

Item No. 3

Application Reference Number P/22/0891/2

Application Type:	Full	Date Valid:	7 th June 2022
Applicant:	Mr Landers		
Proposal:	Erection of 2 storey building comprising 8 flats with associated bin storage facilities, car parking, access and landscaping works.		
Location:	Rear of 39 A Leicester Road Shepshed Leicestershire LE12 9DF		
Parish:	Shepshed	Ward:	Shepshed East
Case Officer:	Jack Wilkins	Tel No:	07754256235

This item has been called in to Plans Committee at the request of Councillor Popley who has concerns about the, impact of the proposal on the street scene, highway and disability access.

Description of the Site

The application site relates to land between and to the rear of nos. 39a and 41 Leicester Road situated on the western side of Leicester Road in Shepshed. The site falls within Shepshed's limits to development, as defined by Local Plan Policy ST/2, in close proximity the town's district centre. The surrounding area is predominantly residential in use. The street scene generally consists of Edwardian residential dwellings with red brick and rendered frontages. The application site's primary access is located between nos. 39a and 41 Leicester Road, and currently serves as an off street parking area for the residents of the 2 flats at no. 39a Leicester Road. The access has existing and full dropped kerb provision.

The site is neighboured by nos. 39a and 41 Leicester Road, with the proposed access running adjacent to the flank walls of these buildings. The back garden of no. 39a Leicester Road has been cleared of trees and vegetation prior to the submission of this application; however the rear of no. 41 Leicester Road, which will partly be acquired by the applicant and used as land for the proposed development, remains uncleared and contains shrubs and trees. Trees and a hedgerow of poor quality currently form the boundary between nos. 39a and 41. The site slopes down away from Leicester Road by approximately 2.9m from the rear elevation of no. 39a and the frontage of the proposed building.

Two windows on the ground floor and first floor of no. 39a face the access, and these have been confirmed as storage rooms.

Proposal

Full planning permission is sought for the erection of a two-storey building to create 8 one bedroom flats (4 ground floor units and 4 first floor units).

The proposed building will sit on the western side of the site, approximately 50m from the rear of the dwellings on Leicester Road and 53.8m from the nearest dwellings to the rear on Sullington Road. The proposed building will measure 20.7m in length and 13.7m in width. In height, the proposed building will measure approximately 6.32m to the eaves and approximately 9m to the roof ridge. Flats 1, 2, 5 and 6 (2 person units) will measure 51.76 sq.m internally, with flats 3, 4, 7 and 8, (1 person units), measuring 42.3 sq.m in size.

14 parking bays and cycle parking are proposed, grouped around a turning area within the site. These spaces would serve both the new flats and the two existing flats at 39a Leicester Road. The external walls would be constructed using traditional red facing brickwork, and the roof will be grey roof tiles.

A landscaping scheme is also proposed, which would see a mix of trees, shrubs and hedgerows lining the western northern and southern boundaries of the site.

Provision for bin storage has also been provided south of the parking bays, with a bin collection point proposed adjacent to the southern boundary of no. 39a Leicester Road, closer to the highway.

Acoustic fencing is proposed to the site's shared boundaries with nos. 39a and 41 Leicester Road, running parallel with the proposed access.

This application is supported by the following documents:

- Preliminary Ecological Appraisal
- Topographical Survey
- Planning Statement
- Highways and Access Report

Development Plan Policies

Charnwood Local Plan 2011-2028 Core Strategy

Policy CS1- Development Strategy - sets out the development strategy for the Borough. This focuses housing development in locations around the Leicester Principal Urban Area and Loughborough and Shepshed with three Sustainable Urban Extensions.

Policy CS2 - High Quality Design - requires developments to make a positive contribution to Charnwood, reinforcing a sense of place. Development should respect and enhance the character of the area, having regard to scale, massing, height, landscape, layout, materials and access; protect the amenity of people who live or

work nearby, provide attractive well managed public and private spaces; well defined and legible streets and spaces and reduce their impact on climate change.

Policy CS3 - Strategic Housing Needs – states that the Council will manage the delivery of at least 13,940 new homes between 2011 and 2028, seeking an appropriate mix of types, tenures and sized of homes, having regard to identified housing needs and the character of the area.

Policy CS13 - Biodiversity and Geodiversity - seeks to conserve and enhance the natural environment and expects development proposals to consider and take account of the impacts on biodiversity and geodiversity, particularly with regard to recognised features.

Policy CS16 - Sustainable Construction and Energy - supports sustainable design and construction techniques.

Policy CS25 - Presumption in Favour of Sustainable Development- echoes the sentiments of the National Planning Policy Framework in terms of sustainable development.

Borough of Charnwood Local Plan

Policy ST/2- Limits to Development - this policy sets out limits to development for settlements within Charnwood.

Policy EV/1 – Design - This seeks to ensure a high standard of design and developments which respect the character of the area, nearby occupiers, and which are compatible in mass, scale, layout, whilst using landforms and other natural features. Developments should meet the needs of all groups and create safe places for people.

