

Erection of five no. three bedroom dwellings (Outline - access and layout included)

Report Item No  
A3

86 Leicester Road Whitwick Coalville Leicestershire LE67 5GJ

Application Reference  
22/01366/OUT

Grid Reference (E) 444079  
Grid Reference (N) 315915

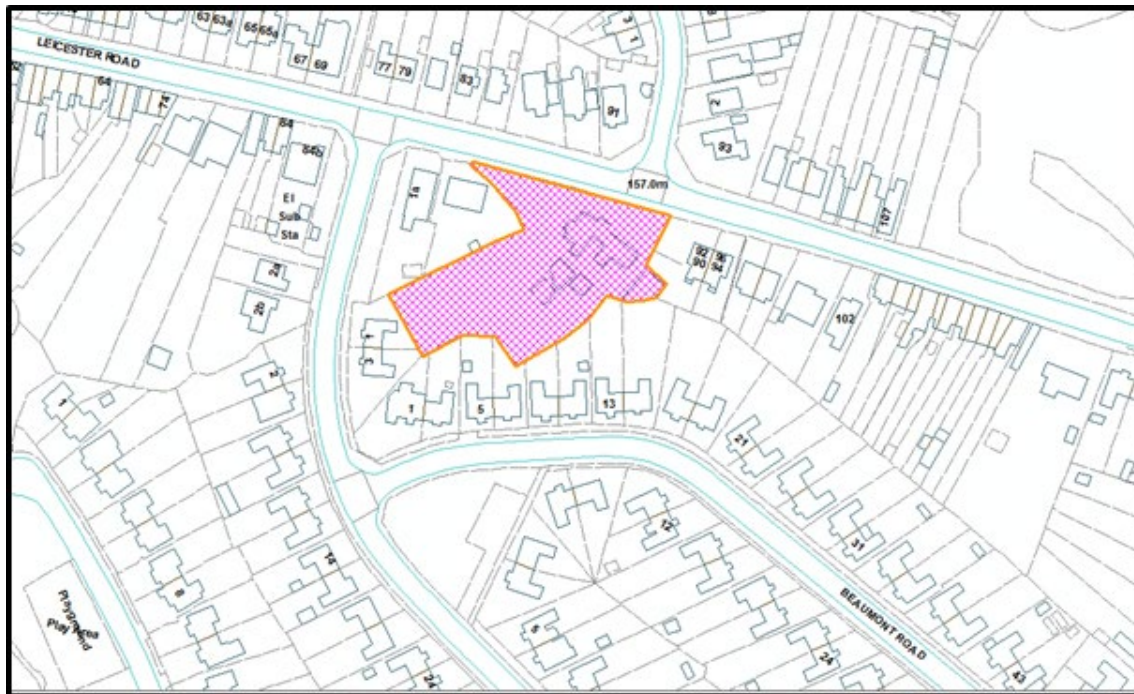
Date Registered:  
23 August 2022  
Consultation Expiry:  
29 March 2023  
8 Week Date:  
18 October 2022  
Extension of Time:  
TBC

Applicant:  
Mr Mick Anderson

Case Officer:  
Hannah Exley

Recommendation: Permit, subject to conditions

Site Location - Plan for indicative purposes only



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**Reason the case is called to the Planning Committee:**

The application is brought to the Planning Committee at the request of the Strategic Director for Place due to local concerns in relation to this scheme which are outlined in the representations section of the report.

**RECOMMENDATION - PERMIT, subject to the following condition(s):**

1. Standard Time Limit - outline
2. Reserved Matters – scale, external appearance, and landscaping of the site
3. Levels to be submitted at Reserved Matters stage
4. Biodiversity Net Gain Calculations and Proposed Offsetting to be submitted at Reserved Matters stage
5. Approved plans
6. Contaminated Land – Details to be submitted
7. Contaminated Land – Verification Report
8. Construction/Demolition - Hours of Operation
9. Tree Protection – in accordance with submitted details
10. Access Arrangements – Width, gradient, surfacing
11. Vehicular Visibility splays of 2.4 metres by 65 metres
12. 1.0 metre by 1.0 metre pedestrian visibility splays
13. Surfacing of the access drive (and any turning space) in a hardbound material
14. Remove pd rights - no vehicular access gates/other obstructions to vehicular access
15. Scheme for the closure of the existing vehicular access on Leicester Road
16. Parking and turning facilities in accordance with submitted plan
17. Submission of a construction traffic management plan, including wheel cleansing facilities, vehicle parking facilities and a timetable for provision
18. Provision of Bat boxes and Swift Boxes
19. Soft Tree Felling in accordance with ecology report.
20. Boundary treatments to be agreed including the retention of existing stone walls along the northern and western boundary
21. Removal of Permitted Development Rights for extensions and alterations (all plots), garden structures (plots 3, 4 and 5)

## MAIN REPORT

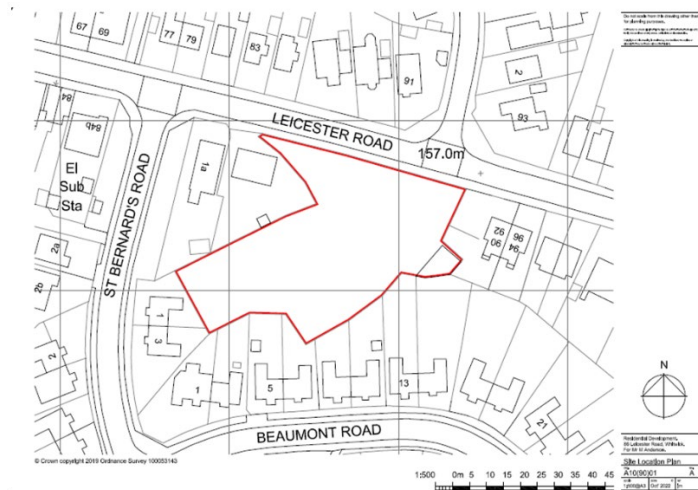
### 1. Proposals and Background

Outline approval is sought for the erection of five no. three bedroom dwellings and associated access arrangements on 0.27 hectare of land on the site of the former property known as No.86 Leicester Road, Whitwick. The former property on the site was demolished prior to the submission of the planning application.

