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Meeting	PLANNING COMMITTEE
Time/Day/Date	6.00 pm on Tuesday, 14 January 2025
Location	Forest Room, Stenson House, London Road, Coalville, LE67 3FN
Officer to contact	Democratic Services (01530 454512)

	AGENDA	
Item		Pages
1. APOLOGIES FOR ABSENCE		
2. DECLARATION OF INTERESTS		
	Under the Code of Conduct members are reminded that in declaring interests you should make clear the nature of that interest and whether it is a disclosable pecuniary interest, registerable interest or other interest.	
3. MINUTES		
	To confirm and sign the minutes of the meeting held on 12 November 2024.	3 - 6
4. PLANNING APPLICATIONS AND OTHER MATTERS		
	Report of the Head of Planning and Infrastructure.	7 - 10

Index of Applications to be Considered

Item	Application Number and Details	Recommendation	Page
A1	23/01277/OUTM: Demolition of Nos. 137 and 139 Church Lane and the Redevelopment of the Site to Provide 13 Dwellings with Associated Works (Outline, Means of Access, Layout and Scale for Approval) 137 Church Lane, Whitwick, Coalville	Permit subject to Section 106 Agreement	11 - 88

MINUTES of a meeting of the PLANNING Committee held in the Forest Room, Stenson House, London Road, Coalville, LE67 3FN on TUESDAY, 12 November 2024

Present: Councillor R Boam (Chair)

Councillors R L Morris, D Cooper (Substitute for Councillor D Bigby), M Burke, R Canny, D Everitt, J Legrys, P Moul, C A Sewell, J G Simmons and N Smith

Officers: Ms J Davies, Mr C Elston, Mr A Mellor and Mrs R Wallace

28. APOLOGIES FOR ABSENCE

Apologies were received from Councillor D Bigby.

29. DECLARATION OF INTERESTS

Members declared that they had been lobbied without influence in respect of the following applications but had come to the meeting with an open mind.

Item A1 – application 23/01277/OUTM: All members of the Committee.

30. MINUTES

Consideration was given to the minutes of the meeting held on 1 October 2024.

It was moved by Councillor J Legrys, seconded by Councillor R Morris and

RESOLVED THAT:

The minutes of the meeting held on 1 October 2024 be approved and signed by the Chairman as a correct record.

31. PLANNING APPLICATIONS AND OTHER MATTERS

Consideration was given to the report of the Head of Planning and Infrastructure, as amended by the update sheet circulated at the meeting.

32. A1 23/01277/OUTM DEMOLITION OF NOS. 137 AND 139 CHURCH LANE AND THE REDEVELOPMENT OF THE SITE TO PROVIDE 13 DWELLINGS WITH ASSOCIATED WORKS (OUTLINE, MEANS OF ACCESS, LAYOUT AND SCALE FOR APPROVAL)

137 and 139 Church Lane, Whitwick, Coalville, Leicestershire, LE67 5DP

Officer's Recommendation: Permit subject to Section 106 Agreement

The Principal Planning Officer presented the report.

Mr P Hopkins, objector, addressed the Committee. He listed his concerns including lack of consultation with residents by the applicant, the number of protected trees on the site affected by the proposals, the effect on wildlife and the risk to children posed by the planned balancing pond. He felt that the positioning of several plots would overlook his property and block out natural light. In relation to highways, Mr Hopkins expressed his disappointment that the traffic assessment was undertaken during the school holidays which meant it was not a true representation of normal traffic movement. Members were urged to refuse the application.

Mr J Owen, agent, addressed the Committee. Members were informed that the applicant had co-operated with council officers throughout the process and made many amendments in recent months to address concerns including fewer plots and changes to landscaping. The concerns of residents were acknowledged but it was highlighted that the proposal met minimum requirements for the site, the separation between plots was in excess of the minimum distances in the Council's adopted Good Design Guide and many assessments had been undertaken by the Highway Authority. The need for housing in the district was raised and the Committee were assured that if approved, a high standard would be achieved both in design and layout.

County Councillor T Gillard, County Council Ward Member, addressed the Committee. Concerns were listed including increase in traffic and parking on Church Lane, detrimental impact on boundary trees, access to the site by refuse vehicles and an inaccurate traffic assessment due to the time of the year it was undertaken. He referenced Planning Policy D1 in relation to impact on local amenities and urged Members to refuse the application.

Councillor A Barker, Ward Member, addressed the Committee. He listed his concerns including removal of trees, loss of amenities, dangerous risk of the proposed pond, loss of two adequate family homes, inaccurate traffic assessment, increase in problematic on-street parking and poor design. It was felt that the ecology surveys were carried out at a suboptimal time of year and the development would cause a reduction in biodiversity net gain. Members were urged to refuse the application.

Before the committee entered a discussion, Councillor P Moulton moved that the application be deferred to allow the Highway Authority to undertake a further automatic traffic count due to concerns that the previous assessment did not represent the normal traffic flow in the area. It was seconded by Councillor R Boam.

Before moving to the vote, the Principal Planning Officer outlined to Members that the primary purpose of the Automatic Traffic Count was to ascertain the speed of vehicles on Church Lane which would then inform the dimensions of the visibility splays at the proposed site access. The Highway Authority did not have concerns with the timing of the Automatic Traffic Count given that less on-street parking on Church Lane would likely increase vehicle speeds and thereby increase the visibility splays. The Highway Authority also did not consider that the vehicular movements associated with 13 dwellings would have a significant impact on the highway network. The Principal Planning Officer also outlined to Members that for the application to be refused on highway grounds, the impact to the highway network would need to be severe in line with Paragraph 115 of the National Planning Policy Framework.

The Legal Advisor confirmed that should the application be deferred; Members would be able to have a full debate when the application returned to the Committee as they had reserved their rights to speak. The speakers would also be able to speak again, however they would not be able to speak on matters already raised at this meeting.

The Chair put the motion to the vote. A recorded vote being required, the voting was as detailed below.

RESOLVED THAT:

The application be deferred to allow the applicant, in conjunction with the Highway Authority, to undertake a further automatic traffic count in school term time that represented the normal traffic flow in the area.

Motion to defer the application (Motion)	
Councillor Russell Boam	For
Councillor Ray Morris	For
Councillor Doug Cooper	For
Councillor Morgan Burke	For
Councillor Rachel Canny	For
Councillor David Everitt	For
Councillor John Legrys	For
Councillor Peter Mout	For
Councillor Carol Sewell	For
Councillor Jenny Simmons	For
Councillor Nigel Smith	For
Carried	

The meeting commenced at 6.00 pm

The Chairman closed the meeting at 6.32 pm

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APPENDIX B

**Report of the Head of Planning and Infrastructure
to Planning Committee**

14 January 2025

PLANNING & DEVELOPMENT REPORT

PLANNING COMMITTEE FRONT SHEET

1. Background Papers

For the purposes of Section 100(d) of the Local Government (Access to information Act) 1985 all consultation replies listed in this report along with the application documents and any accompanying letters or reports submitted by the applicant, constitute Background Papers which are available for inspection, unless such documents contain Exempt Information as defined in the act.

2. Late Information: Updates

Any information relevant to the determination of any application presented for determination in this Report, which is not available at the time of printing, will be reported in summarised form on the 'UPDATE SHEET' which will be distributed at the meeting. Any documents distributed at the meeting will be made available for inspection. Where there are any changes to draft conditions or a s106 TCPA 1990 obligation proposed in the update sheet these will be deemed to be incorporated in the proposed recommendation.

3. Expiry of Representation Periods

In cases where recommendations are headed "Subject to no contrary representations being received by [date]" decision notices will not be issued where representations are received within the specified time period which, in the opinion of the Head of Planning and Infrastructure are material planning considerations and relate to matters not previously raised.

4. Reasons for Grant

Where the Head of Planning and Infrastructure report recommends a grant of planning permission and a resolution to grant permission is made, the summary grounds for approval and summary of policies and proposals in the development plan are approved as set out in the report. Where the Planning Committee are of a different view they may resolve to add or amend the reasons or substitute their own reasons. If such a resolution is made the Chair of the Planning Committee will invite the planning officer and legal advisor to advise on the amended proposals before the a resolution is finalised and voted on. The reasons shall be minuted, and the wording of the reasons, any relevant summary policies and proposals, any amended or additional conditions and/or the wording of such conditions, and the decision notice, is delegated to the Head of Planning and Infrastructure.

5. Granting permission contrary to Officer Recommendation

Where the Head of Planning and Infrastructure report recommends refusal, and the Planning Committee are considering granting planning permission, the summary reasons for granting planning permission, a summary of the relevant policies and proposals, and whether the permission should be subject to conditions and/or an obligation under S106 of the TCPA 1990 must also be determined; Members will consider the recommended reasons for refusal, and then the summary reasons for granting the permission. The Chair will invite a Planning Officer to advise on the reasons and the other matters. An adjournment of the meeting may be necessary for the Planning Officer and legal Advisor to consider the advice required

If The Planning Officer is unable to advise at Members at that meeting, he may recommend the item is deferred until further information or advice is available. This is likely if there are technical objections, eg. from the Highways Authority, Severn Trent, the Environment Agency, or other Statutory consultees.

If the summary grounds for approval and the relevant policies and proposals are approved by resolution of Planning Committee, the wording of the decision notice, and conditions and the Heads of Terms of any S106 obligation, is delegated to the Head of Planning and Infrastructure.

6 Refusal contrary to officer recommendation

Where members are minded to decide to refuse an application contrary to the recommendation printed in the report, or to include additional reasons for refusal where the recommendation is to refuse, the Chair will invite the Planning Officer to advise on the proposed reasons and the prospects of successfully defending the decision on Appeal, including the possibility of an award of costs. This is in accordance with the Local Planning Code of Conduct. The wording of the reasons or additional reasons for refusal, and the decision notice as the case is delegated to the Head of Planning and Infrastructure.

7 Amendments to Motion

An amendment must be relevant to the motion and may:

1. Leave out words
2. Leave out words and insert or add others
3. Insert or add words

as long as the effect is not to negate the motion

If the amendment/s makes the planning permission incapable of implementation then the effect is to negate the motion.

If the effect of any amendment is not immediately apparent the Chairman will take advice from the Legal Advisor and Head of Planning and Infrastructure/Planning and Development Team Manager present at the meeting. That advice may be sought during the course of the meeting or where the Officers require time to consult, the Chairman may adjourn the meeting for a short period.

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of. The amendment must be put to the vote.

If an amendment is not carried, other amendments to the original motion may be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendment, or if there are none, put it to the vote.

8 Delegation of wording of Conditions

A list of the proposed planning conditions are included in the report. The final wording of the conditions, or any new or amended conditions, is delegated to the Head of Planning and Infrastructure.

9. Decisions on Items of the Head of Planning and Infrastructure

The Chairman will call each item in the report. No vote will be taken at that stage unless a proposition is put to alter or amend the printed recommendation. Where a proposition is put and a vote taken the item will be decided in accordance with that vote. In the case of a tie where no casting vote is exercised the item will be regarded as undetermined.

Demolition of nos. 137 and 139 Church Lane and the redevelopment of the site to provide 13 dwellings with associated works (outline, means of access, layout and scale for approval)

**Report Item No
A1**

137 Church Lane Whitwick Coalville Leicestershire LE67 5DP

**Application Reference
23/01277/OUTM**

**Grid Reference (E) 442931
Grid Reference (N) 315915**

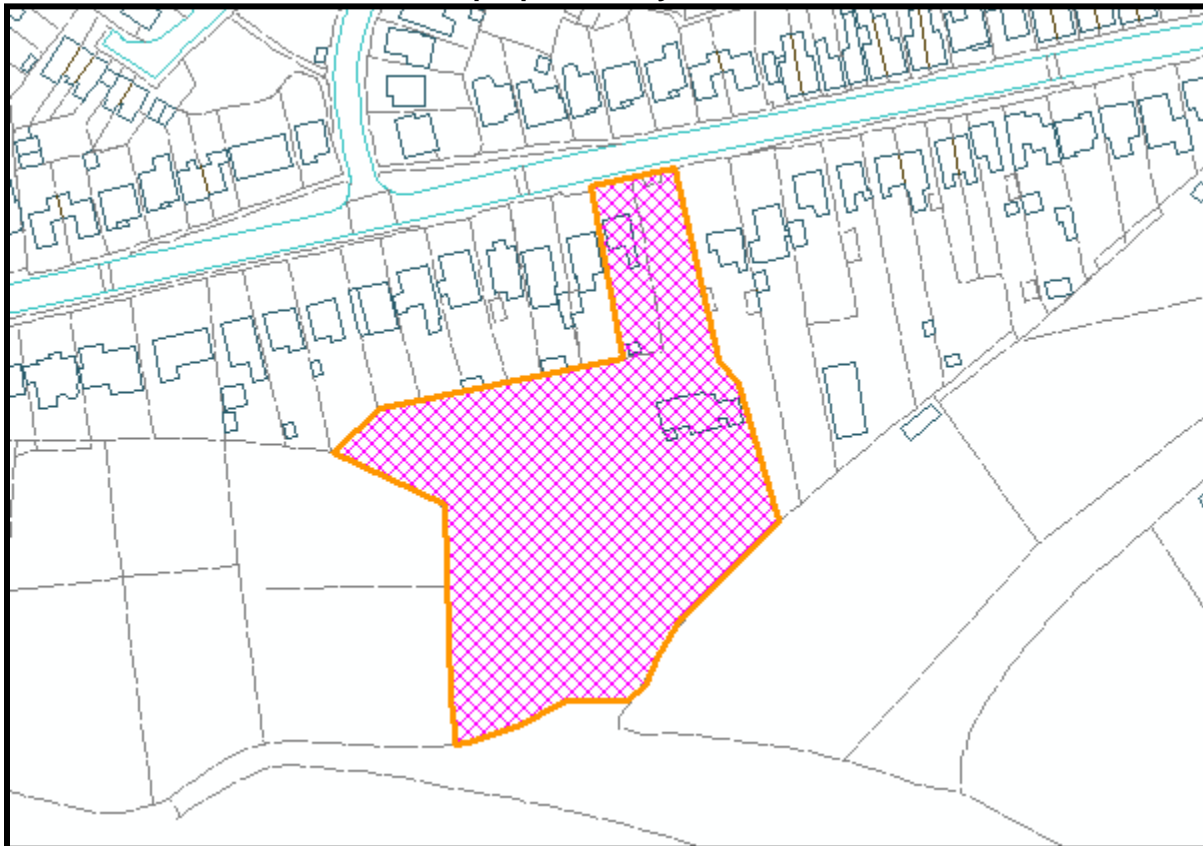
**Date Registered:
29 September 2023
Consultation Expiry:
5 November 2024
8 Week Date:
24 November 2023
Extension of Time:
13 November 2024**

**Applicant:
Mr Harding And Mrs Tudor**

**Case Officer:
Adam Mellor**

**Recommendation:
PERMIT subject to S106 Agreement**

Site Location - Plan for indicative purposes only



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Deferral of Application

A decision on this application was deferred at the Planning Committee meeting on the 12th of November 2024 to allow the applicant to undertake a further Automatic Traffic Count (ATC) as Members were not satisfied that the undertaking of the original ATC, which commenced on Good Friday and was wholly during the Easter school holidays in 2023, represented the normal traffic flows in the area.

The applicants have confirmed that their intentions are to appeal the non-determination of the application and consequently a further ATC will not be undertaken.

On this basis the application is brought back to the Planning Committee for Members to make their decision.

For ease of reference, the contents of the Update Sheet presented to Members as part of the Planning Committee of the 12th of November 2024 is repeated below.

An updated version of the National Planning Policy Framework (NPPF) was also published on 12 December 2024. However the amendments to the NPPF do not change the officer recommendation for this application.

Councillor Barker Representation

Councillor Barker (the Ward Member) provided the below images:







These photos were supplied by Councillor Barker as a means of showing the parking of vehicles on both sides of Church Lane at a “quiet time” with it also being outlined that Church Lane is used as a ‘rat run’ between North Street and the junction of Brooks Lane.

Officer Response

The first of the images supplied by Councillor Barker shows the Council’s waste vehicle on Church Lane within the vicinity of no. 152 Church Lane with the vehicle travelling eastwards along the highway.

The subsequent two images show on-street parking within the vicinity of Whitwick cemetery and the commercial premises on Church Lane which are in excess of 280 metres to the east of the proposed vehicular access into the application site.

Any issue associated with the presence of the Council’s waste vehicle on Church Lane are outlined in the response to Members questions/queries 2) and 3) below. Issues associated with the presence of parked vehicles on Church Lane and the ‘rat-running’ of vehicles via Church Lane is addressed in the ‘Accessibility’ section of the report below.

Additional Third Party Representation

An additional third party representation was also received objecting to the application, the contents of which are summarised as follows:

- The proposed development will impact adversely on the highway network given the overall number of vehicular movements which would be created, as well as the existing constraints associated with Church Lane.

A full copy of the representation received is available to view on the District Council's website.

Officer Response

In terms of the additional third party representation received, it is considered that the 'Accessibility' section of the report below addresses the contents of this representation.

Members Questions/Queries

The following questions/queries were also raised by Members at the Technical Briefing on the 7th November 2024 in relation to the proposed development. Contact was made with the County Highways Authority (CHA) to assist in answering such questions/queries.

- 1) *The ATC was undertaken from Good Friday (2023) and wholly during the Easter school holidays and therefore should not be relied upon for the purposes of establishing the adequacy of Church Lane, Whitwick to accommodate further vehicular movements.*

The response previously provided by the CHA to Councillor Gillard on the 17th of November 2023, who raised the same query, was directed to Members following the conclusion of the Technical Briefing.

The CHA's position on this matter remains the same as stated in the response to Councillor Gillard, in that the timing of the ATC was acceptable. Overall traffic volumes were not required for the scale of development proposed as part of the application (see the response to Members questions/queries 4) below) and therefore the CHA only required information on the speed of vehicles passing within the vicinity of the site in order to determine the length of the visibility splays needed either side of the proposed access.

On this basis the date of the ATC would have a negligible impact on the overall data collected, with the CHA being of the view that vehicles would likely travel at a greater speed where there are less obstructions present on the highway (i.e. there may be less vehicles parked on Church Lane when the school is closed).

As was minuted at the Planning Committee Meeting on the 12th of November 2024, the primary purpose of the ATC is to ascertain the speed of vehicles on Church Lane which would then inform the dimensions of the visibility splays at the proposed site access.

- 2) *The Committee Report outlines that a site visit by the County Highways Authority (CHA) was undertaken on the 24th October 2023. What time was such a site visit undertaken? And was this site visit during the October school holiday?*

- 3) *Are the CHA satisfied that on-street parking does not compromise vehicular movements along Church Lane? And that the District Council's waste vehicle can manoeuvre at the site access*

and pass easily along Church Lane?

The CHA outlined that their site visit on the 24th October 2023 was undertaken at around 15:00 (14:54 to be exact) and was during the school term time, with the first day back from the October half term being Monday 23rd October 2023.

For clarity the main purpose of the site visit was to determine if suitable visibility was achievable at the site access and at the time of the site visit on-street parking within the vicinity of the site access was relatively low as indicated in the following images supplied by the CHA which were taken at the time of their site visit.





For reference the yellow car identified in the second of the images above is the vehicle of the relevant officer of the CHA.

Notwithstanding the status of on-street parking at the time of their site visit, the consultation response of the CHA accounted for the nature of the visibility provided should on-street parking be present, with swept path analysis demonstrating that the Council's waste vehicle can manoeuvre into and out of the proposed site access even if on-street parking is present opposite the access junction.