Policy TR/18 – Parking in New Development - This seeks to set the maximum standards by which development should provide for off street car parking.

Other material considerations

The National Planning Policy Framework (NPPF 2021)

The NPPF sets out the Government’s view of what sustainable development means. It is a material consideration in planning decisions and contains a presumption in favour of sustainable development. For planning decisions this means approving proposals that comply with an up to date development plan without delay. If the Development Plan is silent or policies most relevant to determining the application are out of date permission should be granted unless protective policies within the NPPF give a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.

The NPPF policy guidance of particular relevance to this proposal includes:

Section 5: Delivering a sufficient supply of homes

The NPPF requires local planning authorities to significantly boost the supply of housing and provide five years' worth of housing against housing requirements (paragraph 75). Where this is not achieved policies for the supply of housing are rendered out of date and for decision-taking this means granting permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, (paragraph 11d). Paragraph 14 sets out what the status of neighbourhood plans is where the presumption at paragraph 11d applies. Local planning authorities should plan for a mix of housing and identify the size, type, tenure and range of housing that is required and set policies for meeting the need for affordable housing on site (paragraph 62).

Section 8: Promoting healthy and safe communities

Planning decisions should promote a sense of community and deliver the social, recreational and cultural facilities and services that such a community needs.

Section 9: Promoting Sustainable Transport

All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and a Travel Plan (paragraph 113). Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable modes maximised (paragraph 105). Developments should be designed to give priority to pedestrian and cycle movements and create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and within large scale developments, key facilities should be located within walking distance of most properties (paragraph 106). Development should only be prevented or refused on transport grounds if there would be an unacceptable impact on highway safety, or where the residual cumulative impacts would be severe (paragraph 111).

Section 12: Requiring well-designed places.

The NPPF recognises that good design is a key aspect of sustainable development and that high quality, beautiful, sustainable and inclusive design should be planned for positively (paragraph 126).

Section 14: Meeting the challenge of climate change, flooding and coastal change
New development should help reduce greenhouse gas emissions and energy efficiency improvements in buildings should be actively supported (paragraph 153). It should also take account of layout, landform, building orientation, massing and landscaping to minimise energy consumption (paragraph 157) and renewable and low carbon energy development should be maximised (paragraph 158).

Planning Practice Guidance

This web based resource, provides national planning practice guidance. The guidance sets out relevant guidance on aspects of flooding, air quality, noise, design, the setting and significance of heritage assets, landscape, contaminated land, Community Infrastructure Levy, transport assessments and travels plans, supporting the policy framework as set out in the NPPF.

The National Design Guide

Seeks to encourage high quality design and sets out how this can be achieved.

Leicestershire Housing and Economic Needs Assessment (HENA) – 2022

HENA provides an up to date evidence base of local housing needs including an objectively assessed housing need figure based on forecasts and an assessment of the recommended housing mix based on the expected demographic changes over the same period. The housing mix evidence can be accorded significant weight as it reflects known demographic changes.

Technical Housing Space Standards (2015)

Seeks to encourage minimum space standards for housing. This document has not been adopted for the purposes of Development Management at Charnwood Borough Council, but it is included in draft Policy H3 of the emerging local plan and is therefore a material consideration for which appropriate weight must be given.

Conservation of Habitat and Species Regulations 2010 (as amended)

The Council as Local Planning Authority is obliged in considering whether to grant planning permission to have regard to the requirements of the Habitats Directive and Habitats Regulations in so far as they may be affected by the grant of permission. Where the prohibitions in the Regulations will be offended (for example where European Protected Species will be disturbed by the development) then the Council is obliged to consider the likelihood of a licence being subsequently issued by Natural England.

Equality Act 2010

Section 149 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality.

Planning Guidance for Biodiversity June 2022

This planning guidance seeks to provide further clarification to Core Strategy Policy CS13 insofar as ensuring development proposals secure biodiversity net gain on-site to contribute towards the overall sustainability of development proposals.

Design Supplementary Planning Document (2020)

This document seeks to encourage, promote and inspire higher design standards in new development.

Leicestershire Highways Design Guidance

This is a guide published by the local highway authority provides information to developers and local planning authorities to assist in the design of road layouts in new development. The purpose of the guidance is to help achieve development that provides for the safe and free movement of all road users, including cars, lorries, pedestrians, cyclists and public transport. Design elements are encouraged which provide road layouts which meet the needs of all users and restrain vehicle dominance, create an environment that is safe for all road users and in which people are encouraged to walk, cycle and use public transport and feel safe doing so; as well as to help create quality developments in which to live, work and play. The document also sets out the quantum of off-street car parking required to be provided in new housing development.

The Crime and Disorder Act 1998

This places a duty on the local planning authority to do all that it reasonably can to prevent crime and disorder in its area. The potential impact on community safety is therefore a material consideration in the determination of planning applications.

Draft Charnwood Local Plan 2019-2037

The Local Planning Authority is in the process of preparing a new local plan for the borough for the period up to 2037. The new local plan will include strategic and detailed policies and will be prepared to provide for a longer plan period than the adopted Charnwood Core Strategy, which provides the strategy up to 2028.