#### Previous buildings on the site



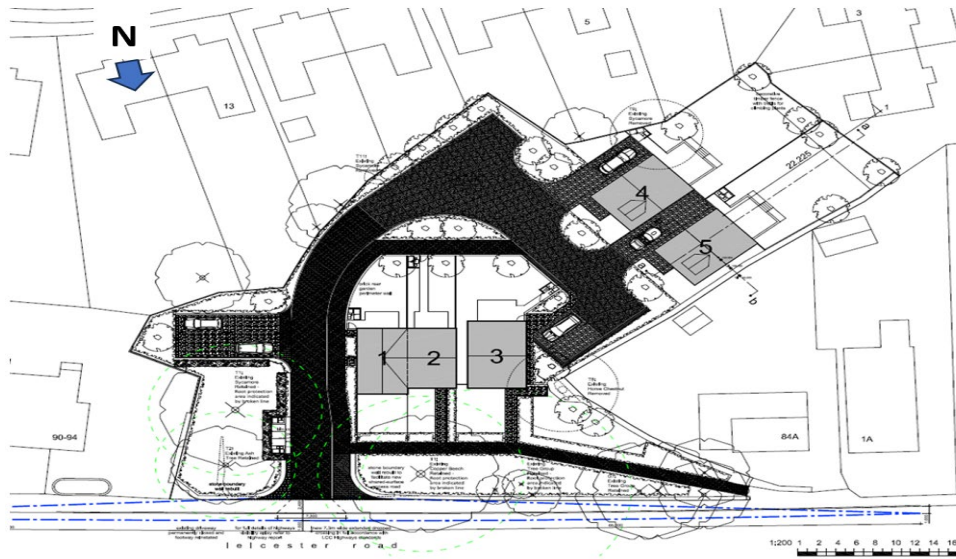
#### Site Location Plan



Details of means of access to the site and the layout of the development only are included for consideration at this stage. Vehicular access to the site would be via a new access off Leicester Road, with the access being located toward the eastern side of the site frontage. The access would require the removal of part of an existing stone wall fronting the site. The submitted layout shows one detached dwelling and a semi-detached pair of dwellings fronting the development at a distance between 14-15m from the back of the footpath. To the rear of the site, two additional detached dwellings are proposed beyond a turning head. Parking is shown on the submitted layout on the basis of two parking spaces per dwelling.

The site lies within the Limits to Development as set out of the Policy Maps to the adopted Local Plan. The site also lies within the National Forest and within the Charnwood Forest Regional Park. There are trees fronting the site protected by Tree Preservation Order (TPO) 477 and the site lies within a swift alert area.

### Site Layout Plan



Amended plans have been secured during the application following officer and consultee concerns and an amended site location plan has been secured following neighbour concerns about the original red line encroaching onto neighbouring land.

### Relevant Planning History:

21/00112/TPO Felling of 1 no Copper beech tree (Protected by Tree Preservation Order) – Refused 16.03.2021.

## 2. Publicity

23 Neighbours have been notified.  
Site Notice displayed 7 September 2022.

### 3. Summary of Consultations and Representations Received

The following summary of responses is provided.

**Whitwick Parish Council** raise objection on the following grounds:

Grounds of objection	Description of impact
<b>Highway Safety</b>	Concern about the close proximity of the access to a road junction opposite given the number of vehicles likely to be generated by the proposal and the speeding problem on Leicester Road as evidenced by the parish council VAS scheme that monitored incoming/outgoing traffic twice per year
<b>Design and Character</b>	An ancient wall (which is on Turnpike maps) is of historical interest and a key character of the village so should not be demolished for a residential development
<b>Trees</b>	The properties were sited too close to remaining trees protected by the Tree Preservation Order Ancient trees have been removed without any planning application or permission
<b>Drainage and Flood risk</b>	The subterranean stream was a factor to consider as changes to the site had already resulted in flooding problems and potentially affected the water table Damage to the sewers was suspected and should be investigated further by Severn Trent to prevent environmental damage in this village with flooding and contaminated raw sewage is a known risk
<b>Other</b>	The application should be considered by the Planning Committee The previous farmhouse building was demolished without any planning application or consent The proposed plans still showed encroachment onto neighbours' properties and had inaccurate information on the boundary structure Enforcement action should be taken by the District Council for the farm building to be rebuilt and the site reinstated as previously Should the application be approved, the parish council wish to ask what environmental mitigation measures are being taken by the applicant to help improve or off set their environmental impact within Whitwick

**Leicestershire County Council – Ecology** – has no comments, subject to conditions requiring the submission of details at the Reserved Matters stage.

**Leicestershire County Council – Highways** - no objections subject to conditions/notes to applicant

**NWLDC - Contaminated Land** has no objections subject to conditions.

**NWLDC - Environmental Protection** - has no objections subject to conditions and notes to applicant concerning construction noise.

**NWLDC Tree Officer** - has no objections subject to conditions.

**NWLDC Waste Services** confirms that the bin collection point (BCP) is suitably positioned and is suitably sized to accommodate the required refuse receptables.