The temporary 'obstruction' of Church Lane at the time the Council's waste vehicle is emptying waste receptacles (as shown in the first image supplied by Councillor Barker above) would not be materially different to that which may occur on any other highway within the district where on-street parking is present. It is also the case that any such movement would be once a week and therefore would not have a frequency where an unacceptable impact to highway safety, or a severe impact to the highway network, would occur. It is considered that the proposed development would not further increase the time the Council's waste vehicle would 'obstruct'

Church Lane given that the Council’s waste vehicle would enter the development site to collect the waste receptacles associated with the proposed dwellings, rather than such waste receptacles being collected from a bin collection point on Church Lane itself. On this basis the existing temporary ‘obstruction’ of Church Lane by the Council’s waste vehicle would not be materially different to that which would occur should outline planning permission be granted and in many ways there may be a reprieve whereby vehicle flow improves when the Council’s waste vehicle is undertaking collection within the application site.

4) Would the creation of 13 additional dwellings result in adverse impacts to the highway network given the number of vehicular movements already undertaken on Church Lane?

The CHA has outlined that they typically only require a further assessment of the impact of the proposed development to the highway network if it leads to more than 30 vehicle trips in any peak period (AM – 08:00 to 09:00 and PM – 17:00 to 18:00). The proposed 13 dwellings are well below the ‘typical’ threshold and therefore the CHA has no concern associated with the proposed impact the development would have to the surrounding highway network.

For reference the trip rates/generation accepted by the CHA as part of the proposed development are as below:

Time Period	Trip Rates (per unit)		Trip Generation (13 units)		
	Arrive	Depart	Arrive	Depart	Total
AM Peak (08:00 – 09:00)	0.250	0.341	3	4	7
PM Peak (17:00 – 18:00)	0.364	0.239	5	3	8

As is outlined in the ‘Highway Network’ sub-section of the ‘Accessibility’ section of this report below, the Trip Rate Information Computer System (TRICS) database was utilised to show the trip rates and the proposed trip generation for the development during the AM and PM peak periods. The TRICS database is a system which allows users to establish levels of trip generation for development scenarios using a series of database filtering processes and consequently is not dependent on being undertaken at a particular time of the year.

5) Would a refusal of the application on highway grounds be defensible should the applicants’ appeal a decision by the District Council?

At the Technical Briefing, Members expressed concern about the timing of the ATC starting on Good Friday and being wholly during the Easter 2023 school holidays and asked if a reason for refusal could be justified. It was advised by Officers at the Technical Briefing that this matter had been previously raised with the CHA, following concerns raised during the consultation period, and they remained satisfied with the timing of the ATC (which is as addressed in the response to Members questions/queries 1) above).

As such, Officers are of the view that a reason for refusal based on the timing of the ATC would be very difficult to defend at appeal should the application be refused on highway grounds.

Regard should also be given to the terms of Paragraph 115 of the NPPF which makes it clear that an application should only be refused on highway grounds if the impacts to highway safety are “unacceptable” and where the cumulative impacts of the development to the highway network are

“severe.”

The original report is repeated below and the recommendation to permit remains unchanged.

Reasons the case is called to the Planning Committee

The application is brought to the Planning Committee at the request of Councillor Barker as it is his opinion that the proposal is contrary to Policy En5 of the adopted Local Plan; the development results in the demolition of two serviceable houses/accommodation; there is inappropriate accessibility onto the highway (Church Lane); the development creates further vehicle movements on Church Lane which is very congested; there would be highway safety impacts at the junction of Church Lane with Brooks Lane where children cross the road to go to school; the proposal blocks off light to neighbouring properties and the proposal results in the cutting down of mature trees.

RECOMMENDATION – PERMIT, subject to the following conditions and the securing of a Section 106 Agreement to deliver the following;

- (a) Affordable Housing – three dwellings on site.
- (b) Civic Amenity - £849.94.
- (c) Libraries - £392.57.
- (d) Highways - £14,207.05 (as well as a construction traffic routing agreement).
- (e) Health - £11,616.00.
- (f) National Forest - £5,600.00.

Total Financial Contribution - £32,665.56.

1. Outline standard time limit (3 years for reserved matters and 2 years to implement following approval of last reserved matter).
2. Reserved matters.
3. Approved plans.
4. Approved scale of dwellings.
5. No more than 13 dwellings to be constructed.
6. Housing mix in accordance with submitted details.
7. Removal of permitted development rights under classes E (incidental outbuildings) and F (hard surfaces) for plots 1, 3, 4, 5, 7, 10, 11, 12, and 13 and removal of permitted development rights under class A (extensions) for plots 1 and 5 to protect retained trees.
8. Residential curtilages restricted for plots 5, 6, 7, 8, 9, and 10 to prevent encroachment into landscape management areas.
9. Construction hours.
10. CEMP for biodiversity prior to commencement to be submitted, approved and implemented.
11. Delivery of access arrangements in accordance with submitted plans.
12. Delivery of vehicular visibility splays and pedestrian visibility splays at site access to required dimensions.
13. Delivery of off-street parking and turning arrangements in accordance with submitted plans.
14. No foul pumping station or substation to be constructed unless precise details of any pumping station and/or substation (if required) are submitted and approved.
15. First reserved matters application to be accompanied by details of the finished floor and ground levels which account for the approved scale of the development.
16. First reserved matters application to be accompanied by a revised Biodiversity Net Gain (BNG) Metric calculation.
17. First reserved matters application in respect of landscaping to be accompanied by a

LIST OF APPLICATIONS FOR PLANNING COMMITTEE 14 January 2025

- Landscape, Ecological, and Biodiversity Management Plan (LEBMP).
18. Scheme of tree and hedge protection measures for retained trees and hedges prior to the commencement of development to be submitted, approved and implemented.
 19. Construction method statement for any development within the root protection areas (RPAs) of retained trees prior to the commencement of the development to be submitted, approved and implemented.
 20. Boundary treatment scheme (including elevation details) prior to boundary treatments being installed to be submitted, approved and implemented and removal of permitted development rights for alternative boundary treatments.
 21. No retaining walls to be constructed above 0.2 metres in height unless details (including elevation detail) are first submitted and approved.
 22. Surface water drainage scheme during the construction phase prior to commencement to be submitted, approved and implemented.
 23. Surface water drainage scheme prior to commencement to be submitted, approved and implemented.
 24. Surface water drainage maintenance scheme prior to the first use of the development to be submitted, approved and implemented.
 25. Precise details and section information of proposed attenuation pond prior to the installation of the attenuation pond to be submitted, approved and implemented.
 26. External lighting scheme (which will also include a lighting strategy for bats and nocturnal wildlife) prior to occupation to be submitted, approved and implemented.
 27. Bin collection points to be provided prior to first occupation of plots 4, 5, 6, 7, and 8 in accordance with submitted plans.
 28. Scheme of bin storage points prior to occupation to be submitted, approved and implemented.
 29. Details of enclosure to bin storage points, if applicable, prior to first occupation to be submitted approved and implemented.
 30. Programme of archaeological work prior to commencement to be submitted, approved and implemented.

1. Proposals and Background

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environment Act came into force on the 12th of February 2024. However, this requirement would only be applicable to those applications received on or after the 12th of February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis the proposed development would not be required to demonstrate a 10% BNG.

Outline planning permission, with means of access, layout and scale for approval, is sought for the demolition of nos. 137 and 139 Church Lane, Whitwick and the redevelopment of the site to provide 13 dwellings with associated works. The 0.78 hectare site (as identified in the image below) is situated on the southern side of Church Lane and is within the Limits to Development. Residential properties of varying types and designs are the predominant form of development surrounding the site.

Site Location Plan





In order to facilitate the proposed development, nos. 137 and 139 Church Lane would be demolished. The proposed layout, which has been amended during the course of the application in response to concerns from the officer, statutory consultees and third parties, identifies that plot 1 would be orientated to address Church Lane with the remainder of the plots then being to the rear of plot 1 as well as nos. 217 to 231 Church Lane (odd numbers inclusive) with such plots being orientated to address the internal highways.

A housing mix of 2 x 2 bed, 7 x 3 bed, 3 x 4 bed, and 1 x 5 bed properties would be provided.

Vehicular access would be achieved via a new access formed onto Church Lane, with off-street parking being predominately provided on plot except for one space for each of plots 6, 7, and 8 which would be situated in a parking lay-by to the eastern frontage of such plots. This is to avoid three tandem spaces on these plots.

The above information is shown on the proposed site layout plan below.

Proposed Site Layout Plan



Further information in respect of the application, including the supporting documentation and relevant plans, can be found on the District Council's website.

Relevant Planning History

- 85/00958/P – Two-storey side extension – Approved 13th November 1985.
- 22/00450/TPO – Felling of 5 no. Silver Birch protected by tree preservation order – Approved 27th May 2022.

2. Publicity

33 neighbours initially notified on the 9th of October 2023, with 56 neighbours notified on amended plans on the 15th of April 2024 and 2nd of August 2024.

Site notices were displayed on the 12th of October 2023 and 19th of April 2024.

Press notices were published in the Leicester Mercury on the 18th of October 2023 and 24th of April 2024.

3. Summary of Consultations and Representations Received

The following summary of representations is provided. All responses from statutory consultees and third parties are available to view in full on the Council's website.

Objections from:

Councillor T Gillard who has commented directly to the County Highways Authority (CHA) on their original consultation as follows:

- *Automatic traffic count (ATC) was undertaken during Easter. Are you aware that the local New Swannington Primary School is located approximately 500 metres away on Church Lane and is accessed by many parents via the route subject to the ATC. I would politely suggest the data is therefore not indicative and needs to be reassessed by the applicant.*
- *Similarly that Church Lane is used as a cut through to avoid the Brooks Lane/North Street junction and or to shorten journeys from Market Place/North Street to Brooks Lane, especially at peak journey times. This would also suggest that the timing of the ATC and its data is therefore not reflective of typical traffic flows.*
- *Reference to refuse vehicle overhang of the footway, demonstrated by tracking software both at the new junction and internally has not been mentioned in your response. It is my understanding that this is not permitted?*
- *Speed cushions have been discounted and a speed table recommended. However one of the main concerns of existing residents is the increased noise as cars accelerate away from any raised area, whether it be cushions or tables, as well as the increase in pollution levels such features have been proven to cause. The Urban Designer response has suggested build outs, which would create far less noise and disturbance as well as being more aesthetically pleasing, would be preferable. Can this be considered please?*
- *At a carriageway width of 4.8m, it is my understanding that a pedestrian footway both sides of the road is not required and can be replaced with a grassed service strip. If the scheme were to go ahead in its current format, the omission of the footway to the west, parallel to the boundary of no. 217 Church Lane, would go a long way to mitigate fears, voiced by the property owner around loss of privacy, risk of crime, anti-social behaviour and littering.*
- *If the proposed access road is not subject to a Traffic Regulation Order (TRO) at least until it reaches the bend, what will prevent this being simply used as an overspill car park for residents of Church Lane and their visitors? Without this, the road would be significantly narrowed by parked cars making access/egress more difficult and potentially causing bottlenecks on the proposed new junction as well as raising significant concerns around emergency vehicle access. Parking will likely encroach onto the footway causing difficulty for pedestrians, pushchairs and mobility scooters.*
- *Your comments around refuse vehicle tracking and lack of consideration for existing parked vehicles on Church Lane is welcomed. I assume the only way this would be mitigated would be to introduce a TRO via yellow lining to a significant area of the new junction? This would not be a satisfactory outcome for existing residents who use this area to park overnight, particularly those living within the nearby terraced housing, one of which is a House in Multiple Occupation (HMO) with 9 residents and 8 vehicles associated with one property.*
- *Can you explain further the comments around visibility? The Block Plan and Transport Assessment contradict one another. On what grounds have you assumed that the Transport Assessment can be accepted as correct, it already has inconsistencies?*

[The CHA responded directly to Councillor T Gillard on the 17th of November 2023 with their response being available to view on the District Council's website.]

Whitwick Parish Council, who has objected to the both the original and revised plans, on the following summarised grounds:

- (i) The proposal contravenes the adopted Local Plan and in particular Policy D2 as it would cause a loss of sunlight (particularly in relation to the location of proposed plots 1 and 14/15 and proposed boundary tree planting); overshadowing/loss of outlook to the detriment of residential amenity; overlooking and loss of privacy.
- (ii) Highway issues including vibration of large vehicles on a densely developed street; traffic generation, vehicular access, highway safety, noise and disturbance resulting from use by lorries up to 40 tonnes in weight;
- (iii) Smells, fumes and dust;
- (iv) Capacity of physical infrastructure (e.g. public drainage/water systems); particularly noting that all waste water will have to travel to Snarrows Road treatment works which is already overwhelmed and causing contamination and flooding for residents in Thringstone and Whitwick;
- (v) Deficiencies in local facilities (e.g. availability of school places);
- (vi) Loss or effect on trees;
- (vii) Adverse effect on nature conservation interests and biodiversity opportunities;
- (viii) Loss of green corridor;
- (ix) Layout and density of building;
- (x) Increased traffic at the junction of Church Lane/Brooks Lane;
- (xi) Increased danger to pedestrians and children walking to local schools, all schools encourage children to walk to school, there will be no safe route for them to use during the construction;
- (xii) Building work taking place next to a cemetery where funerals are regularly conducted. This is a development of significant size; it would be distressing for the bereaved to be subjected to construction activity taking place in the adjoining area; and
- (xiii) The demolition of two perfectly good homes to replace with highly concentrated houses seems an act of ecological vandalism.

Should the application be permitted Whitwick Parish Council would wish for environmental mitigation measures to be considered to off-set the environmental impact within Whitwick, along with financial contributions to increase the tree stock as well as other improvements in the parish.

No Objections from:

Leicestershire County Council – Minerals and Waste Planning Authority.

No Objections, subject to conditions and/or informatives, from:

Leicestershire County Council – Archaeology.

Leicestershire County Council – Developer Contributions.

Leicestershire County Council – Ecology.

Leicestershire County Council – Highways Authority.

Leicestershire County Council – Lead Local Flood Authority.

NHS Leicester, Leicestershire and Rutland Integrated Care Board.

National Forest Company.

NWLDC – Affordable Housing Enabler.

NWLDC – Environmental Protection.

NWLDC – Tree Officer.
 NWLDC – Urban Designer.
 NWLDC – Waste Services Development Officer.

Third Party Representations

61 representations have been received objecting to the application with the comments raised summarised as follows:

Grounds of Objections	Description of Impact
<p>Principle of Development and Sustainability</p>	<p>The proposed development will impact adversely on existing services such as the medical centre, schools and public transport infrastructure.</p>
	<p>There is a brownfield site next to the playing fields in Whitwick, where the Hermitage Leisure Centre used to be, which could accommodate the development.</p>
	<p>The application site forms part of the ‘Green Wedge’ between Coalville and Whitwick so should not be built upon.</p>
<p>Highway Impacts</p>	<p>At present children can walk along the southern side of Church Lane without needing to cross a road junction. The proposed development would add a significant traffic hazard.</p>
	<p>The additional vehicular movements associated with the proposed development will result in detriment to highway safety with Church Lane already being heavily utilised.</p>
	<p>Church Lane is used as a ‘rat run’, with on-street car parking hindering the free flow of traffic and impacting on visibility at the site access. The provision of the proposed development and its associated access would compound these issues and cause accidents.</p>
	<p>The speed mitigation measures on Church Lane are ineffective.</p>

	<p>The transport assessment is flawed in that the traffic count was undertaken during the Easter holidays and the movement of a refuse lorry does not take into account on-street parking on Church Lane.</p>
	<p>It is likely that restrictions will need to be placed upon Church Lane to enable visibility at the site access which will add to the on-street parking problems. The internal highway will also be subjected to parking from residents on Church Lane if no restrictions are in place.</p>
	<p>The proposed access is insufficient in width and contrary to the guidance of the County Highways Authority.</p>
	<p>Construction traffic and movements will result in detriment to highway safety.</p>
	<p>The layout of the road will prevent the movement of emergency vehicles and waste collection vehicles.</p>
	<p>The scheme should be designed by utilising the existing access to no. 137 Church Lane and then partially removing the hedge to the frontage of no. 135 Church Lane and a telegraph pole. This could likely be achieved with engagement.</p>
	<p>Insufficient off-street parking is proposed, and tandem parking is contrary to the Council's adopted Good Design SPD.</p> <p>The movement from parked vehicles for plot 5 will be compromised by the parking of vehicles at plot 4.</p>
	<p>There is no off-street parking for visitors.</p>

Design and Housing Mix	The proposed mix of dwellings will not provide housing which meets the needs of the community.
	The proposal will not conserve or enhance the District's landscape character with the loss of nos. 137 and 139 Church Lane also resulting in detriment to the streetscape.
	It does not appear necessary to demolish no. 139 Church Lane given that a vehicular access already exists.
	The proposed backland nature of the development is out of keeping with the character and appearance of the streetscape.
	The views of the Council's Urban Designer should be taken into account with concerns raised in relation to the layout.
	Affordable housing should be provided.
	The proposed scheme is too dense, and the number of properties should be reduced.
	The development is contrary to the Council's adopted Good Design SPD with the layout of the development not being in keeping with the plot sizes of neighbouring properties.
Residential Amenity	There will be additional noise from vehicular movements associated with the development on Church Lane which will result in detriment to the amenity of neighbouring properties.
	The proposed dwellings will result in noise detriment from activity associated with them with future installations such as air source heat pumps also

	generating noise.
	The provision of vertical speed control measures will result in noise detriment from vehicle movements and are not in accordance with the Leicestershire Highways Design Guide (LHDG) which requires horizontal speed control measures.
	The layout and scale of the development would result in overshadowing, overbearing and overlooking impacts to the detriment of the residential amenities of nos. 135, 217, 219, 221, 223 and 225 Church Lane in particular. This is contrary to Policy D2 of the adopted Local Plan.
	Proposed tree planting has the potential to create overshadowing impacts to neighbouring gardens. The retention of the Silver Birch trees planted in connection with application reference 22/00450/TPO will result in overshadowing impacts.
	The future amenities of any occupants of the proposed dwellings would be adversely impacted on by virtue of the relationship with mature trees. This will place pressure on such trees to be removed.
	Construction activity will be of detriment to residential amenity including the potential for asbestos to be present in the properties to be demolished.
	Fumes and pollutants will be created from vehicular movements.
Ecology and Biodiversity	The application site provides habitat for numerous species of mammals, birds, amphibians and insects which will be destroyed as a result of the development.
	Biodiversity net gain (BNG) will not be achieved on the

	<p>site given the number of dwellings proposed and the potential removal of indicative trees to address impacts to amenities. It will also not be possible to manage any 'net gain' delivered. The proposal is not compliant with BNG legislation.</p>
	<p>There is a lack of ecological reports to properly assess the developments impacts to ecology and biodiversity and the development is contrary to Policy En1 of the adopted Local Plan.</p>
<p>Landscaping</p>	<p>The proposal will result in the removal of trees protected by Tree Preservation Order (TPO) 494 and this should be prevented, particularly given the reduction in visual amenity. There is also no possibility of providing replacement trees in the areas where TPO trees would be removed given the development.</p>
	<p>The growing of new trees will take years to replace the biodiversity benefits of trees to be removed.</p>
	<p>National Forest planting should be provided on the site in line with Policy En3 of the adopted Local Plan and not a commuted sum.</p>
	<p>The concerns of the Council's Tree Officer have not been taken into account and the proposal should be amended.</p>
	<p>Development is proposed within the root protection area of trees which will further increase the probability of such trees not being retained. The development will also impact on trees outside of the site which are not shown on the plans.</p>
	<p>Landscaping shown on the plans will not be maintained and as such will be removed.</p>
	<p>The planting of trees will impact on the foundations of</p>

	<p>dwelling and drainage infrastructure with distances not complying with National House Building Council (NHBC) guidelines.</p>
<p>Flood Risk and Drainage</p>	<p>No consent will be given for trees to overhang the boundary and no consent will be given to a management company accessing the property to undertake maintenance of any trees. Deciduous trees will also result in leaf litter.</p> <p>The redevelopment of the greenfield site will increase the risk of flooding (particularly pluvial flooding) with gardens of properties in the area flooding in October 2023.</p> <p>The proposed SuDS solution has not been demonstrated to be feasible.</p> <p>There is inadequate capacity within the foul drainage network to accommodate the development.</p> <p>Who will maintain the surface water drainage infrastructure?</p>
<p>Waste Collection</p>	<p>Any potential bin collection point would be in excess of 25 metres from plot 6 and therefore contrary to guidance.</p>
<p>Other Matters</p>	<p>The proposed development will potentially lead to the land to the south, which is owned by a property developer, being developed and this should be prevented.</p> <p>There will be an increased risk of crime and anti-social behaviour for all residents backing onto or adjacent to the scheme.</p> <p>The proposal is contrary to Policies En4 and En5 of</p>

	the adopted Local Plan.
	The development will impact on services within the existing adjacent properties.
	The applicant, as well as their agent, have not engaged with local residents as required by the NPPF and Building for Life 12.
	The proposed attenuation pond will be dangerous to children.

