any variation.</p> <p><i>Reason: To ensure the satisfactory appearance of the development in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 - Place-making, Design and Amenity of the Broxtowe Part 2 Local Plan 2019.</i></p>
4.	<p>No development shall commence until;</p> <ul style="list-style-type: none"> a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and; b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in

	<p>order to ensure that the site is made safe and stable for the development proposed.</p> <p>The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.</p> <p><i>Reason: In the interests of public safety in accordance with Policy 19 - Pollution, Hazardous Substances and Ground Conditions of the Broxtowe Part 2 Local Plan 2019.</i></p>
5.	<p>No development within the full planning permission phase hereby approved shall take place until a Construction / Demolition Method Statement has been submitted to and approved in writing by the Borough Council. The statement shall include:</p> <ul style="list-style-type: none">a) The means of access for construction traffic;b) parking provision for site operatives and visitors;c) the loading and unloading of plant and materials;d) the storage of plant and materials used in construction / demolition the development;e) a scheme for the recycling/disposal of waste resulting from construction / demolition works;f) details of dust and noise suppression to be used during the construction phase; andg) the identification, isolation and removal of any asbestos containing materials. <p>The approved statement shall be adhered to throughout the construction period.</p> <p><i>Reason: To protect the amenity of neighbouring residents in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 - Place-making, Design and Amenity of the Broxtowe Part 2 Local Plan 2019.</i></p>
6.	<p>No development above slab level shall take place before a scheme of landscaping has been submitted to and approved by the Local</p>

	<p>Planning Authority. The approved landscaping scheme shall include the following details:</p> <ul style="list-style-type: none">a. numbers, types, sizes and positions of proposed trees and shrubsb. details of boundary treatments (including the bin store);c. proposed hard surfacing treatment;d. planting, seeding/turfing of other soft landscape areas; ande. a timetable for implementation of the scheme. <p>The approved scheme shall be carried out strictly in accordance with the approved details. Soft landscaping shall be carried out not later than the first planting season following the substantial completion of the development and any trees or plants which, within a period of 5 years, die, are removed or have become seriously damaged or diseased, shall be replaced in the next planting season with ones of similar size and species to the satisfaction of the Local Planning Authority, unless written consent has been obtained from the Local Planning Authority for a variation.</p> <p><i>Reason: Limited details were submitted and to ensure that the details are satisfactory in the interests of the appearance of the area and in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 of the Broxtowe Part 2 Local Plan (2019).</i></p>
7.	<p>Prior to the commencement of the development, a detailed Landscape and Ecological Management Plan shall be submitted to and approved and by the Local Planning Authority. The Landscape and Ecological Management Plan shall include bird/bat boxes, hedgerow retention and protection details and shall be implemented in accordance with the approved plan unless otherwise agreed in writing by the Local Planning Authority.</p> <p><i>Reason: In the interests of securing an environmental net gain in accordance with Policy 17 - Biodiversity of the Broxtowe Aligned Core Strategy Part 1 Local Plan 2014 and Policy 31 - Biodiversity Assets of the Broxtowe Part 2 Local Plan 2019.</i></p>

8.	<p>No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.</p> <p><i>Reason: In the interests of highway safety and in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 of the Part 2 Local Plan (2019).</i></p>
9.	<p>No part of the development hereby permitted shall be brought into use until the shared access drive and parking or turning areas are surfaced in a hard-bound material (not loose gravel. The surfaced drives and parking or turning areas shall then be maintained in such hard-bound material for the life of the development.</p> <p><i>Reason: To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc.) in the interests of highway safety and in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 of the Part 2 Local Plan (2019).</i></p>
10.	<p>No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. 879.010 Rev E are provided. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions, structures or erections.</p> <p><i>Reason: In the interests of highway safety and in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 of the Part 2 Local Plan (2019).</i></p>
11.	<p>Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.</p> <p><i>Reason: In the interests of public safety in accordance with Policy 19 - Pollution, Hazardous Substances and Ground Conditions of the Broxtowe Part 2 Local Plan 2019.</i></p>