### Third Party Representations

24 letters of neighbour representation have been received, raising objections to the scheme on the following grounds:

Grounds of objection	Description of impact
<b>Sustainability</b>	Access to public transport, particularly those with mobility issues is non-existent in this location
<b>Highways</b>	Concern about the safety of school children at the bus stop located in front of the site
	Impact of increased traffic on road junctions and along Leicester Road which is already used as a rat-run
	This part of Leicester Road is very dark
	The highway land in front of the footpath to be reinstated is poorly maintained making the reinstated pedestrian route unsuitable
	Street cleaners don't operate along this stretch of Leicester Road
<b>Design and Character</b>	No details of the heights of the dwellings have been provided and so impacts on neighbours can't be properly considered
	The redevelopment of the site should comprise the reinstatement of the previous building on the site only
	The existing ancient stone wall along the boundary should be retained along the boundary with No.84a Leicester Road and No.1 St. Bernard's Road and should not be replaced with close boarded fencing
<b>Residential Amenity</b>	Illegal demolition/burning of materials on the site, pollution and tree felling have affected neighbours' quality of life
	Loss of light to neighbouring gardens which are at a lower level
	Concern about noise and anti-social behaviour along the reinstated access forward of No.84 Leicester Road
	Concern about the use of the pedestrian footway as a bin store
	Noise and dust during construction works
	Since the demolition of the building, rats have appeared in neighbouring gardens
<b>Ecology</b>	A bat roost has been destroyed illegally on the site
	Bird nests have been destroyed illegally on the site
	Newts have been seen within the pond on the site

PLANNING APPLICATIONS- SECTION A

	Bluebells exist on the site
	Bats are visible on the site at dusk and dawn and were in the roof space of the former building on the site
<b>Trees</b>	Development within the canopy of existing protected trees should not be permitted and existing TPO trees should be protected
	Loss of tree (Horse Chestnut) not in the ownership of the applicant
	Impact of new pedestrian routes through the site on tree roots
<b>Drainage</b>	There is no drainage information for the development and since the existing building was demolished there have been surface water flooding issues at a neighbouring property to the west and the construction of dwellings and landscaping can only serve to worsen the water runoff
	Existing drainage infrastructure cannot cope with additional development
	There is a natural spring arising from the granite sub strata on the property which fed a pond on the site and all of the properties are within twenty metres of a spring or watercourse
	The County Highways sewer runs beneath the house at No.86 Leicester Road that was mechanically demolished and may have been damaged
<b>Other Matters</b>	The former building on the site was removed illegally and NWLDC is turning a blind eye to illegal activity
	Site notices have not been posted about the development locally
	The site includes land belonging to two neighbours that is not in the ownership of the applicant and the updated site plan does not resolve this issue
	The decommissioning of the post box fronting the site was done without permission and should be reinstated as it is needed by local residents.
	Neighbours should have been involved in pre-application discussions about the development of the site

In respect of the above matters relating to the previous removal of buildings and trees on the site and the associated alleged impacts on bats and birds, this has been subject to Enforcement investigations. The cases were closed by the Enforcement team as it was established that no works to protected trees had been undertaken. In respect of the demolition works, the Enforcement team concluded that it was not expedient to take action in respect of the absence of prior approval of the demolition works as the applicant advised of their intention to submit proposals to redevelop the site. It should also be noted that an application for the prior demolition of a building does not allow consideration of the impacts upon ecology by the District Council. However, the applicant would still be bound by separate protected species legislation, but this would not be enforceable by the District Council (it would be enforced by the Wildlife Crimes division of the Police). Regarding past illegal burning of waste on the site, this is covered by separate legislation under the remit of the Council's Environmental protection team and is not relevant to the determination of the planning application.

Notwithstanding, the Enforcement history on this site, Members are advised that the current proposal can only be assessed on the planning merits of the proposal.

## **4. Relevant Planning Policy**

### **National Policies**

#### **National Planning Policy Framework**

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);  
Paragraphs 38, 39, 40, 41, 42, 44 and 47 (Decision-making);  
Paragraphs 55 and 56 (Planning conditions and obligations);  
Paragraphs 60, 61, 62, 69, 74, 75 and 77 (Delivering a sufficient supply of homes);  
Paragraph 100 (Promoting healthy and safe communities);  
Paragraphs 104, 107, 110, 111 and 112 (Promoting sustainable transport);  
Paragraphs 119, 120, 124 and 125 (Making effective use of land);  
Paragraphs 126, 130 and 134 (Achieving well-designed places);  
Paragraph 167 (Meeting the challenge of climate change, flooding and coastal change);  
Paragraphs 174, 180, 183, 184 and 185 (Conserving and enhancing the natural environment).

#### **Adopted North West Leicestershire Local Plan (2021)**

The following policies of the adopted Local Plan are consistent with the policies in the NPPF and should be afforded 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 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 Cc2 - Water - Flood Risk  
Policy Cc3 - Water - Sustainable Drainage Systems

#### **Other Policies/Guidance**

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

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).

Policy S2 defines Whitwick as part of the Coalville Urban Area where there is an extensive range of services and facilities and where new development is supported. The site is located within the Limits to Development, as per the adopted Local Plan and, therefore, a proposal for residential development would raise no objection in principle and would accord with the provisions of Policy S2 of the adopted Local Plan.

### Layout and Impact upon Character

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 126 and 130 of the NPPF and the National Design Guide.

The character of this part of Leicester Road is predominantly defined by detached and semi-detached properties of both gabled and hipped roof design. Properties within the locality are both single storey and two-storey and exhibit a mix of brick materials and some examples of render/part render. Properties are typically set back from the highway with gardens/parking areas to the front and side and with front boundaries enclosed with low brick/stone walls or low hedgerows.

### View eastwards along Leicester Road



The application site was previously occupied by a building, with neighbour representations indicating that it was an old farmhouse. The building, which has been demolished, was set back on the site with a C-shape footprint and there were other structures to the rear of the dwelling. One garage building on the site remains along the eastern boundary, but this would be demolished as part of the application. The existing vehicular access into the site at the eastern end of the site frontage adjacent to the garage building would be closed as part of the application proposals.