The impact of the development on the value of properties has also been raised in the objections received but this is not a material planning consideration and therefore has no merit in the overall assessment of the application.

Two representations have been received neither objecting to nor supporting the proposed development which are summarised as follows:

- The application is likely to go ahead like many others in the area but it is good to see the revised plan is not overcrowded and contains some vegetation and new tree planting.
- The applicant has worked hard to comply with the Local Authority and local residents to satisfy all objections.
- It looks like a quality development unlike others in the area.
- I do not consider there will be additional parking issues on Church Lane as each property has a driveway and dedicated parking.

Two representations have also been received in support of the application with the comments raised summarised as follows:

- The proposal would meet the need for additional housing within the settlement and provides a good mix of house sizes.
- The amended plans are better than the original plans and the site is able to support such development.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2023)

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraphs 8 and 10 (Achieving sustainable development);
- Paragraphs 11 and 12 (Presumption in favour of sustainable development);

Paragraph 34 (Development contributions);
Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);
Paragraphs 54, 55, 56 and 57 (Planning conditions and obligations);
Paragraphs 60, 61, 63, 64, 66, 70, 75, 79 and 81 (Delivering a sufficient supply of homes);
Paragraph 96 (Promoting healthy and safe communities);
Paragraphs 108, 111, 112, 114, 115 and 116 (Promoting sustainable transport);
Paragraphs 123, 124, 128, 129 and 130 (Making effective use of land);
Paragraphs 131, 133, 135, 136 and 139 (Achieving well-designed places);
Paragraphs 157, 158, 159, 165, 173 and 175 (Meeting the challenge of climate change, flooding and coastal change);
Paragraphs 180, 186, 187, 188, 189, 190, 191 and 194 (Conserving and enhancing the natural environment);
Paragraphs 195, 200, 203, 205 and 211 (Conserving and enhancing the historic environment);
and
Paragraphs 218 and 223 (Facilitating the sustainable use of minerals).

Local Policies

Adopted North West Leicestershire Local Plan (2021)

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded full weight in the determination of this application:

Policy S1 – Future Housing and Economic Development Needs;
Policy S2 – Settlement Hierarchy;
Policy D1 – Design of New Development;
Policy D2 – Amenity;
Policy H4 – Affordable Housing;
Policy H6 – House Types and Mix;
Policy IF1 – Development and Infrastructure;
Policy IF4 – Transport Infrastructure and New Development;
Policy IF7 – Parking Provision and New Development;
Policy En1 – Nature Conservation;
Policy En3 – The National Forest;
Policy En4 – Charnwood Forest Regional Park;
Policy En6 – Land and Air Quality;
Policy He1 – Conservation and Enhancement of North West Leicestershire’s Historic Environment;
Policy Cc2 – Water – Flood Risk; and
Policy Cc3 – Water – Sustainable Drainage Systems.

Leicestershire Minerals and Waste Local Plan (2019)

This plan was adopted on the 25th of September 2019 and as such the following policies would be considered relevant to this application:

Providing for Minerals:

Policy M11: Safeguarding of Mineral Resources.

Other Policies

National Planning Practice Guidance.

Good Design for North West Leicestershire Supplementary Planning Document – April 2017.

Leicestershire Highways Design Guide (Leicestershire County Council).

Circular 06/05 (Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System).

5. Assessment

Principle of Development and Sustainability

Insofar as the principle of development is concerned, and in accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance comprises the adopted North West Leicestershire Local Plan (2021).

The site is located within the defined Limits to Development where the principle of residential development is acceptable subject to compliance with relevant policies of the adopted Local Plan and other material considerations. Within the NPPF (2023) there is a presumption in favour of sustainable development and proposals which accord with the development plan should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies as a whole or if specific policies in the NPPF indicate development should be restricted.

The sustainability credentials of the scheme would need to be assessed against the NPPF and in this respect Policy S2 of the adopted Local Plan highlights that the Coalville Urban Area, of which Whitwick is part, is the primary settlement in the District where the largest amount of new development will take place.

On the basis of the above, the application site would be considered a sustainable location for new development due to it benefitting from a range of services and being readily accessible via public transport, as such future residents would not be heavily reliant on the private car to access the most basic of services.

It is also the case, in accordance with Policy IF2 of the adopted Local Plan, that the level of proposed development (i.e. a major application) is required to mitigate its impact to infrastructure (such as schools and doctors surgeries) by the provision of relevant developer contributions. The *'Developer Contributions and Infrastructure'* section of this report, below, outlines in more detail the contributions which would be secured, but in brief these would include monetary contributions towards health services, civic amenity, libraries, travel packs, bus passes, and off-site National Forest planting. Affordable housing would also be secured on site and, overall, the securing of such contributions within a Section 106 agreement would ensure that the development is socially sustainable.

The provision of the housing would result in development on a greenfield site which is not allocated in the adopted Local Plan for such a form of development. Whilst the site is not allocated, and greenfield land is not the most sequentially preferred land on which to provide new development, it is noted that it is within the Limits to Development and lies on the same side of the road as nos. 21 to 63 Church Lane where residential development was allowed to the rear of these dwellings on a greenfield site under application references 19/02392/OUT and 21/02371/REM. The retention of landscaping (including mature trees) to the western and southern boundaries would also provide screening of the development, with such planting providing a defensible barrier to prevent the encroachment of further development onto land to the west and

south. It is, however, noted that the land to the west and south of the site lies within an Area of Separation (as defined by Policy En5 of the adopted Local Plan) where there would be a presumption against residential development. Overall, it is considered that the loss of the greenfield site would not result in significant conflict with the environmental objective enshrined within the NPPF.

To conclude, there would be no substantial harm to the built and natural environment, with any harm being outweighed by the economic benefits associated with the construction of the dwellings and the positive social sustainability aspects of the scheme. As a result the proposal is considered sustainable in accordance with Policy S2 of the adopted Local Plan and the core objectives of the NPPF.

It is also the case that the housing figures for the District are only minimum figures, not maximum figures, and consequently the provision of housing in appropriate locations (i.e. within the Limits to Development and within appropriate settlements as outlined in Policy S2 of the adopted Local Plan) will remain acceptable in principle.

Assessment of objections received in relation to the principle of development and sustainability.

Objection	Officer Response
<p>The proposed development will impact adversely on existing services such as the medical centre, schools and public transport infrastructure.</p> <p>Deficiencies in local facilities (e.g. availability of school places).</p>	<p>The <i>'Developer Contributions and Infrastructure'</i> section of this report below outlines that relevant contributions have been sought from organisations to mitigate the impacts of the development on local services and amenities which would be secured in a Section 106 agreement should permission be granted.</p>
<p>There is a brownfield site next to the playing field in Whitwick, where the Hermitage Leisure Centre used to be, which could accommodate the development.</p>	<p>Whilst the re-use of brownfield land is preferred within the NPPF there is no sequential type approach which specifies that greenfield sites cannot be released until all brownfield sites have been built upon. It is also the case that the applicant does not own the land associated with the Hermitage Leisure Centre.</p> <p>Notwithstanding the above, an application must be assessed on its own merits and whether an alternative site could accommodate the development is not of relevance in the assessment of this application.</p>
<p>The application site forms part of the 'Green Wedge'</p>	<p>The policies map to the adopted Local Plan identifies that the application site falls outside land designated</p>

<p>between Coalville and Whitwick so should not be built upon.</p>	<p>as an Area of Separation (under Policy En5 of the adopted Local Plan) with there no longer being land designated as 'Green Wedge'.</p>
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Accessibility

Policy IF4 of the adopted Local Plan requires that development takes account of the impact upon the highway network and the environment, including climate change, and incorporates safe and accessible connections to the transport network to enable travel choice, including by non-car modes, for residents, businesses, and employees. Policy IF7 of the adopted Local Plan requires that development incorporates adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

As part of the consideration of the application the County Highways Authority (CHA) has been consulted and their consultation response considers the requirements of the Leicestershire Highways Design Guide (LHDG).

Access, layout, and scale are submitted for approval at this time.

Access

The CHA notes that the existing accesses serving nos. 137 and 139 Church Lane would be reconfigured and revised to serve the proposed residential development.

Church Lane itself is an unclassified adopted road subject to a speed limit of 30mph, the CHA has observed that speed cushions are present on Church Lane and that on-street parking is prevalent.

The Transport Statement (TS) contains an Automatic Traffic Count (ATC) with data collected in the vicinity of the site access for the period between the 15th April 2022 and 21st April 2022. Whilst the CHA acknowledged that the ATC commenced on Good Friday and was wholly within the school holidays, they consider the data to be acceptable given the nature of Church Lane and that the site is not near to a school. The ATC data measured 85th percentile speeds of 29.5mph eastbound and 33.2mph westbound and based on this information the LHDG requires vehicular visibility splays of 2.4 metres by 54 metres east of the proposed access and 2.4 metres by 43 metres west of the proposed access.

Plans contained within the TS have demonstrated that visibility splays in accordance with the LHDG can be provided at the site access and this is acceptable to the CHA.

In terms of the access width, the CHA measured this to be 4.8 metres with a 4 metre junction radii and 2 metre wide footways either side of the access road. It was, however, the case that pedestrian visibility splays of 1 metre x 1 metre were also needed. Surfacing details were also suggested to be provided, albeit the CHA accepted that these could be conditioned on any outline permission granted.

Whilst refuse and fire tender vehicle tracking at the site access had been submitted within the TS, the CHA observed that such tracking needed to demonstrate the movements were achievable should vehicles be parked on the northern side of Church Lane given that such on-street parking was observed by the CHA during their site visit (on the 24th October 2023). On the basis such on-

street parking would remain prevalent should the site be developed, the tracking information needed to be revised.

Whilst further information was submitted by the applicant, within an amended Transport Statement (ATS), the CHA determined such information identified that wheel movements of refuse vehicles would meet the edge of the carriageway on both sides of the proposed access. Such a movement would likely result in a refuse vehicle overriding the kerb thereby causing damage to the adopted highway. On this basis the access was required to be amended so that a clear margin between the wheel track and the kerb at an ideal vehicle speed (of 9mph) was demonstrated. The amended swept path analysis of a fire tender vehicle was acceptable to the CHA.

A further swept path analysis has subsequently been submitted for the movements of a refuse vehicle and whilst certain movements track close to the near side kerb, the CHA consider that such swept path analysis is acceptable.

The ATS also contains a Stage 1 Road Safety Audit (RSA) and associated Designers Response (DR) in connection with the site access, as required by the CHA. This Stage 1 RSA and DR demonstrates no highway safety concerns arise which are required to be addressed and is satisfactory to the CHA.

Overall, the CHA has no objections to the access arrangements which would be conditioned on any outline permission granted.

Highway Safety

The CHA has noted that there have been no Personal Injury Collisions (PICs) recorded to have taken place within 500 metres of the site in the most recent five-year period.

On this basis the CHA has no highway safety concerns regarding the location of the site with there being no evidence to suggest that the proposed development would increase the risk of accidents occurring. This position is also confirmed by the Stage 1 RSA.

Highway Network

The CHA has outlined that the submitted TS has used the Trip Rate Information Computer System (TRICS) database to show the trip rates and proposed trip generation for the development during the AM and PM peak periods.

It is considered by the CHA that such trip rates are acceptable and indicate that there would be 9 two-way trips in both the AM and PM peak periods. Such trip generation would be below the threshold where a junction capacity assessment would be required and therefore the CHA has determined that there would be no material impact on the highway network as a result of the development.

Internal Layout

The CHA outlined that given the scale of the proposed development they would ordinarily seek to adopt the internal highway, but in order for the internal highway to be adopted it would need to accord with the LHDG.

Subsequently the CHA outlined the amendments which would be required to the proposed

internal highway layout if it was to be compliant with the LHDG (and therefore adoptable) which were not insurmountable. Notwithstanding this, the CHA acknowledged that the adoptability of the internal highway is not a material planning consideration.

Whilst the applicant has recognised the amendments required to the internal highway layout in order to enable it to be adopted, they have stated that the internal highway would not be put forward for adoption (i.e. it would be a private highway) and therefore would not need to be compliant with the LHDG. This position is not objected to by the CHA.

Although the applicant has outlined that the internal highway would be constructed to an adoptable standard, the design of its layout is not to an adoptable standard. However, the CHA has advised that the submitted swept path analysis of the Council's waste vehicle and a fire tender vehicle demonstrates that such movements could be undertaken on the internal highway and there are no objections from the CHA in this respect.

The construction of the internal highway itself to an adoptable standard, would therefore enable the Council's waste vehicle to access the site for waste collection purposes. This is as discussed further in the *'Waste Collection'* section of this report below.

In terms of off-street parking, the CHA is satisfied that the off-street parking to be delivered, including its dimensions, would accord with the LHDG and the Council's adopted Good Design SPD.

Overall, the CHA has no objections to the proposed internal highway layout.

Transport Sustainability

The CHA has outlined that the site is located within Whitwick and that within 800 metres walking distance of the site access there is a selection of local services and amenities including a convenience store, pharmacy and a primary school. The nearest bus stops are approximately 300 metres from the site on Brooks Lane with buses travelling northwards towards Nottingham, Loughborough, and Leicester, and southbound towards Coalville. Such bus services would include the no. 16 and 126 buses operated by Arriva Midlands, and the SkyLink service operated by Trent Barton with these services operating every 30 minutes to Coalville and every 60 minutes to both Nottingham and Loughborough.

On this basis the CHA is satisfied that the application site is in a sustainable location.

Contributions would also be sought by the CHA towards sustainable travel including travel packs and six month bus passes. These are as discussed in the *'Developer Contributions and Infrastructure'* section of this report below.

Accessibility Conclusion

Paragraph 115 of the NPPF outlines that development should only be refused on highway grounds where *"there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe."*

In the circumstances that there are no objections to the application from the CHA, subject to the imposition of conditions and securing of relevant contributions, it is considered that the access,

layout and scale of the development would be compliant with Policies IF4 and IF7 of the adopted Local Plan as well as Paragraphs 111, 114, 115 and 116 of the NPPF.

Assessment of objections received in relation to accessibility.

Objection	Officer Response
<p>At present children can walk along the southern side of Church Lane without needing to cross a road junction. The proposed development would add a significant traffic hazard.</p> <p>Increased danger to pedestrians and children walking to local schools, all schools encourage children to walk to school, there will be no safe route for them to use during the construction.</p>	<p>The County Highways Authority (CHA) has concluded that the proposed development would not result in detriment to highway or pedestrian safety, with the scale of the proposed development not resulting in a level of vehicular movements at the junction of the site with Church Lane that would significantly compromise the safe passage of pedestrians (including children) across the junction.</p> <p>Such crossing of the access junction would also be minor when accounting for the fact that children attending New Swannington Primary School would also need to cross Thornborough Road/Brooks Lane in order to reach the school. It is also not uncommon for children to cross road junctions when walking to and from school.</p> <p>Measures would be put in place by any construction firm which would assist with pedestrian movements should there be a need to restrict access to the existing pavements as part of the construction phase. It is again the case that the CHA do not consider the safety of pedestrians to be significantly compromised as a result of the development being built out.</p>
<p>The additional vehicular movements associated with the proposed development will result in detriment to highway safety with Church Lane already being heavily utilised.</p> <p>Highway issues including vibration of large vehicles on a densely developed street; traffic generation, vehicular access, highway safety, noise and</p>	<p>Given the overall level of the development, comprising 13 dwellings, it is considered that the additional vehicular movements upon the highway network would not be significant, nor would it result in significant traffic at the junction of Church Lane and Brooks Lane. It is also the case that the CHA has no objections and who have determined that the proposed development does not conflict with Paragraph 115 of the NPPF, or relevant policies of the adopted Local Plan.</p> <p>On this basis there would be no justification to refuse the application in relation to these issues.</p>

<p>disturbance resulting from use by lorries up to 40 tonnes in weight.</p> <p>Increased traffic at the junction of Church Lane/Brooks Lane.</p>	<p>The movements of large vehicles would only be associated with the construction phase and are therefore of a temporary nature with it being the case that the commercial premises on Church Lane may already be served by heavy goods vehicles (HGVs). On this basis vibration, noise, and disturbance impacts would not be significant when compared with existing movements. It is also the case that construction activity does not comprise a material planning consideration and as such cannot be taken into account in the assessment of the application.</p>
<p>Church Lane is used as a 'rat run', with on-street car parking hindering the free flow of traffic and impacting on visibility at the site access. The provision of the proposed development and its associated access would compound these issues and cause accidents.</p>	<p>If an existing on-street parking problem is causing an issue to the free flow of traffic then this would be a matter to be reviewed and addressed separately by the CHA.</p> <p>It is outlined above that the proposed development would not increase the risk of accidents occurring, with the access arrangements complying with the LHDG.</p>
<p>The speed mitigation measures on Church Lane are ineffective.</p>	<p>This would be a matter to be addressed separately by the CHA given that it would not be for the proposed development to address any deficiencies in existing speed mitigation measures given its minimal impacts to the highway network.</p>
<p>The transport assessment is flawed in that the traffic count was undertaken during the Easter holidays and the movement of a refuse lorry does not take account of on-street parking on Church Lane.</p>	<p>For the reasons as outlined above the CHA considers the traffic count to have been undertaken at an appropriate time and they have ensured that parked vehicles on Church Lane have been factored into account when assessing the movement of a refuse vehicle at the proposed site access.</p>
<p>It is likely that restrictions will need to be placed upon Church Lane to enable visibility at the site access which will add to the on-</p>	<p>The consultation response received from the CHA raises no objections to the proposed access arrangements and the level of visibility to be achieved. It is also the case that the CHA do not require any restrictions to be imposed on Church Lane to enable</p>