12.	<p>No construction or site preparation work in association with this permission shall be undertaken outside of the hours of 08:00-18.00 Monday to Friday, 08:00-13:00 Saturdays and at no time on Sundays or Bank Holidays.</p> <p><i>Reason: To protect the amenity of neighbouring residents in accordance with Policy 10 - Design and Enhancing Local Identity of the Aligned Core Strategy Part 1 Local Plan 2014 and Policy 17 - Place-making, Design and Amenity of the Broxtowe Part 2 Local Plan 2019.</i></p>
13.	<p>The following ecological protection measures shall be adhered to during the construction of the hereby approved development:</p> <ul style="list-style-type: none"> - No stripping, demolition works, or vegetation clearance shall take place between 1st March and 31st August inclusive, unless preceded by a nesting bird survey undertaken by an experienced ecologist. If nesting birds are present, an appropriate exclusion zone will be implemented and monitored until the chicks have fledged. No works shall be undertaken within exclusion zones whilst nesting birds are present. - All excavations shall be covered overnight or else have an escape ramp to prevent entrapment of badgers, brown hares, hedgehogs, and other wildlife. All pipework greater than 150 mm should be capped off at the end of the day and chemicals should be stored securely. - During the site clearance phase, vegetation clearance (including hedgerows, scrub, ornamental shrubs) and refugia clearance (brash, log, rubble, leaves piles etc.) should be carried out in early autumn to avoid impacts upon nesting hedgehog. However, if clearance is required in the spring to avoid nesting bird issues, vegetation should be cut no lower than 300mm above ground level to avoid causing injury or harm to hibernating hedgehogs, until temperatures are regularly (6 consecutive days/nights) above 6°C. Clearance at other times of year should be undertaken with prior checks/supervision by an ecologist. - Any garden fence, or other non-permeable structure, should be provided with a small hole (130mm x 130mm) to allow a continuous pathway in which hedgehogs can move through the developed residential site. This would mitigate against the fragmentation that residential developments often cause, allowing this species to navigate between foraging and sheltering habitat more freely. <p><i>Reason: In the interests of protecting existing habitats in accordance with Policy 17 - Biodiversity of the Broxtowe Aligned Core Strategy Part 1 Local Plan 2014 and Policy 31 - Biodiversity Assets of the Broxtowe Part 2 Local Plan 2019.</i></p>

Site Location Plan (not to scale)



Legend

- Site Outline
- Green Belt

Photos

The Gardener's Inn



Site and neighbouring 3 dwellings under construction - 20/00298/FUL



View of site from opposite side of Awsworth Lane, Cossall



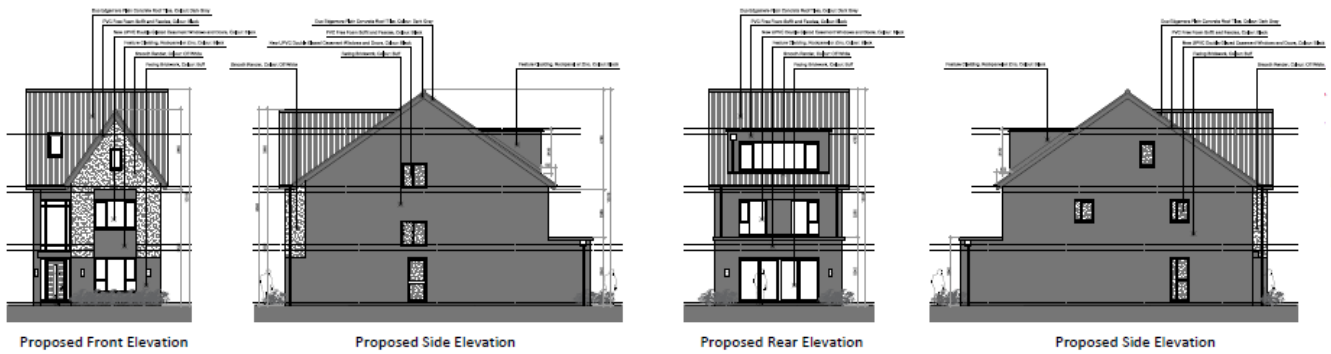
Proposed layout plan



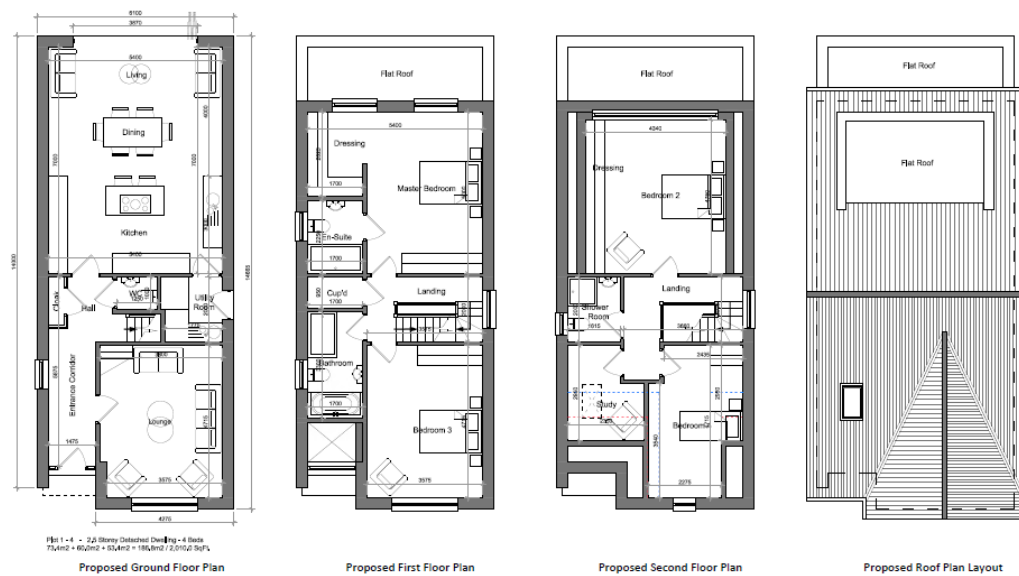
Proposed Street Scene



Proposed elevations plots 1-4



Proposed floor plans plots 1-4



Proposed elevations plot 5



Proposed floor plans plot 5