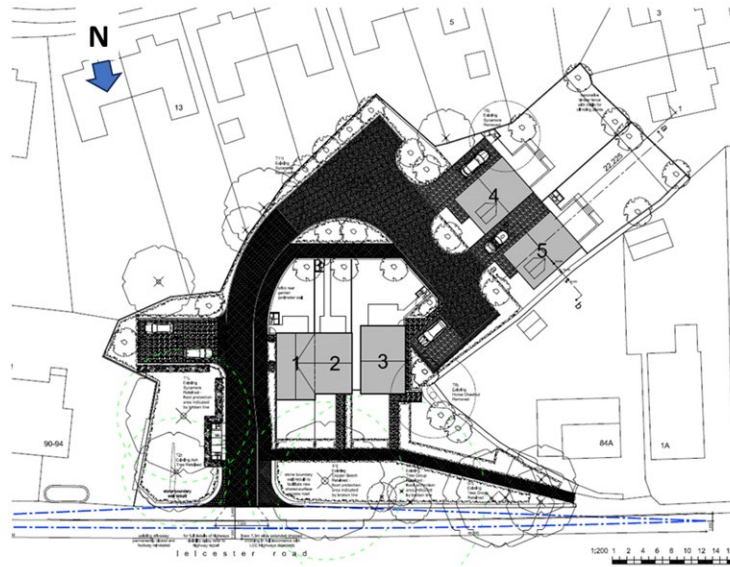
The site has an irregular shape with a wide frontage and narrowing towards the rear. Land levels drop into the site from the road in a southerly/south westerly direction and the southern boundary of the site is elevated above the neighbouring properties to the rear. The northern (front) boundary of the site is occupied by a low stone wall with mature trees to the rear. These trees are protected by Tree Preservation Order (TPO) 477. There is also a stone wall along the western boundary of the site abutting the neighbouring properties to the west.

### View of trees along site frontage



Amended plans have been provided during the application following officer concerns about the design of the originally proposed layout.

**Proposed Site Layout Plan**



The amended layout shows a new vehicular access within the eastern half of the site frontage. To the front of the site, three dwellings are proposed with front gardens: a detached dwelling and a semi-detached pair with the eastern most of these facing the proposed access drive. The other two frontage dwellings would be accessed via a footway to the front of the dwellings. Parking for the semi-detached dwellings would be located to the east of the dwellings within a parking area on the opposite side of the access drive into the site. Parking for plot 3, the detached dwelling would be located to the rear of the dwelling off the internal access drive.

The access drive into the site would extend around the rear of the frontage plots to provide access to two further detached dwellings on the site. Parking to these dwellings would be in-plot to the side of the dwellings and a small garden would be provided to the front of the dwellings. A turning head within the site would also be provided and the layout plan indicates space for landscaping around the turning head to enable the hard surfaced area to be softened. The plan also indicates the use of different materials for the driveway, turning head and parking areas to differentiate the different uses.

The proposed dwellings have a footprint that is not dissimilar to other properties within the vicinity of the site and the frontage properties would be set back from the highway with gardens in front. These gardens would not abut the highway as per other dwellings on the street due to the presence of mature protected trees and as a result would be set back from the general building line on Leicester Road. Neighbour comments have been received suggesting that the dwellings should be in accordance with the general building line but the impact of this would be that the dwellings would be located within the root protection areas of the trees and therefore could adversely affect the trees. The proposed dwellings have been sited as far forward as practicable having regard to the protected trees, and the value of keeping the trees within the streetscene is considered to outweigh any small harm created by the deviation from the building line in this case. It is also noted that the former building occupying the site was orientated at an angle to the highway and did not fully respect the building line of the remainder of the surrounding development. The siting of the plot adjacent to the access drive with the pedestrian access to the side would also present the opportunity for a dual aspect property in this location

which could make a positive contribution to both Leicester Road and the internal streetscene within the site, as well as providing direct surveillance over the parking area opposite.

The site would also give rise to in-depth development with the two dwellings located to the rear of the site. In-depth development is not a feature of the locality, but the rear of the site abuts other housing development off Beaumont Road which is visible through the site from Leicester Road currently. The dwellings to the frontage of the site would also provide some screening to the development at the rear. However, the properties would still be visible to some extent through gaps in vegetation/buildings from Leicester Road and clearly from St. Bernard's Road to the west where the site is elevated above neighbouring land.

**View into site from Leicester Road: Image taken at springtime (2021)**



**View into site from Leicester Road: Image taken during the summer months (2023)**



**View from St. Bernards Road (the site is behind the garage)**



In the circumstances that in-depth development is not a feature of the locality and given the visibility of the site from public vantage points, it is considered that any two-storey development in this location would need to be dwellings with the second floor of accommodation in the roof space.

Overall, subject to a note to applicant to inform the design of the plots to the rear of the site concerning the scale of plots 4 and 5, it is not considered that the provision of in-depth development would be detrimental to the character of the area in this case.

The layout shows a bin collection point towards the frontage of the site with space around for landscaping to help screen this area when not in use. Beyond the dwellings and the garden areas, the layout shows areas for additional landscaping/tree planting, such as to front of the dwellings at the rear of the site where landscaping punches into the access drive which would help to soften and break up the hard landscaping in this area, making a positive contribution to the streetscene within this part of the development.

Parking is provided in-plot for three of the dwellings and there is a parking area for two of the plots. Whilst it would be preferable for all dwellings to have in-plot parking, it is noted that the irregular shape of the site does present challenges to the development of the site, along with the presence of multiple protected trees. The parking court for the two plots would be sited within a landscaped area and there is potential, as indicated on the layout plan for landscaping to be used to help mitigate the visual impact of this parking area. This would need to be dealt with under the 'landscaping' details that would form part of any future reserved matters application should permission be granted.

Overall, the amended access and layout proposed for the five dwellings would be well related to the existing development that surrounds the site, and it would also ensure that the protected trees on the site would be retained and protected and would not be significantly out of keeping with the pattern of existing development in the locality and would not be visually intrusive within the context of the surrounding National Forest/Charnwood Forest area. Therefore, it is considered that the proposed layout would comply with Policies D1 and En3 of the adopted Local Plan, the provisions of the NPPF, the National Design Guide and the Good Design SPD.

In respect of neighbour concerns raised about design and layout, the height of the dwellings is a reserved matter and would be determined at the reserved matters stage and the existing stone wall along the front and western side boundary are shown to be retained on the layout plan. Regarding comments about only the reinstatement of the former building being acceptable, the application has to be assessed on the planning merits of the proposal as submitted here before Members.