<p>street parking problems. The internal highway will also be subjected to parking from residents on Church Lane if no restrictions are in place.</p>	<p>the delivery of the visibility splays.</p> <p>On the basis that the proposed internal road layout would be a private highway the ability for vehicles to park which are not associated with residents of the proposed dwellings would be discouraged.</p>
<p>The proposed access is insufficient in width and contrary to the guidance of the County Highways Authority.</p>	<p>The CHA considers the access arrangements to be acceptable and compliant with the LHDG.</p>
<p>Construction traffic movements will result in detriment to highway safety.</p>	<p>The impact of construction traffic movements associated with the development to highway safety would not be materially greater than any other development project which may occur in the area, with commercial premises also being present on Church Lane which may result in the movement of heavy goods vehicles (HGVs) upon the highway. Construction would also be a temporary element of the overall development.</p> <p>Notwithstanding this the Department for Levelling Up, Housing and Communities (DLUHC) and Planning Aid's '<i>Material Planning Considerations</i>' checklist, as referenced on the District Council's website, stipulates that problems arising from the construction period constitutes a non-material planning consideration and consequently a reason to refuse the application on this basis could not be substantiated.</p>
<p>The layout of the road will prevent the movement of emergency vehicles and waste collection vehicles.</p>	<p>On the basis of the swept path analysis provided, the CHA is satisfied that both emergency vehicles and the Council's waste vehicle could manoeuvre upon the internal highway and exit in a forward direction.</p>
<p>The scheme should be designed by utilising the existing access to no. 137 Church Lane and then partially removing the hedge to the frontage of no. 135</p>	<p>The existing access to no. 137 Church Lane is of an insufficient width to accommodate two-way vehicle flows which would be a necessity for a residential development proposing 13 dwellings given the need to prevent vehicles being stationary within Church Lane for a sustained period and obstructing the free</p>

<p>Church Lane and a telegraph pole. This could likely be achieved with engagement.</p>	<p>flow of traffic.</p> <p>It is also outlined by the applicant's transport consultant that to accommodate an access in accordance with the LHDG would result in the junction radius and foot way on the western side impeding the driveway to no. 139 Church Lane. In addition, the eastern visibility splay would cross over third-party land (no. 135 Church Lane) and an access should not be designed which is reliant on receiving consent from a third party.</p> <p>The representations received from the occupant of no. 135 Church Lane have also not outlined any support being given to the visibility splay crossing over their land.</p> <p>Notwithstanding this the proposed access is considered acceptable to the CHA, with the demolition of nos. 137 and 139 Church Lane also being acceptable, and therefore there is no requirement to consider an alternative access arrangement.</p>
<p>Insufficient off-street parking is proposed, and tandem parking is contrary to the Council's adopted Good Design SPD.</p> <p>The movement from parked vehicles for plot 5 will be compromised by the parking of vehicles at plot 4.</p>	<p>The proposed level of off-street parking is compliant with the Council's adopted Good Design SPD and the LHDG.</p> <p>The Council's adopted Good Design SPD outlines that the Council's preference is for on-plot parking and that an over reliance on tandem parking should be discouraged. It therefore does not advise that tandem parking is not allowed, and the example given at paragraph 11.10 on page 45 makes specific reference to 2 tandem parking spaces being provided.</p> <p>In the main 2 tandem parking spaces do not raise the same level of concern as 3 (or more) tandem parking spaces given that the manoeuvrability of vehicles between the parking spaces is easier. This is consequently the reason as to why a parking lay-by is proposed to provide the 3rd off-street space for plots 6, 7, and 8, and which are not displaced spaces given their proximity to these plots.</p> <p>It is also the case that the Council's Urban Designer, nor the CHA, have any objections to the off-street</p>

	<p>parking arrangements and consequently there would be no justification to refuse the application on the basis that tandem off-street parking is proposed.</p> <p>The off-street parking spaces for plot 4 meet the maximum dimensions required by the LHDG (of 11 metres) rather than the minimum dimensions (of 9.6 metres). Consequently it is considered that vehicles parked in connection with plot 4 are unlikely to obstruct the movement of vehicles in and out of the parking spaces associated with plot 5. There is also no objections from the CHA to the parking and turning arrangements, with any issues resolvable through discussions between the occupants of plots 4 and 5.</p>
<p>There is no off-street parking for visitors.</p>	<p>The number of parking spaces per dwelling is based on the number of bedrooms, with neither Policy IF7 of the adopted Local Plan, the LHDG, or the NPPF requiring parking spaces for visitors to be delivered for residential development. As such this is discretionary.</p> <p>The level of off-street parking is acceptable to the CHA, with it being considered that the impact of visitor parking to on-street parking on Church Lane would not be significant given that is unlikely that any visitors to the proposed dwellings (with the potential exception of plot 1) would park upon Church Lane due to the subsequent walking distances.</p>

Impact of the Layout and Scale on the Character and Appearance of the Streetscape and Wider Area and Assessment of Housing Mix

Policy D1 of the adopted Local Plan (2021) requires that all developments be based upon a robust opportunities and constraints assessment and be informed by a comprehensive site and contextual appraisal. It also requires that new residential developments must positively perform against Building for a Healthy Life (BfHL) (formerly Building for Life 12 (BfL12)) and that developments will be assessed against the Council's adopted Good Design SPD.

Part (4) of Policy En3 of the adopted Local Plan outlines that new development within the National Forest should ensure that:

- (a) The siting and scale of the proposed development is appropriately related to its setting within the National Forest; and
- (b) The proposed development respects and does not adversely affect the character and appearance of the National Forest or the wider countryside; and
- (c) The character of the National Forest is enhanced through incorporating a National Forest or locally inspired identity.

It is noted that appearance and landscaping are reserved for subsequent approval, consequently the matters to be considered as part of this outline application are the layout and scale of the proposed development. As part of the consideration of the application, consultation has been undertaken with the Council's Urban Designer.

Density

The proposed development would provide for a net density of approximately 17 dwellings per hectare. Paragraph 128 of the NPPF requires development to make efficient use of land and it is considered that this density would, when having regard to the location of the development, the implications of meeting relevant design policies, and the site constraints (including trees protected by a Tree Preservation Order (TPO)), be considered reasonable in this location.

Site Layout

To accommodate the proposed development nos. 137 and 139 Church Lane would be demolished. Neither of these dwellings are of any particular architectural merit, with no. 137 Church Lane being set back from the streetscape thereby limiting the contribution it makes to its character and appearance. The dwellings could also be demolished under a simplified prior notification procedure, with or without the proposed development, whereby the only matters to be considered would be the means of demolition and the aftercare of the site. On this basis the demolition of nos. 137 and 139 Church Lane would not warrant a refusal of the application.

Church Lane is characterised by a mix of property ages and styles with pre-war development mainly being positioned in close proximity to the highway to provide a strong sense of enclosure to the street and post-war development having greater separation from the highway to enable off-street parking to the frontage, thereby creating a more spacious streetscape. On this basis the building line varies, and the frontage of the application site is located at the juxtaposition between the above two characters.

The rear of the site, however, extends at depth beyond the frontage linear development thereby protruding towards the surrounding rural environment and consequently provides a different character.

The site layout has been amended to address comments raised by the Council's Urban Designer, with the scheme as originally proposed comprising 15 dwellings which has subsequently been reduced to 13 dwellings.

Proposed Site Layout

The proposed site layout is as shown in the image below.

Proposed Site Layout



As proposed plot 1 would be positioned to address the streetscape along Church Lane and reflects the variance in the building line which exists. As a detached two-storey property, plot 1 would also be in keeping with the character of the development to its immediate east and west with the provision of off-street parking to its frontage not being materially different to that associated with its neighbours. On the basis that plot 1 would also be within a linear plot of a length and width consistent with that of its surroundings, it is considered that the character and appearance of the streetscape would be maintained.

The remainder of the dwellings (plots 2 to 13) would then lie to the south of plot 1 and be subsequently developed behind nos. 217 to 231 Church Lane (odd numbers inclusive). No. 137 Church Lane (to be demolished) is set back from the Church Lane streetscape and has established a separate building line with residential development being permitted to the rear of nos. 21 to 63 Church Lane under application references 19/02392/OUT and 21/02371/REM which is to the immediate east of land associated with Whitwick Cemetery. Such development would also sit behind the established building line on Church Lane and thereby comprise 'backland' development.

Plot 2 would be partially positioned on the footprint associated with no. 137 Church Lane, with

plots 10 to 13 being to the west of plot 2 and thereby 'forward' of no. 137. It is considered that plots 2 and 10 to 13 would be closely associated with the existing dwellings on Church Lane and accord with the nature and positioning of no. 137.

Plots 3 to 9 would then be to the south of no. 137 and whilst extending towards the rural environment, the amendments made to the layout have ensured that the existing trees to the southern and western boundaries (protected by Tree Preservation Order (TPO) 494) are largely retained to act as a screening element.

When accounting for the scale of the development (as outlined in the 'Scale' sub-section below) it is considered that when viewed from Church Lane the proposed development would only be readily visible within the immediate vicinity of the site entrance. This is due to the positioning of plot 1, as well as the other dwellings upon the southern side of Church Lane, screening views towards the dwellings to the rear. Public Rights of Way (PRoW) O9 and O10 are to the south of the site but given the retention of the mature trees, and when accounting for the limited visibility of no. 137 Church Lane from such PRoW, it is considered that only glimpsed views of the proposed development would be achievable. The existing trees would therefore remain the most dominant visual feature from such PRoW. On this basis the proposed development would not be visually dominant, and it is considered that the impacts to the character and appearance of the streetscape and wider area would not be so adverse that a reason to refuse the application could be substantiated.

The specific comments of the Council's Urban Designer have outlined that the 'appearance' of plots 3, 9, and 13 would be important in how they contain the street whilst offering structure and surveillance. In this respect the applicant has provided some eye level perspective views from the entrance road (with plot 3 visible) as well as from the driveway of plot 2 showing views towards plots 3, 9, and 13 which are as shown in the image below.

Eye Level Perspective Views



A view of the site from next to plot no 1.



A view of the site from the driveway of plot no.2

It is considered that such perspective views provide an indication of how the massing of plots 3, 9, and 13 would look and provide satisfaction that an acceptable ‘appearance’ of dwelling could be brought forward at the reserved matters stage(s). In particular the Council’s Urban Designer has commented that the relationship plot 3 would have with plot 2, including its orientation and disposition would be important. In this respect the ‘shape’ of plot 3 is partly dictated by the road geometry but would also attempt to face both the internal highway and the attenuation pond. Whilst this is positive, further detail would be required when the ‘appearance’ of plot 3 is developed (which would be a matter to be considered at the reserved matters stage should outline permission be granted) to ensure that such aspirations are delivered. An informative imposed on any outline permission granted would make the applicant aware of this requirement.

The Council’s Urban Designer has also commented that the approach to landscaping would be important, as would the approach to the design of the attenuation pond (including its profile). Landscaping is a reserved matter and therefore is not for consideration at this stage, whilst this is the case a suitable landscaping scheme could be secured at the reserved matters stage(s). Precise details of the attenuation pond would be subject to condition on any outline permission granted to ensure it follows the guidance within the Council’s adopted Good Design SPD.

On the basis that the internal highway is not to be adopted, the layout has been amended to replace the pavement on one side of the highway with a service margin which has addressed the

Council's Urban Designer's concerns in relation to increased vehicle speeds around the bend in the vicinity of plots 3 and 13. The introduction of the 'build out' as a means of regulating speeds is also supported, with the proposed landscaping infrastructure at the entrance to the development being accommodated additional space in which to establish.

Amendments made to the layout have also ensured that plot 6 is not obscured by plot 7 which therefore ensures that the arrangement of plots 6 to 9 contribute positively to the internal streetscape.

The layout has also been altered around plot 3 to 'design out' an expanse of hard standing which potentially could have encouraged the parking of a third vehicle in connection with plot 3. Whilst this has resulted in the 'designated' off-street parking spaces for plot 3 being brought closer to the internal highway they are not positioned so as to significantly obscure the elevation of plot 3 or be significantly prominent in the streetscape.

In terms of off-street parking the Council's Urban Designer considered that it was positive for such parking to be to the side of dwellings but did request that consideration be given to the relocation of the parking to plot 5. The applicant has outlined that the relocation of the off-street parking for plot 5 would result in implications to the root protection areas (RPAs) of retained trees, but to soften the appearance of such off-street parking it would be surfaced in Grasscrete paving (as would the parking lay-by providing parking for plots 6, 7, and 8). The Council's Urban Designer has accepted this position.

The only matter not addressed in relation to the comments of the Council's Urban Designer are associated with the loss of no. 139 Church Lane and how the gable end of no. 217 Church Lane would become 'exposed' to the street.

In this respect the loss of no. 139 Church Lane is required to facilitate the delivery of the proposed access to serve the residential development and, as is outlined above, no. 139 could be demolished at anytime (with or without the proposed development) as a form of permitted development.

Whilst accepting that the gable end of no. 217 Church Lane would become 'exposed' to the street, the introduction of soft landscaping infrastructure (to be considered further as part of any reserved matters application(s)) would soften this impact. The positioning of plot 1 would also ensure that a dwelling is located at the site frontage in order to address the streetscape, and in agreeing the appearance of plot 1 the western and eastern side elevations could be positively designed to further enhance the visual amenities of the streetscape and thereby mitigate against the loss of no. 139.

When accounting for this, and on the basis that the impact arising to the streetscape as a result of the demolition of no. 139 would not be materially different to that arising should the property be demolished as a form of permitted development, there would be no justification to refuse the application on this basis.

Overall, the layout of the proposed development would be acceptable and is widely supported by the Council's Urban Designer.

Scale

Land levels across the site are relatively consistent with no substantial deviations when compared with levels outside of the site.

The plans as submitted state that the eaves and ridge heights for nos. 135, 137 and 139 Church Lane are as follows:

- (i) No. 135 Church Lane – Eaves = 146.08 metres above ordnance datum (AOD); Ridge = 148.37 metres AOD;
- (ii) No. 137 Church Lane (to be demolished) – Eaves = 146.50 metres AOD; Ridge = 149.24 metres AOD; and
- (iii) No. 139 Church Lane (to be demolished) – Eaves = 146.82 metres AOD; Ridge = 149.63 metres AOD.

As originally proposed plots 5 to 13 were intended to be 2.5 storey dwellings but following concerns raised by officers' such plots have now been amended to be two-storey dwellings.

The table below shows the proposed dwellings eaves heights, as well as a comparison with the eaves heights of nos. 135, 137 and 139 Church Lane.

Table showing eaves heights of proposed dwellings as well as a comparison with nos. 135, 137 and 139 Church Lane

Plot Number	Eaves Height in Metres AOD	Eaves Height in Comparison to no. 135 Church Lane (146.08m AOD)	Eaves Height in Comparison to no. 137 Church Lane (146.50m AOD)	Eaves Height in Comparison to no. 139 Church Lane (146.82m AOD)
1 (Two-Storey Detached)	146.68	+0.60	+0.18	-0.14
2 (Single Storey Detached)	144.50	-1.58	-2.00	-2.32
3 and 4 (Two-Storey Detached)	146.68	+0.60	+0.18	-0.14
5 (Two-Storey Detached)	146.68	+0.60	+0.18	-0.14
6 (Two-Storey Detached)	146.00	-0.08	-0.50	-0.82
7 (Two-Storey Detached)	146.00	-0.08	-0.50	-0.82
8 (Two-Storey Detached)	146.50	+0.42	0.00	-0.32
9 (Two-Storey Detached)	146.50	+0.42	0.00	-0.32
10 (Two-Storey)	146.75	+0.67	+0.25	-0.07

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Detached)				
Plots 11 and 12 (Two-Storey Semi-Detached)	146.75	+0.67	+0.25	-0.07
Plot 13 (Two-Storey Detached)	146.75	+0.67	+0.25	-0.07

The table below shows the proposed dwellings ridge heights as well as a comparison with the ridge heights of nos. 135, 137 and 139 Church Lane.

Table showing ridge heights of proposed dwellings as well as a comparison with nos. 135, 137 and 139 Church Lane

Plot Number	Ridge Height in Metres AOD	Ridge Height in Comparison to no. 135 Church Lane (148.37m AOD)	Ridge Height in Comparison to no. 137 Church Lane (149.24m AOD)	Ridge Height in Comparison to no. 139 Church Lane (149.63m AOD)
1 (Two-Storey Detached)	149.65	+1.28	+0.41	+0.02
2 (Single Storey Detached)	148.00	-0.37	-1.24	-1.63
3 and 4 (Two-Storey Detached)	149.65	+1.28	+0.41	+0.02
5 (Two-Storey Detached)	149.65	+1.28	+0.41	+0.02
6 (Two-Storey Detached)	149.50	+1.13	+0.26	-0.13
7 (Two-Storey Detached)	149.50	+1.13	+0.26	-0.13
8 (Two-Storey Detached)	150.00	+1.63	+0.76	+0.37
9 (Two-Storey Detached)	150.00	+1.63	+0.76	+0.37
10 (Two-Storey Detached)	150.25	+1.88	+1.01	+0.62
Plots 11 and 12 (Two-Storey Semi-Detached)	150.25	+1.88	+1.01	+0.62

Plot 13 (Two-Storey Detached)	150.25	+1.88	+1.01	+0.62
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As a means of comparison, the relationship between nos. 135, 137 and 139 Church Lane would be as follows:

- No. 137 has an eaves height which is 0.42 metres AOD greater than that of no. 135 but 0.32 metres lower than that of no. 139.
- No. 137 has a ridge height which is 0.87 metres AOD greater than that of no. 135 but 0.39 metres lower than that of no. 139.
- No. 139 has an eaves height which is 0.74 metres AOD greater than that of no. 135 and a ridge height which is 1.24 metres AOD greater than that of no. 135.

The properties towards the southern edge of the development (being plots 5, 6, and 7) are proposed to have eaves and ridge heights which would be comparable with those associated with no. 137 Church Lane, it is considered that such properties would not be substantially prominent in views from PRoW O9 and O10 to the south of the site when accounting for the retention of existing landscaping infrastructure.

It is also considered that the scale of the properties would be subservient in scale to those fronting onto Church Lane.

When accounting for the modest footprints of the dwellings to be created, their proposed scales would be acceptable given their compatibility with the scale of development within the immediate area. The scale is also not objected to by the Council's Urban Designer.

Garden Sizes

Paragraph 11.31 of the Council's adopted Good Design SPD states that "*rear private garden spaces must be at least equal to the footprint of the property. This is a minimum required standard.*"

On the basis of the site layout, as depicted in the image above, the dwellings to be created would have rear garden sizes which would be at least equal to the footprint of the properties and therefore would be compliant with the terms of the Council's adopted Good Design SPD.

Boundary Treatments

The application as submitted is not precise in relation to the approach to boundary treatments, although it is suggested that hedgerows would be widely used, and therefore a condition would be imposed on any outline permission granted to secure an appropriate scheme. In this respect careful consideration would need to be given to the use of boundary definition between what would be the public and private domain, as well as those boundary treatments presented to the public domain.

A condition would also be imposed requiring details of retaining structures (if required) to be submitted for approval to ensure that an appropriate assessment can be made of the suitability of the design approach to any retaining structures as well as their potential visibility within the public facing elements of the scheme.

Other Infrastructure

The submitted plans do not suggest the need for a foul drainage pumping station or substation to be provided. Notwithstanding this, a condition would be imposed on any outline permission granted which would require precise details to be submitted should there be a requirement for such infrastructure in the future.

Appearance

The appearance of the dwellings would be agreed at the reserved matters stage(s) and, at that point, an appropriate design could be achieved which would accord with the Council's design agenda by providing a scheme which responds to the positive characteristics of dwellings within the area (i.e. a traditional approach to the design) or which responds to the site's setting within the National Forest (i.e. a landscape led approach to the design).