### Impact upon residential amenity

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 185 of the NPPF states that planning policies and decisions should also 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.

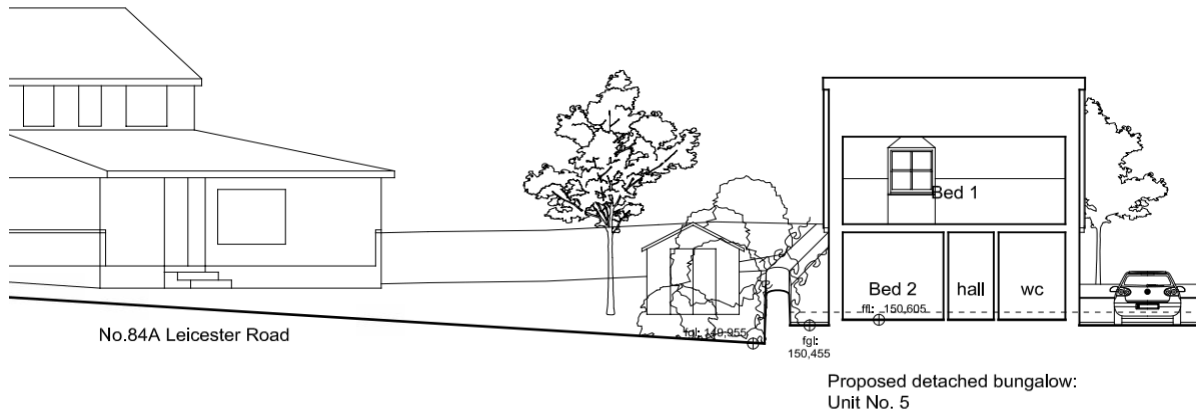
The properties that abut the site would be No.84 Leicester Road, No's 90-92 Leicester Road, No's 1a, 1 and 3 St Bernard's Road and No's 1-15 Beaumont Road. The extent to which each of these would be impacted varies depending on the location of the proposed development.

No.s 90-92 Leicester Road lie to the east of Leicester Road with the nearest proposed dwelling on Plot 1 being 16m from the common boundary with these dwellings and 28m from the dwellings. The car parking area to plots 1 and 2 would abut the side boundary to these properties but there is some space for landscaping between on the submitted layout plan. When having regard to the distances involved, it is not considered that there would be any significant overbearing, overshadowing or overlooking of these neighbouring properties. It is not considered that any noise and disturbance associated with the use of the car parking area would be any greater than might be expected within a residential area and would not be significant.

No.84a Leicester Road is a two-storey dwelling located to the west of the site and beyond that lies No.1a St. Bernard's Road. Land levels gradually drop across the site in a westerly direction. The nearest proposed dwellings would be the dwellings on plots 3 (at the front of the site) and plot 5 (to the rear of the site).



There would be a distance of 18m between the proposed dwelling on plot 3 and this existing dwelling and a distance of 15m from the proposed dwelling on plot 5. A cross sectional drawing has been provided between plot 5 and the garden to this neighbouring property which shows there to be a 0.5m drop in land levels between the two sites at this point.



Overall, when having regard to the distances involved, land levels and the generous garden area to the neighbouring property, it is not considered that there would be any significant overbearing or overshadowing impacts on this neighbouring dwelling from the proposed development in the layout shown. The dwelling at No.1a St Bernard's Road is located beyond the garden to No.84a Leicester Road in relation to the dwelling on plot 5 at approximately 16m. Whilst the lower part of the garden to No.1a abuts the application site, this would be adjacent to the rear garden to plot 5 where no development is proposed. It is not considered that there would be any significant overbearing or overshadowing impacts on this neighbouring dwelling from the proposed development in the layout shown.

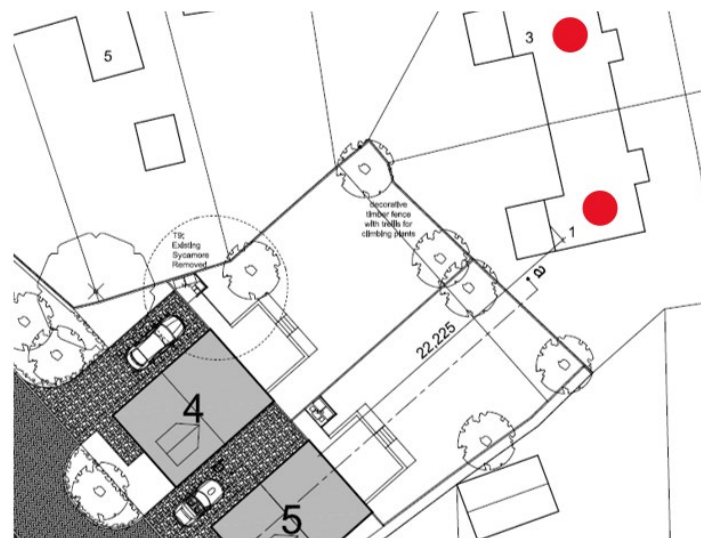
Any potential overlooking of these neighbouring properties would need to be addressed through the external appearance of the dwellings at Reserved Matters stage should permission be granted. In this regard, it is considered that the dwellings on plots 3 and 5 could be designed without windows in the west facing elevations.

Regarding concerns about noise and anti-social behaviour along the newly reinstated footpath forward of No.84 Leicester Road, when having regard to the number of units served by the pedestrian access, it is not considered that this impact would be significant. Furthermore, when having regard to the set back of this neighbouring dwelling from the highway boundary, it would not be significantly different to the relationship between other dwellings and the public highway within the streetscene.

No. 9-15 Beaumont Road are located to the south east of the site and abut the part of the site which would be occupied by the access drive and turning head, where no built development is proposed. The boundary at this point is occupied by fencing and vegetation. The layout plan shows sufficient space for new tree planting along this boundary and subject to appropriate boundary treatments being secured, it is not considered that there would be any significant overbearing, overshadowing or overlooking impacts. Whilst the access drive will be used for entry and exit, given the scale of the overall development, it is not considered that this would give rise to any significant noise and disturbance.

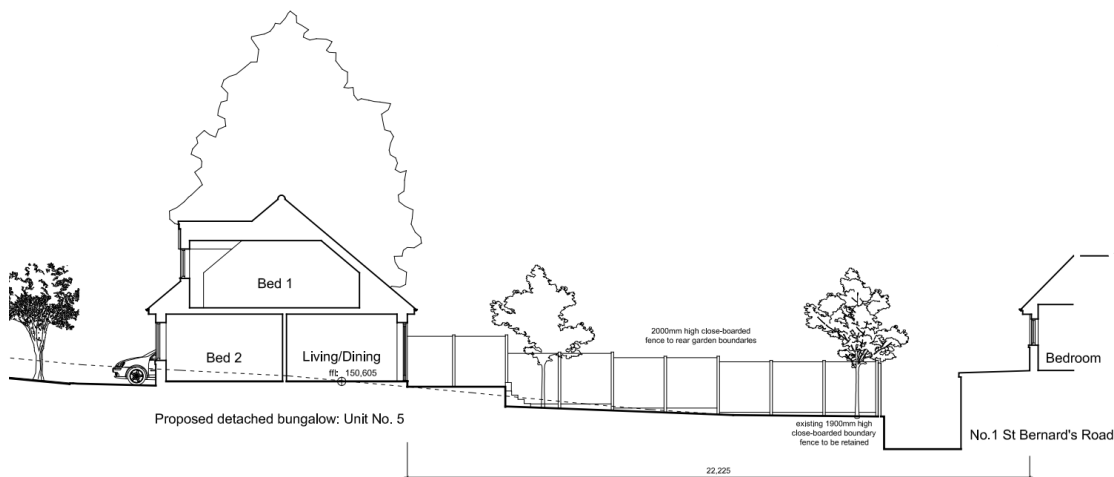
No.s 1-7 Beaumont Road would be located to the south of Plot 4 with a distance of 18 and 22m between the proposed dwelling and the rear of the nearest of these dwellings (Nos 5-7). The proposed dwelling would be set between 4m and 7m off the boundary with these nearest properties due to the angled nature of the site boundary in this location. No.s 1-3 would be located at a greater distance. Notwithstanding the drop in land levels in relation to these neighbouring properties from the site, given the distance between the existing and proposed dwellings, subject to appropriate boundary treatments being secured at a later stage, it is not considered that the proposal would give rise to any significant overbearing, overshadowing or overlooking impacts.

No.1-3 St Bernard's Road lie to the south-west of the application site. The dwellings are angled in relation to the application site such that the rear elevations face eastwards. No. 1 has a closer relationship with the application site than No.3 with only a small part of its rear boundary abutting the application site.



A cross sectional drawing has been provided showing the relationship between the proposed development on plot 5 and No.1 St Bernard's Road. There would be a distance of 22m between the rear of the proposed dwellings and the rear of the nearest first floor rear window of this neighbouring property. This distance is sufficient to prevent any significant overbearing, overshadowing or overlooking impacts from the dwelling and an existing 1.8m high boundary treatments from the level of the application site are in place to prevent overlooking of the neighbouring properties from the gardens to the proposed dwellings. However, the close proximity of the first floor windows to the rear boundary of plots 4 and 5 (5-10m) would allow some overlooking of the gardens to the proposed dwellings, more so to plot 4 due to the eastwardly orientation of the dwelling. The submitted details indicated the provision of some tree planting to help mitigate this, although it is noted that landscaping is a reserved matter. Overall, whilst it is considered that some overlooking would arise of the rear gardens, this would be at the bottom of the garden areas and when considered in the context of the rear gardens being 16m in length, it is not considered that the overlooking would be significant.





Sketch Section A-A

Overall, the proposal is not considered to result in significant impacts upon the amenities of the occupiers of surrounding residential dwellings. Therefore, the proposed development is in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD.

Regarding neighbour comments about noise and disturbance during construction works and rats coming from the site, these matters are controlled by separate Environmental Health legislation and therefore, are not relevant to the determination of this application under the Planning Act.

### Highway Considerations

Policy IF4 of the Local Plan (2021) 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 Local Plan (2021) requires that development incorporate adequate parking provision for vehicles and cycles to avoid highway safety problems and to minimise the impact upon the local environment.

The site is located on Leicester Road, a C classified road subject to a 30mph speed limit. The site has an existing vehicular access to the east of the site boundary which is proposed to be closed permanently.

A new vehicular access is proposed to be 4.25m in width and served by a 7.3m dropped kerb, surfaced in tarmac and with a gradient of no greater than 1:20 for the first 5m behind the highway boundary which would accord with the standards set out within the Leicestershire Highway Design Guide (LHDG).

The submitted Highways Report discusses the anticipated 85th percentile speeds, and visibility splays of 2.4m x 65m are provided accordingly. This is suitable for speeds of 36-40mph, and this is supported by historical speed data held by the County Highways Authority for the locality. Therefore, the County Highways Authority considers the proposed visibility splays to be acceptable. Whilst the splay to the east of the site access has not been demonstrated in full, the

County Highways Authority is satisfied that this can be achieved and will therefore seek to secure it by way of planning condition.

The County Highways Authority advise that 1m x 1m pedestrian visibility splays are provided, albeit not demonstrated on the submitted drawing, and as such this will also need to be secured by way of planning condition.

Parking is provided based on two spaces per dwelling which accords with the LHDG and the provision of turning within the site is welcomed by the County Highways Authority.

A bin collection point is provided in the vicinity of the site access and the County Highways Authority is satisfied that it is not intended for refuse vehicles to enter the site. The proposed bin collection point would be compliant with the Council's requirements and therefore, whilst concern has been raised about bins being presented elsewhere, the proposed bin collection point is considered fit for purpose and would be suitably located in relation to the proposed dwellings.