As part of the consultation response from the National Forest Company (NFC) they have advised that consideration should be given to designing dwellings which reflect the location of the application site within the National Forest including in the use of their materials (i.e. timber canopies, windows and doors) and energy efficiency measures. An informative would be imposed on any outline permission granted to make the applicant aware of this request.

Impact of the Layout and Scale on the Character and Appearance of the Streetscape and Wider Area Conclusion

Overall, the Council's Urban Designer is supportive of the proposals and subject to the imposition of conditions and informatives, it is considered that the layout and scale of the development would be acceptable and enable it to successfully integrate into the environment in which it is set. On this basis the proposal would be compliant with Policy D1 of the adopted Local Plan, the Council's adopted Good Design SPD, and Paragraphs 131 and 135 of the NPPF.

Housing Mix

With regards to housing mix, Policy H6 of the adopted Local Plan outlines that a mix of housing types, sizes and tenures is expected on residential developments proposing 10 dwellings or more. When determining an appropriate housing mix the information contained within the Housing and Economic Development Needs Assessment (HEDNA) is one of the factors to take into account alongside other criteria as outlined in Part (2) of Policy H6. The range of dwelling sizes (in terms of number of bedrooms) identified as appropriate in the HEDNA are as follows:

- 1 bed – 0-10% (Market) and 30-35% (Affordable);
- 2 bed – 39-40% (Market) and 35-40% (Affordable);
- 3 bed – 45-55% (Market) and 25-30% (Affordable); and
- 4 bed – 10-20% (Market) and 5-10% (Affordable).

The submitted scheme proposes the following (%):

- 1 bed – 0% (Market); 0% (Affordable);
- 2 bed – 10% (Market); 33% (Affordable);
- 3 bed – 50% (Market); 67% (Affordable); and
- 4 bed+ - 40% (Market); 0% (Affordable).

HEDNA mix is one of several factors to consider when assessing a housing development of 10

or more dwellings with regard also being given to the *“mix of house types and sizes already built and/or approved when compared to the available evidence”* (criterion (b) of Part (2) of Policy H6) as well as the *“nature of the local housing sub-market”* (criterion (d)) and the *“needs and demands of all sectors of the community”* (criterion (e)). Furthermore, the supporting text to Policy H6 outlines at paragraph 7.49 that there needs to be a focus on *“delivering 2 and 3 bedroom properties in order to provide a better balance in the housing market.”*

In respect of the ‘affordable’ mix the District Council’s Affordable Housing Enabler (AHE) has outlined that such a mix would meet the identified needs in the area and would therefore be acceptable.

It is also considered that the ‘market’ mix would predominately seek to deliver the 2 and 3 bed properties which are as requested by the HEDNA mix and which are required to provide a better balance in the housing market (as outlined in paragraph 7.49 of the supporting text to Policy H6).

Whilst there would be a higher percentage of 4+ bedroom properties (40%) than as requested by the HEDNA mix, criterion (f) of Part (2) of Policy H6 outlines that regard should also be given to the *“character and context of the individual site”*. In this respect there are constraints associated with the site given the Tree Preservation Order (TPO) 494 and this has therefore dictated the number of dwellings which could be provided. It is also the case that the land borders with open countryside to the south and west and therefore care has been given to designing a scheme which ‘feathers’ out towards the edges given the transition to the open countryside. It is considered that such a design approach has influenced the provision of larger homes within spacious plots.

Overall, it is considered that 69% of the overall number of dwellings provided on the site would be compliant with the requested HEDNA mix of providing 2 and 3 bed properties with compliance with criterion (f) of Part (2) of Policy H6 providing justification for the proposed number of 4+ bed properties.

It is noted that the means of securing a suitable mix of dwellings is a matter to be addressed at the outline stage rather than during the consideration of any subsequent reserved matters application(s), due to housing mix in itself not being a reserved matter. A condition would therefore be imposed on any outline permission granted to secure the proposed mix of dwellings and ensure that this mix is delivered when the appearance of the dwellings is provided as part of any subsequent reserved matters application(s) (should outline permission be granted). This approach will ensure that a suitable mix of market and affordable properties are provided in accordance with Policies H4 and H6 of the adopted Local Plan.

Part (3) of Policy H6 of the adopted Local Plan indicates that schemes of 50 dwellings or more should provide a proportion of dwellings suitable for occupation by the elderly (criterion (a)) as well as dwellings which are suitable for occupation, or easily adaptable, for people with disabilities (criterion (b)).

Given the proposed level of development, being 13 dwellings, there would be no requirement to meet the terms of Part (3) of Policy H6.

Overall, the proposal would be considered compliant with Policy H6 of the adopted Local Plan and Building for a Healthy Life (BfHL) criteria relating to *‘Homes for Everyone.’*

Assessment of objections received in relation to the impact of the layout and scale on the character and appearance of the streetscape and wider area and assessment of housing mix.

Objection	Officer Response
<p>The proposed mix of dwellings will not provide housing which meets the needs of the community.</p>	<p>As is concluded above the proposed mix of dwellings is considered to be in accordance with Policy H6 of the adopted Local Plan when accounting for the assessment to be undertaken against the relevant criteria of Part (2) of Policy H6. The proposed housing mix would be secured by condition on any outline permission granted.</p>
<p>The proposal will not conserve or enhance the District's landscape character with the loss of nos. 137 and 139 Church Lane also resulting in detriment to the streetscape.</p> <p>The demolition of two perfectly good homes to replace with highly concentrated houses seems an act of ecological vandalism.</p>	<p>No. 137 Church Lane is significantly set back from the highway and consequently does not make a significant contribution to the overall streetscape with no. 139 Church Lane not being of any significant architectural merit which would justify its retention. In any event these dwellings are not 'protected' and consequently could be demolished at any time under a simplified prior notification procedure where the impact to the character and appearance of the streetscape would not be of relevance.</p> <p>The existing site makes a limited contribution to the landscape character of the district given that it comprises a residential garden. The approach to the layout of the development will see boundary screening maintained with additional landscaping also introduced. On this basis, and as a minimum, the landscape character of the district would be conserved.</p>
<p>It does not appear necessary to demolish no. 139 Church Lane given that a vehicular access already exists.</p>	<p>To demonstrate compliance with the requirements of the County Highways Authority (CHA) in relation to the proposed site access it has been necessary to demolish no. 139 Church Lane. This is as outlined in the 'Accessibility' section of this report above.</p>
<p>The proposed backland nature of the development is out of keeping with the character and appearance of the streetscape.</p>	<p>Planning permission has been granted for residential development to the rear of nos. 21 to 63 Church Lane which also lie on the southern side of Church Lane and where a 'backland' nature of development would be created. No. 137 Church Lane is also set back a significant distance behind the building line of the dwellings which have a more direct relationship with</p>

	<p>Church Lane.</p> <p>When accounting for this, and on the basis of the above assessment, it is considered that the development could integrate into the environment without detriment to the overall character and appearance of the streetscape.</p>
<p>The views of the Council's Urban Designer should be taken into account with concerns raised in relation to the layout.</p>	<p>Following amendments to the scheme during the consideration of the application the Council's Urban Designer is supportive of the development.</p>
<p>Affordable housing should be provided.</p>	<p>Affordable housing in line with Policy H4 of the adopted Local Plan would be delivered as part of the development with no objections raised by the Council's Affordable Housing Enabler (AHE).</p>
<p>The proposed scheme is too dense and the number of properties should be reduced.</p>	<p>The density of the development is 17 dwellings per hectare which is considered acceptable in line with Paragraph 128 of the NPPF when accounting for the site constraints and design policies.</p>
<p>The development is contrary to the Council's adopted Good Design SPD with the layout of the development not being in keeping with the plot size of neighbouring properties.</p>	<p>The Council's Urban Designer is supportive of the development and considers that it is in accordance with Policy D1 of the adopted Local Plan as well as the Council's adopted Good Design SPD when accounting for the principles which would be applicable to an outline application where matters of access, layout, and scale are for approval.</p> <p>The dwellings are designed to be within linear plots which is consistent with the nature of plots found along the southern side of Church Lane where the length of the plot size varies and is not consistent.</p>

Neighbours and Future Occupants Amenities

Policy D2 of the adopted Local Plan (2021) outlines that development proposals will be supported where they do not have a significant adverse effect on the living conditions of existing and new residents through loss of privacy, excessive overshadowing, and overbearing impacts, which is

supported by the Council's Good Design SPD. Paragraph 191 of the NPPF states that planning policies and decisions should ensure that new development is appropriate for its location considering the likely effects (including cumulative effects) of pollution on health, living conditions, and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

The site borders with residential properties on Church Lane to its northern, eastern and part of the western boundaries with the closest residential receptors being nos. 133 and 135 Church Lane to the east, nos. 217 to 231 Church Lane (odd numbers inclusive) to the north and nos. 168 to 176 Church Lane (even numbers inclusive) which would lie on the opposite of Church Lane to the north of the proposed access position.

Whilst an outline application, matters of access, layout and scale have been submitted for consideration at this time and therefore a detailed assessment of the impacts arising from the proposed development would need to be undertaken.

Land levels across the site are relatively consistent with no substantial deviations when compared with levels outside of the site. As submitted no information is provided on the finished floor and ground levels and therefore a condition would be imposed on any outline permission to be granted to secure precise details. Such finished floor and ground levels would be required to demonstrate compliance with the proposed scale of development to be approved at this stage and which would also be conditioned.

Based on the proposed layout the separation distances between elevations and relevant garden boundaries would be as shown in the image below.

Separation distances between the proposed dwellings and relevant residential receptors on Church Lane*



****Whilst it is noted that the above image represents a previous iteration of the proposed site layout the only material change between this layout and that now proposed, in relation to the separation distances to neighbouring receptors, is that plots 11 and 12 have been shifted 1 metre to the south thereby increasing their separation distances from nos. 219 to 223 Church Lane.***

The Council's adopted Good Design SPD does not specify an appropriate separation distance between the front elevation of a proposed dwelling and that of an existing dwelling, given that such elevations are ordinarily separated by a highway. In terms of the separation distance where the principal elevation of a proposed dwelling faces the side elevation of a neighbouring dwelling ('front to side' relationship) the separation distance is required to be 12 metres with 'back to back' separation distances of 20 metres being deemed acceptable. There is also no specified separation distance for a 'side to side' relationship, albeit the '45 degree rule' is generally utilised to ensure such a relationship is appropriate.

In terms of the 'back to back' separation distance, it would generally be considered that the separation distance to a shared boundary would be 10 metres (being the mid-point between 20 metres).

The proposed scale of the dwellings is as outlined in the 'Scale' sub-section of the 'Impact of the Layout and Scale on the Character and Appearance of the Streetscape and Wider Area and Assessment of Housing Mix' section of this report above.

Impact of Layout and Scale to Existing Residential Amenities

Plot 1 with nos. 135, 217 and 168 to 176 (even nos. inclusive) Church Lane

To address the streetscape of Church Lane, plot 1 is likely to be designed so that the principal (front) elevation faces in a northern direction towards the street (and principally no. 172 Church Lane which would be opposite plot 1) with the 'secondary' elevation then addressing the internal highway and facing westwards towards no. 217 Church Lane.

Whilst no. 172 Church Lane is not shown on the proposed layout, it is the case that the above image shows that plot 1 would be set back from the Church Lane highway by around 17 metres. Thereby when accounting for the presence of Church Lane, the separation distance to no. 172 would be in excess of the recommended 'back to back' separation distance (which would be a more sensitive relationship than a 'front to front' relationship) as outlined above.

A separation distance in excess of 12.5 metres would be established between the western elevation of plot 1 and the eastern (side) elevation of no. 217 Church Lane. It is probable that the western elevation of plot 1 would be a 'secondary' elevation which would be designed to address the internal access road. Again the separation distance to be established to no. 217 would be compliant with the Council's adopted Good Design SPD.

With regards to no. 135 Church Lane, a separation distance of 5.75 metres would be established between the eastern elevation of plot 1 and the western (side) elevation of no. 135. The western (side) elevation of no. 135 contains no windows, with the layout of plot 1 ensuring that it would not breach a 45 degree line when measured from the nearest habitable room windows on both the northern (front) and southern (rear) elevations.

In terms of the scale of plot 1, it would have an eaves height which would be 0.14 metres lower than that of no. 139 Church Lane (to be demolished) and a ridge height which is 0.02 metres greater than that of no. 139.

When accounting for the existing relationships between dwellings facing each other on Church Lane, the fact that no. 139 is closer to no. 217 than plot 1 would be, and that the positioning of plot 1 would not breach a 45 degree line when measured from the nearest habitable room windows to no. 135, it is considered that the layout and scale of plot 1 would not create any adverse overbearing or overshadowing impacts to the amenities of no. 135, nos. 168 to 176 (even nos. inclusive), and no. 217.

Plot 2 and nos. 135 and 217 Church Lane

Plot 2, at its closest point, would be set around 2 metres from the boundary with no. 135 Church Lane and in excess of 26 metres from its southern (rear) elevation. Plot 2 would also be around 14 metres from the boundary with no. 217 Church Lane and in excess of 30 metres from its southern (rear) elevation.

In terms of scale it is proposed that plot 2 would be partially upon the footprint of no. 137 Church Lane (to be demolished) and would have an eaves height 2.00 metres lower than this property and a ridge height which would be 1.24 metres lower.

When considering this scale, and when accounting for the fact that the footprint of plot 2 would be smaller than that of no. 137 as well as further from the boundaries with nos. 135 and 217, it is considered that such scale, as well as the layout, would not result in adverse impacts to the

amenities of nos. 135 and 217 in respect of overbearing and overshadowing impacts.

Plots 3, 4 and 5 and no. 135 Church Lane

Plots 3, 4 and 5 would be set, at their closest point, in excess of 10.3 metres from the boundary with no. 135 Church Lane and in excess of 45 metres from the southern (rear) elevation of this property. Based on the submitted layout these plots are likely to present their rear elevations to the boundary with no. 135 and would be to the immediate south of the footprint of no. 137 Church Lane.

In terms of scale, plots 3, 4, and 5 would have eaves heights 0.18 metres greater than no. 137 and ridge heights 0.41 metres greater.

The rear amenity area associated with no. 135 is substantial in length (in excess of 60 metres) with any impact arising being limited to the latter part of this rear amenity area. On the basis that plots 3, 4, and 5 are set a distance from the boundary which would be compatible with the Council's adopted Good Design SPD, it is considered that the scale and layout of these plots would not impact adversely on the residential amenities of no. 135 in respect of overbearing and overshadowing impacts.

Plots 10 to 13 with nos. 217 to 225 Church Lane (odd numbers inclusive)

Based on the above image plots 10 to 13 would have 'back to back' relationships with nos. 217 to 225 Church Lane (odd numbers inclusive) with the minimum separation distance between elevations being over 27 metres (plot 10 to no. 225) and the separation distance to the boundaries being in excess of 10.5 metres.

These plots would be to the west of the footprint of no. 137 Church Lane and in terms of scale such plots would have eaves heights 0.25 metres greater than no. 137 and ridge heights 1.01 metres greater.

When accounting for the recommendations within the Council's adopted Good Design SPD, it is considered that the layout and scale of plots 10 to 13 would be acceptable and would not result in any adverse overbearing or overshadowing impacts to the amenities of nos. 217 to 225 (odd numbers inclusive) due to the separation distances involved.

Impact of Overlooking to Existing Residential Amenities

An assessment in respect of overlooking impacts to neighbouring properties would be undertaken once the appearance of the dwellings was known at the reserved matters stage(s) but, on the basis of the proposed layout, it is considered that the dwellings could be provided which would not result in any adverse impacts in this respect.

Future Amenities

On the basis of the above assessments it is considered that the proposed dwellings would have an acceptable relationship with existing residential dwellings given the separation distances identified above and the orientation of existing residential properties on Church Lane to the north.

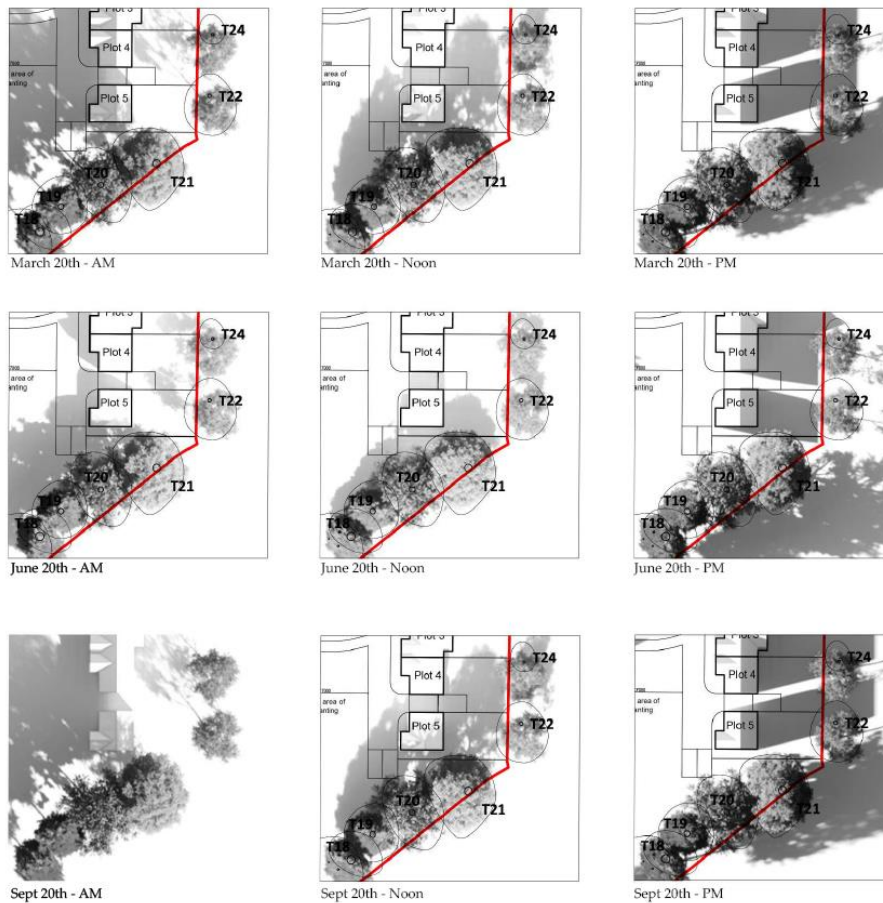
It is also considered that the relationship between the plots themselves would be acceptable given the separation distances, positioning, and orientation of the plots to one another.

Trees protected by Tree Preservation Order (TPO) 494 would be retained in close proximity to plots 5, 6, 7, 9, 10, and 11 and as such there is a potential for shadowing implications to occur to these plots. It is, however, considered that the impact arising to plots 6, 7, 9 and 11 would be marginal given the orientation of these trees to the plots, extent of gardens associated with such plots and the limited time period where any such impact would arise.