There have been eight recorded Personal Injury Collisions (PICs) within 500m of the site and within the last five years and current year to date, all of slight severity. The County Highways Authority has reviewed the circumstances of each of the above PICs and is satisfied that there is no evidence to suggest that the development proposal would exacerbate the likelihood of further such incidents occurring.

Local concern has been raised about the impact of increased traffic from the site along Leicester Road and impacts on local road junctions, along with lighting and the safety of school children using the bus stop in front of the site. However, for the reasons set out above, the proposed development would accord with the requirements of the County Highways Authority, who are satisfied with the proposal from a highway safety perspective. Regarding the highway land in front of the footpath to be reinstated being in poor condition the land ownership title deeds provided show that that this triangular section of land up to the footway on Leicester Road is within the ownership of the applicant and could therefore, be made suitable for use up to the public highway.

Subject to conditions, it is not considered that the proposal would adversely impact upon highway safety and therefore, would comply with the provisions of Policies IF4 and IF7 of the adopted Local Plan, the NPPF and the Leicestershire Highways Design Guide.

### **Ecology and Biodiversity Net Gain**

Policy EN1 of the Local Plan supports proposals that conserve, restore or enhance the biodiversity of the district.

A Preliminary Ecological Appraisal accompanied the application submission, and a Bat Survey was provided during the course of the application. A dwelling was demolished, and trees were removed from the site prior to the submission of the application. The applicant has provided a Bat Report dated September 2020 that was undertaken prior to the demolition of the dwelling which has been reviewed by the County Ecologist. The Report identified the outbuildings on the site as having negligible potential for bats, but the main dwelling was classified as having moderate potential.

The main building had several features suitable for use by roosting bats, however, the open nature of some of these areas reduced the overall suitability for bats. These features included

lifted and missing roof tiles and gaps at the eaves and ridge of the building. The lack of a roof lining provided access directly into loft spaces through missing and slipped tiles.

The report noted that no direct observation of bats roosting within the building were recorded during either the initial survey or the roost characterisation surveys that followed and the report concludes that at the time of survey, bats were not using the building as a roosting location.

The County Ecologist has been consulted on the application and advises that the habitats remaining on site are not of significance, and therefore, raises no objection in principle to the development.

The County Ecologist advises that the Preliminary Ecological Assessment submitted is acceptable. Two trees (T2 and T9) of low bat-roost potential are proposed for removal, and the ecologist recommends this is done by soft-felling in accordance with section 6.2 of the ecology report. This will need to be secured through a planning condition.

The County Ecologist also recommends that compensatory bat roost measures are provided as recommended in the ecology report and this will also need to be conditioned.

The site is within a Swift Alert Area where they are known to have nested in the recent past and therefore, swift boxes/bricks will also need to be installed and secured by condition.

In terms of Biodiversity Net Gain (BNG), whilst the mandatory requirement for 10 percent Biodiversity Net Gain has not yet been enacted through the Environment Bill (expected in November 2023), paragraph 174(d) of the NPPF sets out a requirement to minimise impacts on and provide net gains for biodiversity.

The application submission has been accompanied by a BNG Assessment. The site had already been cleared prior to the assessment being undertaken and therefore, the report assumes the worst-case scenario which the County Ecologist considers appropriate.

The County Ecologist has advised that there will be a significant net loss on the site and considers that it is likely that the applicant will need to off-set this loss off-site, either through obtaining land elsewhere or approaching a habitat bank for the credits. As this application is in outline stage, the County Ecologist advises that the off-setting can be determined at the Reserved Matters stage and that any Reserved Matters application should be supported by updated Biodiversity Net Gain calculations including the offsetting proposed.

In response to neighbour comments the County Ecologist has advised as follows:

*'Great Crested Newts (GCN): We have no records of GCN in this area, and there are no other ponds nearby. The risk of GCN being present on site is very low, and I couldn't justify asking for a survey of the pond. Our two other native newt species unfortunately have no legal protection and are not a planning consideration.'*

*Bluebells: In this location, they are most likely to be the Spanish variety, since native bluebells are closely associated with undisturbed soils in woodlands or ancient hedgerows.'*

*Bats: They may roost in a dry stone wall, however, this is unlikely due to the high risk of predation in low-level sites like a wall, from other small mammals such as rats and weasels. If the mature trees on site have already been removed, the site overall will have low potential to support roosting bats.'*

Overall, the County Ecologist raises no ecological objections subject to conditions as detailed above.

Therefore, subject to the imposition of conditions it is considered that the proposals would comply with Policies En1 and En4 of the adopted Local Plan, Paragraphs 174(d), 175 and 180 of the NPPF and Circular 06/05.

### **Impacts on Trees**

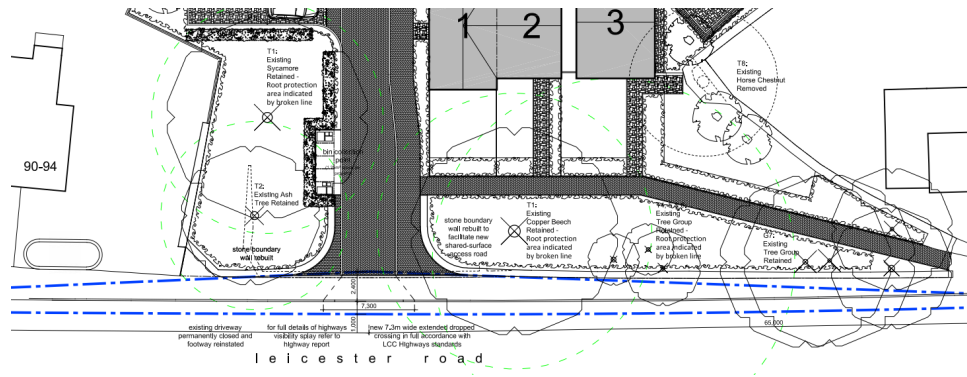
Tree Preservation Order (TPO) 477 protects selected trees towards the northern end of the site and all the protected trees are retained in the proposed layout. Three unprotected trees (a horse chestnut and two sycamore trees) are to be removed as part of the development.