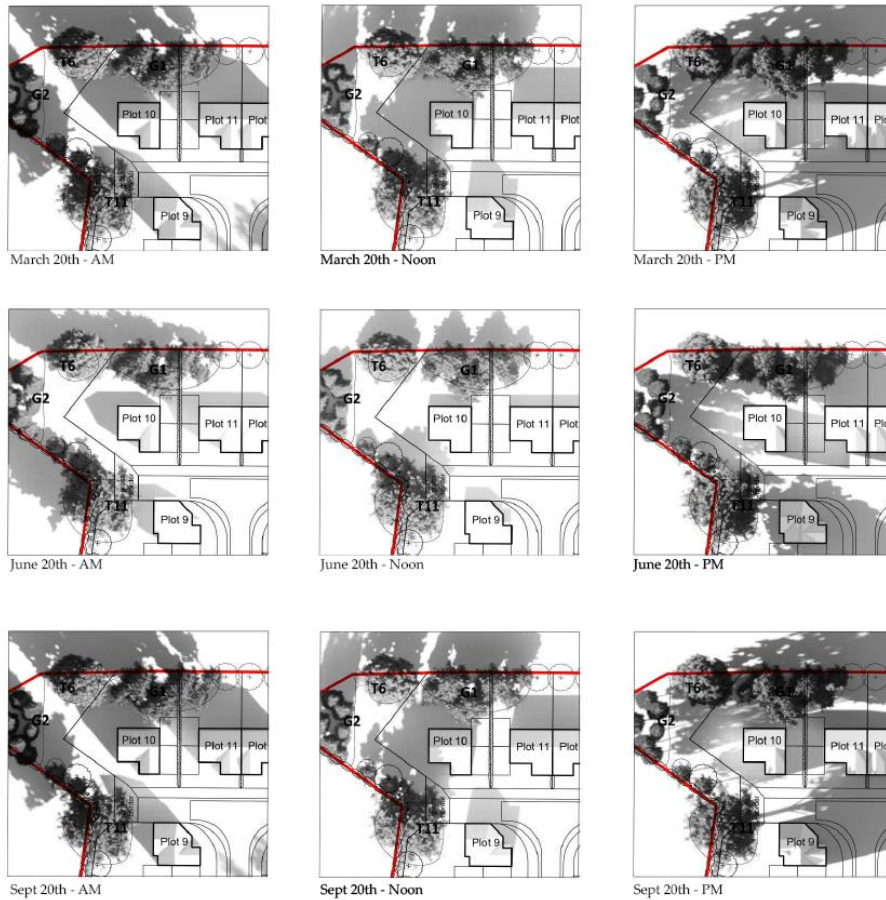
In terms of plots 5 and 10, an Ash tree of 21 metres in height would be located to the immediate south of plot 5 with a group of Leylandii and Holly (with a height of 15 metres) being located to the west of plot 10 and a Silver Birch of 23 metres in height being situated to the south.

The application is accompanied by 'Shadow Studies' which demonstrate the impacts arising to these two plots and these are shown in the images below.

Shadow Study – Plot 5



Shadow Study – Plot 10



It is considered that the proposed layout has been designed to ensure that plots 5 and 10 and their associated amenity areas are located in the most optimum locations, to lessen this impact, and as such the extent of shadowing would not be sufficiently detrimental as to warrant a refusal of the application particularly as the Council’s Tree Officer has raised no objections and any future occupants of these plots would be aware of this relationship prior to their purchase. Such trees are also protected trees and would (with the exception of G1 as identified in the image above) be outside the defined curtilages to these plots. Whilst G1 would be retained within the gardens of plots 10 and 11 such a group of trees (comprising Silver Birch trees of 21 metres in height) are situated to the north of these plots thereby limiting any impact arising. It is therefore considered that such trees would not be subject to undue pressure for removal.

Other Amenity Impacts

The other aspect to consider in respect of residential amenity is any potential impacts arising from noise, dust and fumes with Part 2 of Policy D2 of the adopted Local Plan outlining that development proposals will only be supported where *“they do not generate a level of activity, noise, vibration, pollution or unpleasant odour emissions, which cannot be mitigated to an appropriate standard and so, would have an adverse impact on amenity and living conditions.”* This is compliant with the terms of Paragraph 191 of the NPPF as outlined above.

Paragraph 194 of the NPPF outlines that the focus of planning decisions *“should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.”*

As part of the consideration of the application the Council's Environmental Protection Team has been consulted and they have raised no objections to the application subject to the imposition of a condition on any outline permission granted which would require the submission of a Construction Environmental Management Plan (CEMP). Whilst noting this request, the Department for Levelling Up, Housing and Communities (DLUHC) and Planning Aid's '*Material Planning Considerations*' checklist, as referenced on the District Council's website, stipulates that "*problems arising from the construction period of any works, e.g. noise, dust, construction vehicles*" constitutes a non-material planning consideration. This is due to the fact that separate legislation (such as the Control of Pollution Act 1974 (as amended)) can control issues arising from construction activity.

On this basis it is considered unreasonable to impose a condition requiring the submission of a Construction Environmental Management Plan (CEMP) given that it would not be necessary to make the development acceptable in planning terms.

Notwithstanding the above, a condition limiting the construction hours of the site is proposed to help protect the living conditions of the nearest occupiers as this type of condition is considered to meet the tests for conditions as outlined at Paragraph 56 of the NPPF.

It is also the case that if any statutory nuisance issues were to arise as a result of the development then the Council's Environmental Protection Team would be able to investigate such issues and take appropriate action, where required, under separate Environmental Protection Legislation.

The proposed positioning of the vehicular access and internal access road would result in the movement of vehicles adjacent to no. 217 Church Lane and its associated amenity area. There would also be noise associated with vehicle engines starting up and doors opening and closing to the rear of nos. 217 to 231 Church Lane (odd numbers inclusive) as well as adjacent to no. 135 Church Lane. Whilst this is the case the Council's Environmental Protection Team has raised no objections to the application in this respect with it being considered that the movement of vehicles adjacent to the side of a dwelling and its associated amenity area is not materially different to that of a property which sits on the junction of two roads.

The layout of the scheme has also sought to ensure that plots 1, 2, 10, 11, 12 and 13 are positioned to lie between the internal access road and the rear boundaries of nos. 217 to 231 and side boundary of no. 135 in order to reduce noise, with the off-street parking provision also being predominately away from the boundaries. On this basis any noise arising from vehicular movements and activity would not be of such detriment to existing residential amenity that a reason to refuse the application could be justified.

In terms of external lighting associated with the development, a condition would be imposed on any outline permission granted to secure a precise external lighting scheme which will then enable an appropriate assessment to be undertaken and ensure that such an external lighting scheme does not result in detriment to residential amenity.

Neighbours and Future Occupants Amenities Conclusion

Overall, and subject to the imposition of conditions, the impacts of the access, layout and scale to residential amenity (be that existing or future residential amenity) would not be significantly adverse and therefore the proposed development would be considered compliant with Policy D2 of the adopted Local Plan as well as Paragraphs 191 and 194 of the NPPF.

Assessment of objections received in relation to neighbours and future occupants amenities.

Objection	Officer Response
<p>There will be additional noise from vehicular movements associated with the development on Church Lane which will result in detriment to the amenity of neighbouring properties.</p>	<p>There is no restriction on the number of vehicular movements which can occur on Church Lane with it being considered that the vehicular movements created by the proposed development would not be significant when accounting for the limited number of dwellings proposed.</p> <p>There are also no objections from the Council's Environmental Protection Team (EPT).</p>
<p>The proposed dwellings will result in noise detriment from activity associated with them with future installations such as air source heat pumps also generating noise.</p>	<p>There are no objections to the application from the Council's EPT with it being considered that a residential use is not a noisy use.</p> <p>Air source heat pumps installed for domestic purposes are also not considered to result in a level of noise which would be of significant detriment to residential amenity, particularly when accounting for the fact that air source heat pumps can be installed to a dwelling as a form of permitted development (i.e. development benefitting from a deemed consent that does not require planning permission).</p>
<p>The provision of vertical speed control measures will result in noise detriment from vehicle movements and are not in accordance with the Leicestershire Highways Design Guide (LHDG) which requires horizontal speed control measures.</p>	<p>Paragraphs 3.48 and 3.49 of Section DG4 (Speed Control) of the LHDG indicates that where traffic calming is required horizontal measures should be considered first with vertical measures only being used as a last resort.</p> <p>On the basis that the internal highway is not to be adopted by the County Highways Authority (CHA) there is no requirement for it to be compliant with the LHDG which, in any event, is guidance.</p> <p>In discussions with the applicant the means of regulating speeds on the internal highway would be via a 'build out' between plots 1 and 2 which would comprise a horizontal traffic calming measure. The introduction of the 'build out' would address the concerns raised.</p>

	<p>It is also noted that there are no objections from the Council's EPT of Air Quality Officer to the application (even at the time when vertical speed control measures were proposed) with the level of noise and pollution not considered to be at a level where significant detriment to residential amenity would arise when accounting for the total number of dwellings to be created.</p> <p>Such noise and pollution would also be significantly less than that generated from the vertical speed control measures on Church Lane, which are within the vicinity of the site, given the greater number of vehicular movements on this highway.</p>
<p>The layout and scale of the development would result in overshadowing, overbearing and overlooking impacts to the detriment of the residential amenity of nos. 135, 217, 219, 221, 223 and 225 Church Lane in particular. This is contrary to Policy D2 of the adopted Local Plan.</p> <p>The proposal contravenes the adopted Local Plan and in particular Policy D2 as it would cause a loss of sunlight (particularly in relation to the location of proposed plots 1, 10, 11, 12 and 13 and proposed boundary tree planting); overshadowing/loss of outlook to the detriment of residential amenity, overlooking and loss of privacy.</p>	<p>For the reasons as outlined above it is considered that no adverse overbearing or overshadowing impacts would arise to existing residential amenities as a result of the layout and scale of the proposed development which is compatible with guidance within the Council's adopted Good Design SPD.</p> <p>Overlooking would be a matter to be assessed at the reserved matters stage(s) when the appearance of the dwellings was submitted for consideration. As a consequence a reason to refuse the application based on overlooking impacts could not be substantiated.</p> <p>The loss of a view is not a material planning consideration which can be taken into account in the assessment of the application.</p>
<p>Proposed tree planting has the potential to create overshadowing impacts to</p>	<p>Landscaping is a matter which is reserved for subsequent approval and therefore at that time consideration can be given to the provision of</p>

<p>neighbouring gardens.</p> <p>The retention of the Silver Birch trees planted in connection with application reference 22/00450/TPO will result in overshadowing impacts.</p>	<p>appropriate planting (including tree planting) to limit any impacts in this respect.</p> <p>The Silver Birch trees planted as part of the approval of application reference 22/00450/TPO are now protected trees and on the basis such trees are existing the impact of overshadowing once such trees mature would not be materially different to those associated with the site if it was not developed.</p>
<p>The future amenities of any occupants of the proposed dwellings would be adversely impacted on by virtue of the relationship with mature trees.</p>	<p>Amendments have been made to the layout of the development to ensure that the proposed dwellings are suitably located and have an acceptable relationship with the retained trees.</p> <p>The Council's Tree Officer also does not have any objections to the application as is outlined further in the '<i>Landscaping</i>' section of this report below.</p>
<p>Construction activity will be of detriment to residential amenity including the potential for asbestos to be present in the properties to be demolished.</p> <p>Smells, fumes and dust.</p>	<p>As is outlined above problems arising from the construction period of any works comprises a non-material planning consideration and as such this matter would not be pertinent to the consideration of this application.</p> <p>Notwithstanding this, a condition limiting the hours of construction activity would be imposed on any outline permission granted in the interests of protecting residential amenity.</p> <p>The removal of asbestos would have to be undertaken in accordance with relevant legislation and guidance and would therefore not be for the planning system to control as outlined by Paragraph 194 of the NPPF.</p>
<p>Fumes and pollutants will be created from vehicular movements.</p>	<p>There are no objections to the proposed development from the Council's EPT or Council's Air Quality Officer and thereby any impacts in this respect are not considered to be at a level where significant harm would arise.</p> <p>In time such impacts would also reduce given the move to the use of electric vehicles.</p>

Ecology

Vegetation, in the form of trees and other shrubs, are present on the site. Such features could be used by European Protected Species (EPS) or national protected species. As EPS may be affected by a planning application, the Local Planning Authority has a duty under regulation 9(5) of the Habitats Regulations 2010 to have regard to the requirements of the Habitats Directive in the exercise of its functions.

Part (1) of Policy En1 of the adopted Local Plan states that proposals for new development will be supported which conserve, restore or enhance the biodiversity in the district.

The County Council Ecologist has reviewed the submitted Preliminary Ecological Appraisal (PEA), Preliminary Roost Assessment (PRA) and Bat Survey (BS) and has noted that no bat roosts were recorded in the buildings to be demolished (nos. 137 and 139 Church Lane).

The mandatory requirement for 10% Biodiversity Net Gain (BNG) for major development as required by the Environment Act came into force on the 12th of February 2024. However, this requirement would only be applicable to those applications received on or after the 12th of February 2024 and is not to be applied retrospectively to those applications already under consideration before this date and subsequently determined after this date. On this basis the proposed development would not be required to demonstrate a 10% BNG. Notwithstanding this, Paragraphs 180(d) and 186(d) of the NPPF set out a requirement for developments to minimise their impacts on and provide net gains for biodiversity. In this case it is noted that the development would be undertaken on a greenfield site.

In commenting on the BNG Metric Calculation originally submitted (and which was based on the original site layout which has since been amended), the County Council Ecologist identified the following issues:

- (1) The grassland and woodland appeared to be undervalued given that Pignut was recorded which is a nice indicator plant species;
- (2) It appeared that there would be a loss of woodland which would be replaced by mixed scrub but in following the mitigation hierarchy, woodland should be retained and protected, rather than lost and replanted with scrub habitat;
- (3) A total of 52 trees were proposed including 18 good condition trees and 23 medium sized trees but in line with guidance newly planted trees should be categorised as small so evidence was required to justify the medium size as well as the good condition. Trees proposed within gardens were also required to be categorised correctly in line with guidance; and
- (4) The proposed hedgerows would comprise boundary treatments and therefore it could not be guaranteed that they would be retained.

A revised BNG Metric Calculation was subsequently submitted by the applicant which concluded that a 'net gain' of 26.57% for habitat units and 167.37% for hedgerow units would be delivered as part of the development.

Following re-consultation, the County Council Ecologist has outlined that the revised BNG Metric Calculation still shows a 'fairly good' condition for the proposed trees which would not be achievable and has not been justified. Whilst this is the case, the County Council Ecologist acknowledges that this is associated with the 'landscaping' of the site and subsequently can be revised as part of the consideration of a reserved matters application(s) when landscaping is

submitted for approval. Such a reserved matters application(s) would be required to be supported by a revised BNG Metric Calculation. It is also acknowledged by the County Council Ecologist that the hedgerows are now buffered, by predominantly being outside of residential gardens, which would be considered acceptable.

Whilst the overall biodiversity net gain achieved may not be as high as that currently calculated by the applicant, given the need for the condition of the proposed trees to be downgraded, the County Council Ecologist is satisfied that a 'net gain' would be delivered as a result of the development particularly when accounting for the percentage of hedgerow units.

In conclusion, the County Council Ecologist has no objections to the application subject to the imposition of a condition to secure a Landscape, Ecological and Biodiversity Management Plan (LEBMP) and an informative advising the applicant to be aware of the legislation around nesting birds.

Overall, and subject to the imposition of the relevant condition and informative, the proposed access, layout and scale of the development would not result in conflict with Policy En1 of the adopted Local Plan, Paragraphs 180 and 186 of the NPPF and Circular 06/05.

Assessment of objections in relation to ecology

Objection	Officer Response
<p>The application site provides habitat for numerous species of mammals, birds, amphibians and insects which will be destroyed as a result of the development.</p> <p>Adverse effect on nature conservation interests and biodiversity opportunities.</p>	<p>For the reasons as outlined above the County Council Ecologist has no objections to the application with the securing of a Landscape, Ecological and Biodiversity Management Plan (LEBMP) enabling ecological enhancements to be delivered as part of the development. Any impacts in this respect would also be outweighed by the positive economic and social benefits of the proposed development.</p>
<p>Biodiversity net gain will not be achieved on the site given the number of dwellings proposed and the potential removal of indicative trees to address impacts to amenities. It will also not be possible to manage any 'net gain'</p>	<p>As is outlined above the County Council Ecologist is satisfied that a biodiversity net gain (BNG) would be delivered, even if amendments are made to the relevant calculations to account for the standard of the tree planting. The imposition of a condition requiring the submission of a LEMBP will enable future management of such landscape, ecological and biodiversity features.</p>

<p>delivered. The proposal is not compliant with BNG legislation.</p>	<p>It is also outlined above that the ‘mandatory’ BNG legislation would not be applicable to this application given the timing of its submission.</p>
<p>There is a lack of ecological reports to properly assess the developments impacts to ecology and biodiversity and the development is contrary to Policy En1 of the adopted Local Plan.</p>	<p>For the reasons as outlined above the County Council Ecologist is satisfied with the ecological reports submitted and has determined the impacts to ecology and biodiversity to be acceptable subject to the imposition of a condition on any outline permission granted.</p>
<p>Loss of green corridor</p>	<p>Green corridors, in planning terms, would be defined as <i>“linear natural infrastructure, such as trees and plants, that link up other green and open spaces to form a green urban network.”</i></p> <p>The application site comprises the residential garden associated with no. 137 Church Lane and when accounting for this, as well as the above definition, it is considered that it does not comprise a ‘green corridor’. This is due to it not being a publicly accessible space which subsequently links with other green and open spaces.</p>

Landscaping

Part (1) of Policy En1 of the adopted Local Plan outlines that proposals for development will be supported which conserve, restore or enhance the biodiversity of the District.

Part (2) of Policy En3 of the adopted Local Plan outlines that new developments within the National Forest will contribute towards the creation of the National Forest by including provision of tree planting and other landscape areas within them.

Part (1) of Policy En4 of the adopted Local Plan outlines that the Council will work in partnership with other organisations to protect and enhance the landscape, biodiversity, natural history and cultural heritage of the Charnwood Forest Regional Park (CFRP).

Impact to Existing Trees Protected by Tree Preservation Order 494

Whilst landscaping is a reserved matter, consideration is required to be given to the impacts the development may have to existing trees on the site and how retained trees will interact with the proposed layout of development which is for approval at this stage. It is noted that Tree Preservation Order (TPO) 494, confirmed on the 3rd August 2021, protects all trees on the site.

The Council's Tree Officer originally concluded that the arboricultural survey report and method

statement (ASRMS) submitted was unacceptable as it did not assess the arboricultural impacts of the development. Concerns were also raised over the positioning of plots within the root protection area (RPA) of trees, the lack of clarity over trees to be removed, and the potential for shading impacts to arise from the relationship with trees to the south-eastern site boundary given the canopy spread of such trees and the positioning of dwellings.

A Tree Survey (TS) and Arboricultural Impact Assessment (ArIA), compliant with BS 5837:2012 *'Trees in Relation to Design, Demolition and Construction – Recommendations'* has subsequently been submitted by the applicant with the site layout also being revised.

The TS identifies that there are 21 individual trees on the site (14 of which would be rated either Category A (*'Trees of High Quality'*) or Category B (*'Trees of Moderate Quality'*) and 4 groups of trees (3 of which would be rated either Category A or Category B). The TS also assesses 4 trees off-site (within the curtilage of no. 135 Church Lane) with one of these trees being rated Category A.

In order to accommodate the development the ArIA outlines that 12 individual trees (one of which fell during a storm event in February 2024) would be removed which would comprise 3 Category A trees (2 Cypress Trees and a Smooth Leaved Holly), 2 Category B trees (an Ash and a Silver Birch), 5 Category C trees (*'trees of low quality'*) and 2 Category U trees (*'unsuitable for retention irrespective of development'*). A tree within the garden of no. 135 Church Lane, rated Category U, also fell during the storm event in February 2024.