Concern has been raised by local residents about the suitability of the submitted tree information and the impact of the new access on the protected trees fronting the site.

The Council's Tree Officer has been consulted on the application and has advised that a comprehensive set of arboricultural documents have been submitted in support of the application. These have been prepared with reference to BS5837:2012 and are acceptable to the Council's Tree Officer for the purposes of considering the arboricultural implications to the proposal. The Tree Officer has visited the site and found no reason to disagree with the BS5837 retention categories assigned to the trees in the submitted tree report. He also advises that he has no arboricultural objections to the recommended tree removals (unprotected trees) to accommodate the development, and the recommended temporary tree protection measures, no-dig surfacing and working measures are all acceptable for this situation.

The Tree Officer notes that it was not possible for the arboriculturist to carry out a full assessment of the structural condition of several of the trees but in his experience, advises that this is in no way an unusual occurrence in pre-development tree surveys, most often where dense ground cover or ivy growth on the trees prevent access to carry out a detailed inspection. The report recommends a reassessment following clearance of the vegetation, which is preventing access to the trees, as would be expected in line with good arboricultural management. However, in this instance, the Tree Officer is satisfied that even if any further significant structural defects are found on any of the trees at a later date, this could only lead to downgrading their categorisation and so have little practical impact with regard to the trees already recommended for removal to accommodate the development. If further defects are found on trees proposed to be retained, the applicant would need to apply to vary any approved details should permission be granted.

Regarding the Tree Protection Plan (TPP) the Tree Officer advises that the plan shows that new site access encroaches into the root protection area (RPA) for trees T1, T2, T3 and T14. Although ideally any encroachment should be avoided it is not always unacceptable for areas of new hard standing (or even buildings) to be positioned within the RPA, providing that the proportion of the RPA that is affected is not excessive and appropriate mitigation is applied by using construction methods which limit the potential impacts to the underlying tree roots. In this instance, the Tree Officer does not consider the level of encroachment into the RPA for any of the trees to be excessive, it is within the nominal maximum of 20 percent recommended within BS5837. Plus, the specification for the access recommended in the submitted Arboricultural Method Statement (AMS), which is for it to be constructed using a no-dig, cellular confinement system, is in line with the current industry best practices. As such, in this instance, the Tree Officer considers the proposed access arrangements acceptable.



The Tree Officer also advises that the AMS also provides recommendations regarding the new footpath to the front of Plots 1-3, which also encroach into the RPA. These are also recommended to use a no-dig specification and appropriate working methods - which, considering the relatively light loads associated with a pedestrian access, would be relatively easy to achieve without significant impacts to the trees. There is however the additional complication that the works will need to be carried out within the area excluded to construction by the tree protection fencing. The AMS allows for this by specifying a normal position for the fencing enclosing the whole RPA, which is to be maintained during the main part of the construction works. During the installation of the footpaths, the fencing is to be repositioned as shown in the TPP. Once the paths are installed, the fencing is to be returned to its original position and maintained until the development is complete.

Overall, the Council’s Tree Officer has no arboricultural objections to outline permission being granted.

Subject to a condition requiring tree protection measures in accordance with the submitted details, it is considered that the proposed development would be acceptable in respect of impacts on existing trees to be retained and would comply with Policies En1 of the adopted Local Plan.

Local objections have been raised about the removal of a Horse Chestnut tree on the western boundary of the site, which is claimed to be in the ownership of a neighbouring occupier. However, the applicant has provided land registry details which show the application site to be in his ownership at this point. It must also be remembered that land ownership matters are not planning issues for consideration and should be dealt with under civil law.

**Flood Risk and Surface Water Drainage**

Local concern has been raised about flooding and the presence of a subterranean stream on the site. No documentation can be found to evidence a subterranean stream on the site and the applicant, who lived at the former property on the site, has advised that they are unaware of such a stream. Regardless, Building Control has advised that this would be covered by separate Building Regulations legislation if the issue arose, and the developer would be required to design suitable foundations having regard to ground conditions and any subterranean activity.

The application site and the properties within the vicinity of the site are sited on land at least risk of flooding (flood zone 1) and the site is not identified as being at any high risk of surface water flooding. There is a low risk of surface water flooding on the front part of the site as detailed in the image below where the site appears to form part of a surface water flow route from the

north, through the site to St Bernard's Road and beyond down a watercourse to the south west of the site.



The dwellings would be located just to the south of the flow route. The proposal would result in an increase in hard-surfacing at the site but in view of the areas that would remain permeable, and the low risk of surface water flooding in the locality, it is considered that the proposal would not exacerbate any localised flooding issues. As such the development would accord with Policies Cc2 and Cc3 of the adopted Local Plan.

### **Other Matters**

Regarding neighbour comments that have not been addressed in the above text, a site notice was posted for this development on 7 September 2022 on a lamp post fronting the site near to the bus stop. Therefore, the Council has met the publicity requirements for this application.

With regard to comments about the decommissioning of the post box, this is an external process not involving the District Council and therefore the District Council, would not have any involvement in this process.

As for concerns that neighbours were not involved in pre-application discussions, it would be for the applicant to engage with the local community as neighbours are not consulted by the District Council on pre-application proposals as there is no requirement in the planning acts to do so.

Regarding the queries about the application site being on land that is not in the ownership of the applicant, the applicant has provided land registry titled deeds which show that he owns the parts of the application site which are being queried by local residents.

As for comments about foul drainage, the application form confirms that the development would be connected to the mains sewer.

### **Conclusion**

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.

In conclusion, the site lies within the Limits to Development where the principle of new residential development is considered acceptable. The proposed access and layout do not give rise to any significant impacts regarding residential amenity, design and visual amenities, flood risk and drainage, ecology, trees or highway safety.

There are no other relevant material planning considerations that indicate planning permission should not be granted. Overall, the proposal is deemed to comply with the relevant policies in the adopted Local Plan, the Council's Good Design SPD and the overarching guidance in the NPPF. Accordingly, the application is recommended for planning permission, subject to the imposition of planning conditions.