Prior to the submission of the revised layout the applicant engaged with the Council's Tree Officer and in their revised consultation response they have indicated that the TS and ArIA are acceptable for the purposes of determining the arboricultural impacts resulting from the development. The Council's Tree Officer does, however, consider that some of the categorisations given to selected trees appears to be higher than would be appropriate.

The Council's Tree Officer is satisfied that the redesign ensures that issues of shading have been removed, given the repositioning of dwellings in relation to those trees retained to the south-eastern site boundary, whilst also creating a centralised landscaping area. Whilst the re-design requires the removal of trees in the north-western part of the site, the boundary vegetation would be retained thereby allowing screening to be maintained. On balance the Council's Tree Officer considers this to be an acceptable 'trade-off'.

It is also the case that the Council's Tree Officer does not consider the loss of the two Category A Cypress Trees to be an issue given that they would categorise such trees to be lower than that suggested by the ArIA, with the removal of such trees being beneficial in providing a suitable amenity area for plots 7 and 8.

The proposed layout of the development would also result in the majority of the retained protected trees, the exceptions being G1 and T14, being outside of the curtilage of the residential properties and subject to management by a management company which would be of benefit in ensuring they are collectively managed. A condition can be imposed on any outline permission granted to restrict the residential curtilages to the plots so they do not encroach into the management areas. As is outlined in the *'Ecology'* section of this report above, a Landscape, Ecological, and Biodiversity Management Plan (LEBMP) would be secured to ensure that suitable management regimes are in place for both retained and proposed soft landscaping infrastructure.

Whilst G1 and T14 would be within individual gardens they would remain protected by TPO 494 and therefore consent would be required should works be proposed to such trees by future residents. Any such applications would then be assessed on their own merits. As is concluded by the Council's Tree Officer there is no amenity issues associated with the retention of such trees given that G1 is to the north of plots 10 and 11 and G14 is at an early mature stage, with a height of 6 metres, and would be situated in the corner of the garden associated with plot 7.

To further protect such trees a condition would be imposed on any outline permission granted to remove permitted development rights for the erection of structures (i.e. outbuildings) and hard surfaces under Classes E and F of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the above plots, as well as plots 1, 3, 4, 5, 12 and 13, given the extent of the RPAs of retained trees (including those within neighbouring properties). Class A (extensions) permitted development rights would also be removed for plots 1 and 5 given their proximity to retained trees. The removal of such rights would ensure that careful consideration can be given to the relationship with such trees (and in particular the RPAs) in the assessment of any planning application which may be submitted by the occupants of such plots.

The approval of application reference 22/00450/TPO resulted in the replanting of three Silver Birch trees in close proximity to the rear boundary of no. 219 Church Lane, these being as shown in the image below. In line with Section 206 of the Town and Country Planning Act (as amended) such replanting would be automatically protected by the TPO.

Three Replanted Silver Birch Trees



Whilst it is noted that such trees are not referenced in the submitted TS or ArIA, the applicant's arboricultural advisor has outlined that such trees have a stem diameter of less than 75 millimetres and therefore did not need to be included in the TS or ArIA when accounting for the recommendations of BS 5837:2012. The applicant's arboriculturalist has also advised that such trees would not be disturbed by the proposed development, with the layout plan amended to demonstrate the retention of such trees. The Silver Birch trees would be retained within the rear garden associated with plot 12 and would result in limited shading impacts given their positioning to the north of the proposed dwelling.

The applicant's arboricultural advisor has also outlined that the Laurel hedge to the boundary with no. 135 Church Lane would be retained (which is now identified on the layout plan) with this hedge being subject to protection during the construction period. The plans indicate that the Laurel hedge may be trimmed back to accommodate the development, with the extent of any works being subject to approval through the LEBMP, and that any root damage which may occur would be superficial and from which a Laurel hedge would recover quickly.

In determining the Diameter at Breast Height (DBH) of the Acer tree within the garden of no. 217 Church Lane, the applicant's arboricultural advisor has stated that it's RPA would be between 2.88 to 3.12 metres and therefore would not encroach into any area of the site where development would be undertaken which is calculated to be 3.8 metres from the tree. Consequently this was the reasoning for it not being included within the TS or ArIA.

Overall the Council's Tree Officer does not object to the proposed development subject to a suitable soft landscaping scheme being delivered at the reserved matters stage(s) should outline permission be granted. It is also considered that the overall benefits of the proposed development (as assessed throughout this report) would outweigh the conflict resulting in the loss of a number of protected trees.

National Forest

In terms of the National Forest Company (NFC) they have outlined that the site area is 0.78 hectares and therefore, in accordance with Policy En3 of the adopted Local Plan and the National Forest Planting Guidelines, 20% or 0.16 hectares of the site should be National Forest woodland planting and landscaping. A commuted sum (calculated at £35,000 per hectare) may be agreed where the National Forest planting requirement cannot be accommodated within or close to the application site.

In the view of the NFC there does not appear to be an opportunity to accommodate National Forest planting on or adjacent to the site and accordingly they have requested that a contribution towards off-site woodland planting and associated works of £5,600 (£35,000 x 0.16 hectares) be secured in a Section 106 agreement. They have also outlined that landscaping associated with the development would be assessed at the reserved matters stage(s) should outline permission be granted.

Whilst noting that the terms of Policy En3, at Part (3), stipulate that a financial contribution is only sought in exceptional circumstances, the general aims of Policy En3, as outlined at Part (2), are for new development to contribute towards the creation of the National Forest by including the "provision of tree planting and other landscape areas within them" as well as that landscaping "does not just include woodland planting and that the appropriate mix of landscaping features will depend upon the setting and the opportunities that the site presents."

In this respect the proposed development would designate a central area for landscaping infrastructure around the attenuation pond, with further tree planting also being undertaken within the site along with the retention of a number of the existing protected trees. Such landscaping infrastructure would be subject to approval at the reserved matters stage(s) and would total around 0.1 hectares.

It is considered that the provision of detached 'pockets' of woodland planting within individual developments does not make the same level of contribution to the 'creation' of the National Forest as off-site planting designated by the NFC, given that such planting on individual sites would be subject to different management regimes and is only required to be maintained for 5 years (as outlined at Part (3) of Policy En3). In delivering off-site woodland planting on land owned or managed by the NFC there is a longer term benefit to the National Forest given that such planting would be undertaken adjacent to existing blocks of woodland and it is unlikely that it would potentially be 'lost' after 5 years given that the NFC would be responsible for its management.

Overall, there would be a benefit to the creation of the National Forest as a result of the development given the delivery of around 0.1 hectares of landscaping infrastructure on the application site (which would only be 0.06 hectares less than that required by the NFC) and the subsequent payment of a financial contribution which would provide 1.6 hectares of woodland planting off-site (i.e. a total of 2.6 hectares would be delivered). On this basis, and accounting for the fact the NFC do not object to the application, it is considered that the conflict with Part (3) of Policy En3 would not justify a refusal of the application given the general compliance with the overall aims of Policy En3.

Charnwood Forest Regional Park (CFRP)

With regards to Policy En4 of the adopted Local Plan this only covers the part of the site to the immediate north of no. 137 Church Lane and therefore the policy cannot be applied to the entirety of the development. The part of the site 'covered' by Policy En4 comprises nos. 135 and 139 Church Lane and the driveway approach to no. 137 and consequently does not make a significant contribution to the landscape, biodiversity, natural history and cultural heritage of the CFRP. The layout as proposed would have a similar arrangement to that of the existing site, albeit with the opportunity to provide landscaping infrastructure in and around plots 1 and 2 and along the western boundary with no. 217 Church Lane. Such landscaping infrastructure, which would be submitted for consideration as part of a reserved matters application(s), would enhance the visual amenities of this part of the site thereby making a greater contribution to the landscape quality of the CFRP.

Street Trees

Paragraph 136 of the NPPF outlines that planning decisions should ensure that streets are tree lined, although footnote 63 associated with Paragraph 136 states "*Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.*"

To some extent the provision of street trees has been compromised by ensuring that there is sufficient buffers to protected trees to the site boundaries as well as existing residential receptors which has therefore led to dwellings having a more direct relationship with the internal highway. It is, however, considered that tree planting could be provided along the access road adjacent to no. 217 Church Lane (albeit not necessarily to the same density as indicated given concerns raised in relation to the impact to amenities) as well as within the central landscaped area whereby the secondary streets to plots 3 to 8 would become trees lined. On this basis it is considered that

a landscaping scheme could be delivered at the reserved matters stage(s) which would comply with the requirements of Paragraph 136 of the NPPF.

Hard Landscaping

A scheme of hard landscaping would also be considered under a reserved matters application(s) when a hard landscaping scheme is presented for consideration.

Landscaping Conclusion

Overall, and subject to conditions and the securing of the National Forest contribution in a Section 106 agreement, it is considered that the access, layout and scale of the development would result in compliance with Policies D1, En1, En3 and En4 of the adopted Local Plan with further consideration given to these policies at the reserved matters stage(s) when a landscaping scheme is presented for consideration.

Assessment of objections in relation to landscaping

Objection	Officer Response
<p>The proposal will result in the removal of trees protected by Tree Preservation Order (TPO) 494 and this should be prevented, particularly given the reduction in visual amenity. There is also no possibility of providing replacement trees in the areas where TPO trees would be removed given the development.</p> <p>Loss or effect on trees.</p>	<p>See above assessment, the Council's Tree Officer has no objection to the removal of the identified protected trees to enable the delivery of the development. The proposed benefits of the development would also outweigh the loss of the protected trees, and the subsequent impacts to visual amenity, in this instance.</p> <p>It is also the case that a grant of outline permission, and subsequent grant of reserved matters consent(s), would supersede the requirements of Section 206 of the Town and Country Planning Act 1990 (requiring a replacement tree to be planted in the same location as a felled TPO) given that it has been assessed as part of the consideration of this application that the removal of the protected trees is acceptable.</p> <p>Landscaping is reserved for subsequent approval and in assessing a landscaping scheme consideration can be given to the provision of appropriate replanting, with the proposed layout providing a basis for substantial tree planting to be provided and thereby contributing to the visual amenity of the area and streetscape.</p>
<p>The growing of new trees will take years to replace the biodiversity benefits of trees</p>	<p>Whilst it is accepted that any trees to be delivered on the site as part of the development will take time to mature it would be possible as part of the</p>

<p>to be removed.</p>	<p>consideration of a landscaping scheme at the reserved matters stage(s) to seek the planting of more 'mature' tree stock in the main landscaped area which would have more of an instantaneous impact.</p> <p>It is also the case, as concluded in the '<i>Ecology</i>' section of this report above, that a net gain in biodiversity would be delivered as part of the development even when accounting for the removal of a number of the protected trees.</p> <p>In the main there would be no justification to resist the development on this matter when assessed against the overall benefits of the proposed development.</p>
<p>National Forest planting should be provided on the site in line with Policy En3 of the adopted Local Plan and not a commuted sum.</p>	<p>For the reasons as outlined above the National Forest Company (NFC) has not objected to a commuted sum being secured.</p>
<p>The concerns of the Council's Tree Officer have not been taken into account and the proposal should be amended.</p>	<p>Following amendments to the plans and the submission of an Arboricultural Impact Assessment (ArIA), the Council's Tree Officer has no objections to the proposed development.</p>
<p>Development is proposed within the root protection area of trees which will further increase the probability of such trees not being retained. The development will also impact on trees outside of the site which are not shown on the plans.</p>	<p>There are no objections to the application from the Council's Tree Officer and the only parts of the development which may fall within root protection areas (RPAs) would be the internal highway around plots 6 and 9 and potentially part of the foundations associated with plot 5.</p> <p>Conditions can be imposed on any outline permission granted to secure a precise construction method for development within, or close to, the RPAs to ensure that no adverse impacts arise.</p> <p>The applicant's arboricultural consultant has also outlined that the Laurel hedge to the boundary with no. 135 Church Lane would be retained (this now being shown on the plans) and that the RPA associated with an Acer tree within the garden of 217 Church Lane</p>

	<p>(position now shown on the plans) would not be impacted on given its proximity to where construction activity would be undertaken. The condition requiring a precise construction method for development close to the RPA of retained trees could also address any potential impacts to the Acer tree.</p>
<p>Landscaping shown on the plans will not be maintained and as such will be removed.</p>	<p>The landscaping of the site is a matter which is reserved for subsequent approval and consequently in considering a reserved matters application(s) due regard would be given to the placement of soft landscaping and the means of maintaining such soft landscaping which is possible via planning conditions.</p> <p>Trees which are protected by TPO 494 would also remain protected and consequently could not be removed without an application being first submitted for consideration.</p>
<p>The planting of trees will impact on the foundations of dwellings and drainage infrastructure with distances not complying with National House Building Council (NHBC) guidelines.</p>	<p>Landscaping is a reserved matter so this representation is not material to the consideration of this application.</p> <p>In any event the impact of any trees to the foundations of dwellings and drainage infrastructure is not a material planning consideration which can be taken into account in the assessment of the application. This is particularly relevant when accounting for the fact that trees could be planted in the existing gardens of nos. 137 and 139 Church Lane without requiring planning permission.</p>
<p>No consent will be given for trees to overhang the boundary and no consent will be given to a management company accessing the property to undertake maintenance of any trees. Deciduous trees will also result in leaf litter.</p>	<p>The planting of trees does not require planning permission and therefore there would be no mechanism which would prevent the planting of trees within the existing gardens of nos. 137 and 139 Church Lane which, when mature, would likely overhang the boundary. It is also the case that existing trees within the garden of no. 137 Church Lane already overhang the boundary with certain residential properties on Church Lane given their level of maturity.</p> <p>When accounting for this, it is considered that the</p>

	<p>impact arising from the planting of any trees as part of a landscaping scheme, which is a reserved matter in any event, as well as any leaf litter associated with such trees is not materially different to that which already exists (given the presence of the protected trees) or which may occur without the development (i.e. further trees are planted in the gardens of nos. 137 and 139). A refusal of the application on this basis could therefore not be substantiated.</p> <p>If a tree overhangs the boundary then the occupant of the neighbouring property has a right to 'trim back' the overhang to the site boundary so it would not be entirely necessary for any management company to access neighbouring properties to undertake any future management.</p>
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Flood Risk and Drainage

Policy Cc2 of the adopted Local Plan outlines that the risk and impact of flooding will be minimised through directing new development to areas with the lowest probability of flooding; ensuring that new development addresses the effective management of all sources of flood risk; ensuring that development does not increase the risk of flooding elsewhere and ensuring wider environmental benefits of development in relation to flood risk. It also states the circumstances where development will be supported.

Policy Cc3 of the adopted Local Plan outlines that where it is necessary to manage surface water drainage than Sustainable Urban Drainage Systems (SuDS) should be incorporated into developments unless it is clearly demonstrated that SuDS are not technically, operationally or financially viable, and that surface water drainage issues from the development can be alternatively mitigated; or that the SuDS scheme itself will adversely affect the environment or safety.

The application site comprises land which is within Flood Zone 1 (low risk of fluvial flooding) and is predominantly at a very low risk of surface water flooding (pluvial flooding), as defined by the Environment Agency's Surface Water Flood Maps. The exception to this is an area where there is a low risk of surface water flooding in the north-eastern part of the site adjacent to no. 135 Church Lane.

A Flood Risk Assessment (FRA) submitted in support of the application also identifies that the application site is not at risk of tidal, groundwater or sewer flooding, nor flooding from artificial sources (such as reservoirs and canals).

A Sustainable Drainage Options Appraisal (SDOA) has also been submitted in support of the application.

Given that the application site is predominantly at a very low risk of flooding, with only part of the site being at a low risk of flooding, the terms of Paragraph 168 of the NPPF would not be applicable as sequentially an alternative site only has to be found if the risk of flooding from any

source is medium to high.

As part of the consideration of the application the Lead Local Flood Authority (LLFA), in their original consultation response, outlined that on the basis that soakaways were to be utilised, infiltration testing was required to be undertaken and the results submitted along with the soakaway design and relevant calculations of the surface water flows. It was, however, outlined by the LLFA that infiltration on the application site had a low chance of being viable due to ground conditions and if this was the case an alternative solution would need to be proposed.

Following the receipt of further information the LLFA outlined that the total impermeable area of the site was 0.3 hectares and it was proposed that surface water would be discharged at a rate of 9.8 litres per second (l/s) via pervious paving and underground storage to a surface water sewer located within Thomas Road. To appropriately consider the suitability of this approach the LLFA required the applicant to demonstrate that Severn Trent Water (STW) would accept surface water being discharged to their sewer.

The applicant has since provided a developer enquiry response from STW which indicates that a connection to the surface water sewer within Thomas Road would be acceptable at a greenfield run-off rate of 5l/s.

Following re-consultation, the LLFA has advised that they have no objections to the application subject to the imposition of conditions on any outline permission granted which would seek to secure a precise surface water drainage scheme, a scheme of surface water drainage during the construction phase and the future maintenance and management of the installed surface water drainage scheme. Subject to the imposition of these conditions the proposed development would be compliant with Policies Cc2 and Cc3 of the adopted Local Plan and Paragraphs 173 and 175 of the NPPF.

Foul drainage would be discharged via the existing connection to the foul drainage network with such a connection being agreed with STW under separate legislation outside of the planning process. In agreeing a connection STW would have an opportunity to determine whether capacity exists in the foul drainage network to accommodate the development before enabling the connection with it being noted that no representation has been received from STW objecting to the application. On this basis there would not be an increased risk of pollution discharge from the foul drainage network and the proposal would be compliant with Paragraph 191 of the NPPF.

Assessment of objections in relation to flood risk and drainage

Objection	Officer Response
<p>The redevelopment of the greenfield site will increase the risk of flooding (particularly pluvial flooding) with gardens of properties in the area flooding in October 2023.</p>	<p>See above assessment. There is no objections to the application from the Lead Local Planning Authority (LLFA) subject to the imposition of conditions on any outline permission granted.</p> <p>It would also not be the responsibility of the proposed development to mitigate any pluvial flooding issues experienced within the gardens of neighbouring properties with no evidence being submitted to</p>

	<p>demonstrate that the application site created such pluvial flooding issues.</p> <p>In any event the proposed design of the surface water drainage system would have to provide betterment to the existing run-off rates from the site, whilst also allowing for climate change, in accordance with relevant planning policy. Thereby the rate of surface water runoff from the site would be reduced.</p>
<p>The proposed SuDS solution has not been demonstrated to be feasible.</p>	<p>For the reasons as outlined above, the LLFA are satisfied with the principles of the surface water drainage strategy to be implemented and have requested the imposition of a condition on any outline permission granted to secure precise details of the surface water drainage scheme.</p>
<p>There is inadequate capacity within the foul drainage network to accommodate the development.</p> <p>Capacity of physical infrastructure (e.g. public drainage/water systems); particularly noting that all waste water will have to travel to Snarrows Road treatment works which is already overwhelmed and causing contamination and flooding for residents in Thringstone and Whitwick.</p>	<p>No objection has been received from Severn Trent Water (STW) to the application indicating there is inadequate capacity in the foul drainage network.</p> <p>In any event STW would be legally obliged to provide capacity to accommodate new development, and a connection could not be made until it was approved by STW (under separate legislation). Consequently STW would be in a position to make improvements to the foul drainage network before allowing a connection.</p>
<p>Who will maintain the surface water drainage infrastructure?</p>	<p>A condition would be imposed on any outline permission granted to secure a scheme of surface water maintenance as required by the LLFA with this likely being the responsibility of a management company employed by the applicant/developer.</p>

Developer Contributions and Infrastructure

A request has been made for Section 106 contributions towards affordable housing, civic amenity, libraries, highways, health services and National Forest planting. These requests have been

assessed against the equivalent legislative tests contained within the Community Infrastructure Levy (CIL) Regulations (CIL Regulations) as well as Policy IF1 of the adopted Local Plan and Paragraphs 34, 55 and 57 of the NPPF.

Affordable Housing

The Council's Affordable Housing Enabler (AHE) has identified that the proposed development amounts to 13 dwellings with 2 dwellings being demolished and consequently they consider the affordable housing contribution would be based on a net gain of 11 dwellings. They also note that the development would be undertaken on a greenfield site.

On the basis of Policy H4 of the adopted Local Plan, developments within the Coalville Urban Area generate a 20% affordable housing contribution at a threshold where the number of dwellings is 11 or more. As such 3 of the dwellings (with the figure rounded up) would be required to be affordable housing. Paragraph 66 of the NPPF has a requirement that at least 10% of homes on a qualifying site should be for Affordable Home Ownership (AHO) and this will therefore generate a requirement for 2 of the 3 affordable units to be AHO. Furthermore 25% of the affordable housing will be required as first homes and therefore at least 1 of the 2 AHO units should be a first home. The final unit would be expected to be either social or affordable rent.

It is outlined with the Design and Access Statement (DAS), and as shown on the submitted plans, that plots 2, 3 and 4 would be the affordable properties. Whilst the DAS indicated that all 3 of the affordable units would be AHO units, the Council's AHE outlined that at least one of the affordable units should be rented.

The preference of the Council's AHE is for the 3 bed bungalow to be made available for rent given that such a house type is particularly scarce in the rented sector and may prove difficult to market as AHO. Following discussions with the applicant they have outlined that the 3 bed bungalow would be put forward for affordable rent and this is acceptable to the Council's AHE.

In the circumstances that appropriate mechanisms can be secured in the Section 106 agreement, and that the applicant is willing to meet the affordable housing requests, the development would be considered compliant with Policy H4 of the adopted Local Plan and Paragraphs 64 and 66 of the NPPF.

In addition to the above the Council's AHE has outlined that they would advocate for the bungalow to be built to a full wheelchair accessible standard to reflect an identified need with the realistic minimum gross internal area (GIA) for full wheelchair accessibility being 86 square metres. It is also the expectation of the Council's AHE that 2 bed houses are suitable for 4 persons and 3 bed houses are suitable for 5 persons and this would be discussed further at the reserved matters stage(s), should outline permission be granted, when the appearance and internal layout of the dwellings is submitted for consideration. An informative on any outline permission granted would make the applicant aware of this request.

Civic Amenity

Leicestershire County Council (Civic Amenity) has requested a contribution of £849.94 for improvements to the civic amenity facilities within Coalville which would mitigate the increase in the use of this facility generated by the proposed development.

Such a contribution would be utilised for either the acquisition of additional containers or installation of additional storage areas and waste infrastructure at the above civic amenity site, or

on land adjacent, to increase the site's capacity for handling and separating waste.

The applicant has confirmed their acceptance to the payment of the civic amenity contribution.

Libraries

Leicestershire County Council (Library Services) has requested a contribution of £392.57 for improved stock provision (i.e. books, audio books, newspapers, periodicals for loan and reference use) at Coalville Library on High Street, or to enable the reconfiguration of the internal space within the library to enable additional uses of the building (i.e. resident meetings, including book readings and activities).

The applicant has confirmed their acceptance to the payment of the library contribution.

Highways Contributions

Leicestershire County Council (Highways Authority) has indicated that the following developer contributions would be requested which are required in the interests of encouraging sustainable travel to and from the site, reducing private car use and mitigating a severe impact upon the highway network.

- (i) A construction traffic routing agreement;
- (ii) Travel packs; to inform new residents from first occupation what sustainable travel choices are in the surrounding area. These can be supplied by Leicestershire County Council (LCC) at a cost of £52.85 per pack or whereby an administration charge of £500.00 is payable for LCC to review any sample travel pack to be supplied by the applicant; and
- (iii) Two six month bus passes per dwelling (2 application forms to be included in the Travel Pack and funded by the developer) to encourage new residents to use bus services, establish changes in travel behaviour from first occupation and promote the usage of sustainable travel modes other than the car (can be supplied through LCC at a cost of £520.00 per pass).

The applicant has confirmed their acceptance to the payment of the highways contributions as well as the construction traffic routing agreement.

Health Services

The Leicester, Leicestershire and Rutland Integrated Care Board (ICB) has requested a contribution of £11,616.00 which would be utilised to increase and improve primary care services for the Greater Coalville Area at the Whitwick Health Centre at 67 North Street.

The applicant has confirmed their acceptance to the payment of the health services contribution.

National Forest

It is outlined in the '*Landscaping*' section of this report above that in the circumstances the policy compliant woodland planting is not provided on the site, the National Forest Company (NFC) would require a financial contribution for such planting to be provided off-site.

Based on the site area of 0.78 hectares there would be a requirement for 0.16 hectares of the site to be dedicated to woodland planting and landscaping. Consequently the financial contribution

would be calculated on the basis of £35,000 per hectare and therefore the contribution would be £5,600.00 (0.16 hectares x £35,000).

The NFC request that such a contribution is secured in the Section 106 agreement.

The applicant has confirmed their acceptance to the payment of the National Forest contribution.

Other Contributions

Leicestershire County Council has outlined that no contributions will be required to mitigate the impacts of the development on the education sector.

Open Space, Sport and Recreation Facilities

Policy IF3 of the adopted Local Plan outlines that open space, sport and recreation facilities should be sought on development proposals of 50 dwellings or more.

On the basis that the proposal only relates to the construction of 13 dwellings there would be no requirement for the development to provide any on-site open space, sport and recreational facilities nor would any off-site contributions be required. As such there is no conflict with Policy IF3 of the adopted Local Plan.

Whitwick Parish Council

Paragraphs 56 and 57 of the NPPF outline the 'tests' which would need to be passed in order for a condition, or a legal agreement, to be applicable to any planning permission to be granted. Principally it would need to be demonstrated that the request is reasonable and necessary to make the development acceptable in planning terms. No justification is provided within the consultation response from Whitwick Parish Council (WPC) as to why financial contributions to increase tree stock within Whitwick and for improvements in Whitwick would be necessary to make the development acceptable in planning terms. Nor is it outlined what environmental measures would be deemed necessary to off-set any environmental impact. Without precise information on how the environmental impact would be calculated and where improvement works money would be allocated, it is considered that such requests fail the tests outlined at Paragraphs 56 and 57 and could not be applied.

Section 106 Total Contributions:

On the basis of the above the following contributions would be secured within a Section 106 agreement:

- (a) Affordable Housing – Three dwellings on site.
- (b) Civic Amenity - £849.94.
- (c) Libraries - £392.57.
- (d) Highways - £14,207.05.
- (e) National Forest - £5,600.00.
- (f) Health - £11,616.00.

Total Financial Contribution - £32,665.56.

Overall, and insofar as the developer contributions are concerned, the view is taken that the proposed contributions would accord with the principles of relevant policy and legislative tests

outlined in Policies IF1 and IF3 of the adopted Local Plan, Circular 05/95, the CIL Regulations and the NPPF.

Archaeology

As part of the consideration of the application the County Council Archaeologist has been consulted and they have advised that following an appraisal of the Leicestershire and Rutland Historic Environment Record (HER) the application site lies within a wider environment of archaeological interest. To the south, fieldwalking found a prehistoric flint scatter along with other flints closer to the proposed development. In the circumstances that the application site is relatively undisturbed there is a reasonable likelihood that archaeological remains are present.

Given the opportunities which exist for archaeological remains to be present on the site, the County Council Archaeologist considers it necessary for conditions to be imposed on any outline permission granted for a programme of archaeological work to be carried out, in advance of the development commencing, in order to record and advance the understanding of the significance of any archaeological heritage assets. Such conditions are considered reasonable given the archaeological potential of the site and their inclusion ensures compliance with Policy He1 of the adopted Local Plan, insofar as it relates to archaeology, and Paragraph 211 of the NPPF.

Impact on Safeguarded Minerals

As part of their consultation response the County Council Minerals and Waste Planning Team (LCCMWP) has identified that the application site falls within a Mineral Consultation Area (MCA) for coal and therefore Policy M11 of the adopted Leicestershire Minerals and Waste Local Plan (LMWLP) would apply.

Whilst Policy M11 would apply, the LCCMWP considered that when accounting for the overall size of the site (0.78 hectares) and its relationship with existing residential receptors it was unlikely that mineral extraction would be practicable nor could it be made environmentally acceptable. On this basis the LCCMWP has no objections to the application, nor do they consider the submission of a Minerals Assessment to be necessary.

The LCCMWP has also identified that there are no concerns associated with the development from a waste safeguarding perspective either.

Overall, the proposal would be considered compliant with Policy M11 of the Leicestershire Minerals and Waste Plan as well as Paragraph 218 of the NPPF.

Waste Collection

The applicant has outlined that whilst the internal highway serving the proposed development would not be formally adopted by Leicestershire County Council (LCC), as the highway authority, it would be built to an adoptable standard.

Such confirmation was required to ensure that the applicant could enter into an indemnity agreement with the Council's Waste Services Team. Such an agreement would ensure that the Council's Waste Services Team would be indemnified against any damage which may be caused to the unadopted internal highway as a result of the movement of a waste collection vehicle.

In the circumstances that the indemnity agreement is entered into, future occupants of plots 1 to

3 and 9 to 13 would be in a position to present their waste receptacles by the kerbside for collection and there would be no requirement for a bin collection point (BCP) to serve these plots. It is advised by the Council's Waste Services Development Officer (WSDO) that the requirement to present waste receptacles adjacent to the kerbside should be written in the plot deeds and an informative on any outline permission granted could advise the applicant of this requirement.

The Council's WSDO is also satisfied that the swept path analysis of the Council's waste services vehicle demonstrates that suitable movements could be undertaken within the site to ensure that the vehicle exits in a forward direction. The County Highways Authority (CHA) are also satisfied with the swept path analysis, with sufficient levels of off-street parking being provided (this is as outlined in the 'Accessibility' section of this report above).

The only highways which could not be accessed by the Council's waste vehicle would be the private highway serving plots 4 and 5 as well as 6, 7, and 8.

These plots would require a bin collection point (BCP), and the plans as submitted identify where BCPs would be provided. In respect of the BCPs for plots 4, 5, 7, and 8 these would be less than 25 metres from the properties themselves and would lie adjacent to the extent of the internal highway where the Council's waste vehicle would be able to undertake collection.

The BCP for plot 6 would be situated in excess of 25 metres from the frontage of this plot, albeit marginally (being around 30 metres), with Part H of the Building Regulations indicating that residents should not be expected to 'drag' their waste receptacles more than 25 metres to a BCP. It is, however, noted that Part H of the Building Regulations also indicates that it would be acceptable for residents to carry their refuse no more than 30 metres to a bin storage point (BSP). The Council's WSDO considers it appropriate to combine the two distances (i.e. provided the BCP is within 55 metres of the dwelling then it is appropriate) and as such the proximity of plot 6 to the BCP would be acceptable. In any event it is noted that such guidance is applicable to Building Regulations and a planning application cannot be refused on the basis of lack of compliance with Building Regulations given that it does not constitute planning legislation.

When accounting for the above, it is considered that the BCPs are conveniently located in relation to the extent of the internal highway which can be accessed by the Council's waste vehicle and a condition would be imposed on any outline permission granted to secure the BCPs. An informative would also be imposed to advise the applicant that any future residents of plots 4, 5, 6, 7, and 8 would need to be made aware of the fact that their waste receptacles would have to be presented in the BCP on the day of collection.

At this time the individual BSPs for each plot are not shown and therefore to ensure they are suitably located a condition would be imposed on any outline permission granted to secure a scheme of BSPs. Should any BSPs be positioned to have visibility within the development (i.e. to the frontage of the dwelling) then the same condition would also seek to ensure that an enclosed solution is provided to prevent any detriment to the visual amenities of the streetscape within the development arising.

Objection	Officer Response
Any potential bin collection point (BCP) would be in excess of 25 metres from	The guidance referred to is within Building Regulations and as is outlined above a planning application could not be refused on the basis of the lack of compliance

<p>plot 6 and therefore contrary to guidance.</p>	<p>with Building Regulations given that it does not comprise Planning Legislation.</p> <p>It is also the case that the Council's Waste Services Development Officer has no objections to the application with the proximity of plot 6 to the proposed BCP not being significantly in excess of 25 metres (being around 30 metres).</p>
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Other Matters

Assessment of objections in relation to other matters

Objection	Officer Response
<p>The proposed development will potentially lead to the land to the south, which is owned by a property developer, being developed and this should be prevented.</p>	<p>A planning application is to be assessed on its own merits, therefore any potential development of the land to the south of the site is not of relevance in the consideration of this application.</p> <p>In any event the land to the south falls within an area of separation (as defined by Policy En5 of the adopted Local Plan) where there would be a presumption against residential development. The proposed access design for the development would also not be appropriate to serve a large scale residential development, with the proposed internal highway being private.</p>
<p>There will be an increased risk of crime and anti-social behaviour for all residents backing onto or adjacent to the scheme.</p>	<p>There is no evidence to support this assertion with it being the case that the existing gardens of properties on Church Lane which share a boundary with the application site can already be accessed from within the garden associated with no. 137 Church Lane. In many ways the proposed development would improve security given the active surveillance provided within the site as well as the fact that the layout has the gardens of proposed dwellings backing onto existing gardens.</p> <p>Any anti-social behaviour, should it arise, would be addressed by separate legislation with it being considered that a residential development would not increase this risk.</p>

<p>The proposal is contrary to Policies En4 and En5 of the adopted Local Plan.</p>	<p>For the reasons as outlined in the <i>'Landscaping'</i> section of this report above the proposal development would not conflict with the objectives of Policy En4 of the adopted Local Plan which only applies to a limited part of the application site.</p> <p>The application site does not lie within an area of separation and therefore Policy En5 is not of relevance in the assessment of the application.</p>
<p>The development will impact on services within the existing adjacent properties.</p>	<p>It will be the responsibility of the relevant statutory undertakers (be that for gas, water, drainage and broadband) to ensure that the proposed development does not impact on existing service provision at a time when any connections are made. There is also no evidence to support this assertion.</p>
<p>The applicant, as well as their agent, have not engaged with local residents as required by the NPPF and Building for Life 12.</p>	<p>The NPPF, at Paragraph 40, <i>encourages</i> applicants' to engage with a Local Planning Authority prior to the submission of a planning application with it also being <i>encouraged</i> that applicants' engage with the local community.</p> <p>The applicant entered into pre-application discussions with the Local Planning Authority prior to the submission of the application and whilst there was no engagement with the local community this would not be a reason to refuse the application given that it is not a mandatory requirement for a development of this nature (generally applies to Nationally Significant Infrastructure Projects).</p> <p>The requirement to consult is also not mandatory as part of Building for Life 12 (BfL 12) which has since been superseded by Building for a Healthy Life (BfHL).</p>
<p>The proposed attenuation pond will be dangerous to children.</p>	<p>There is no evidence to support this assertion with any child being at no greater risk than should they walk alongside a canal, river or are near the sea. In essence the responsibility for the safety of a child rests with the parents/legal guardian and would not be a reason to refuse a planning application.</p>

	<p>The applicant has also outlined that the likely depth of the attenuation pond would be between 0.47 to 0.61 metres to suit the majority of the pond flora and fauna with at least one side of the attenuation pond having a long, shallow slope to allow easy access for wildlife and, when water levels fluctuate, would create a damp habitat for smaller creatures.</p> <p>It is considered that a condition could be imposed on any outline permission granted to secure a detailed section of the attenuation pond to ensure that its depth is acceptable. The above dimensions would also be compatible with the Council's adopted Good Design SPD which recommends that attenuation ponds should be designed with a 1:3 gradient to the sides to enable ease of escape in the case of an emergency.</p>
<p>Building work taking place next to a cemetery where funerals are regularly conducted. This is a development of significant size; it would be distressing for the bereaved to be subjected to construction activity taking place in the adjoining area.</p>	<p>Whitwick Cemetery lies around 114 metres to the east of the site, with the cemetery also being to the immediate south of commercial premises and to the immediate west of land where planning permission for a residential development was granted under application references 19/02392/OUT and 21/02371/REM (being to the rear of nos. 21 to 63 Church Lane).</p> <p>It is considered that construction activity would be a limited part of the overall development and would not create a level of disturbance significantly above that created by the commercial premises, any construction activity which may be undertaken on the land to the immediate east of the cemetery, or other construction activity (such as roadworks).</p> <p>Given the temporary impact, which would not be significant in any case, there would be no justification to resist the development on this basis.</p>

Conclusion and Contribution to Sustainable Development

In accordance with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the development plan which, in this instance, includes the adopted North West Leicestershire Local Plan (2021). The application site lies within the defined Limits to Development and comprises a greenfield site within the Coalville Urban Area which is defined as the 'Principal Town' and is the primary settlement in the district where the majority of new development would be undertaken. On this basis the principle

of the redevelopment of the site is considered acceptable.

In addition to the need to determine the application in accordance with the development plan, regard also needs to be had to other material considerations (and which would include the requirements of other policies, such as those set out within the National Planning Policy Framework (NPPF) (2023)). The NPPF contains a presumption in favour of sustainable development and when having regard to the three objectives of sustainable development, it is concluded as follows:

Economic Objective:

This objective seeks to ensure that sufficient land of the right types is available in the right places and at the right time to support growth, innovation, and improved productivity, and that the provision of infrastructure is identified and coordinated. It is accepted that, as per most forms of development, the scheme would have some economic benefits including those to the local economic during the construction stage. The applicant has also confirmed that the contributions as set out in the *'Developer Contributions and Infrastructure'* section of this report above would be made and these would be secured in connection with the scheme.

Social Objective:

The economic benefits associated with the proposed development would, by virtue of the social effects of the jobs created on those employed in association with the construction of the development, also be expected to provide some social benefits. The NPPF identifies in particular, in respect of the social objective, the need to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations, and by the fostering of a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

Subject to the extent of the contribution being secured in a Section 106 obligation, the scheme would deliver affordable housing in line with adopted policies with the range and types of house types meeting an identified need.

In terms of the social objective's stated aim of fostering a well-designed and safe environment, it is considered that the layout and scale of development submitted would be acceptable thereby enabling the development to successfully integrate into, and enhance, the environment in which it is set.

As per the economic objective above, the scheme would provide for the necessary infrastructure to support the development and perform well in terms of the need to provide accessible services.

Environmental Objective:

Given the location of the development in the Coalville Urban Area the ability to access services would be achievable via means other than the private car which would enable the development to contribute positively towards the movement to a low carbon economy. The scheme's design would also protect and enhance the built environment with a net gain in biodiversity above 10% being demonstrated and features of importance on the site (including trees protected by a Tree Preservation Order (TPO)) being retained and successfully incorporated into the layout of the

proposed development. This would therefore protect and enhance the natural environment.

It is considered that such compliance with the Environmental Objective would outweigh the conflict arising with the loss of other trees protected by the TPO as well as the development being undertaken on a greenfield site, albeit it is accepted that such a greenfield site is within the defined Limits to Development and is not protected from development.

Having regard to the three objectives of sustainable development, therefore, and having regard to the conclusions in respect of various technical issues as outlined above, it is considered that subject to the imposition of conditions and the securing of a Section 106 agreement the overall scheme would represent sustainable development and approval is recommended.