Examination in Public of the Local Plan commenced in July 2022 with sessions held in October with the specific purpose of reviewing the latest evidence of housing need for Charnwood and the apportionment of unmet housing need from Leicester. Further sessions are to be convened in the New Year, subject to Inspector's comments on the approach taken by the Plan with regard to Leicester's unmet need.

Relevant Planning History

There is no planning history relevant to this application.

Responses of Consultees

The table below sets out the responses that have been received from consultees with regard to the application. Please note that these can be read in full on the Council's website www.charnwood.gov.uk

Consultee	Response
Shepshed Town Council	<ul style="list-style-type: none"> • Poor visibility onto the busy Leicester Road • Insufficient parking • Scheme has not considered disabled access • Site is not in keeping with surrounding area.
Cllr Radford	<ul style="list-style-type: none"> • Not suitable to make more traffic on already busy road • Site is not in keeping with surrounding area
Cllr Popley ('Call in' to Plans Committee)	<ul style="list-style-type: none"> • Impact on street scene • Impact to highway • Concerned with accessibility issues
Charnwood Borough Council Environmental Health	<ul style="list-style-type: none"> • Ground and first floor side windows of concern at 39a are confirmed as serving storage areas (non-habitable rooms). Therefore, reduces risk of noise and odour from bins. • Full acoustic fencing should be provided to protect rear gardens and windows to both neighbouring properties.
LCC Highways	<ul style="list-style-type: none"> • The provided visibility splays are in excess of the required 43m for roads with a speed limit of 30mph. • The proposed development should not exacerbate the existing highway safety situation in the vicinity of the proposed development. • The LHA are satisfied that cycle parking has been provided and is demonstrated on drawing no. HAS/22-003/02 Rev A. • The LHA have suggested 6 conditions which will be listed at the end of this report.
Charnwood Housing	<p>All of the bedrooms within the flats are inner rooms off the open plan kitchen and living rooms, which are at risk in terms of fire safety. As such, the following fire safety measures will be required:</p> <ol style="list-style-type: none"> 1) Each bedroom needs to be separated from the open plan kitchen and living rooms by a FD30 fire door complete with intumescent strips and smoke seals and a positive action self-closing mechanism; 2) Each flat needs a heat detector in the open plan living room and kitchen, interlinked with a smoke detector in the bedroom; 3) Each bedroom needs an escape window to comply with current building regulations.

Other Comments Received

4 letters received from nearby properties. The main points from these objections are as follows:

- The development is out of character for the area, which is comprised of housing of various types, and not blocks of flats.
- The additional traffic movements into and out of the new entrance into the development will add to an already very busy road.
- The proposed development will exacerbate existing parking issues along Leicester Road.
- Empty bins will be left haphazardly along the Leicester Road pavement
Tranquility of gardens have been compromised.
- Loss of ecology

Consideration of the Planning Issues

The starting point for decision making on all planning applications is that they must be made in accordance with the adopted Development Plan unless material considerations indicate otherwise. The most relevant policies for the determination of this application are listed above and are contained within the Development Plan for Charnwood which comprises the Charnwood Local Plan 2011-2028 Core Strategy (2015), those “saved” policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy.

The Core Strategy and Charnwood Local Plan are over 5 years old, and it is important to take account of changing circumstances affecting the area, or any relevant changes in national policy. Other than those policies which relate to the supply of housing, the relevant policies listed above are up to date and compliant with national guidance and as such that there is no reason for them to be given reduced weight. As the Core strategy is now five years old, the Planning Authority cannot currently demonstrate a 5-year supply of housing land (3.04 years) and, as a result, any policies which directly relate to the supply of housing are out of date and cannot be afforded full weight. The shortfall in the supply of deliverable housing sites also means that, in accordance with the presumption in favour of sustainable development (at paragraph 11d), any adverse impacts caused by the proposal must significantly and demonstrably outweigh its benefits for planning permission to be refused.

Part i) of NPPF paragraph 11d) sets out that where there are NPPF policies that protect areas or assets this can be a clear reason to refuse an application. These are generally nationally designated areas such as SSSI's, designated Local Green Space, AONBs and designated heritage assets. In this case, the site is not in an area specifically protected by the NPPF such that the NPPF's presumption in favour of sustainable development and the 'tilted balance' applies.

The main issues to be considered in the determination of this application are:

- Principle of development
- Design and the Impact on the Street Scene

- The Impact on Residential Amenity
- Highway Safety
- Impact on Biodiversity

The Principle of the Development

The principle of development is guided by local plan policies CS1 of the Charnwood Core Strategy (2015) and saved policy ST/2 of the Borough of Charnwood Local Plan (2004). Policy ST/2 and Proposals Map of the Charnwood Local Plan identify Limits to Development for various settlements in the Borough. Policy CS1 of the Core Strategy outlines the development strategy for the borough and the distribution of sustainable growth.

Policy CS1 directs development to Leicester Principal Urban Area and then directs the majority of the remaining growth will be met at Loughborough and Shepshed where provision will be made for at least 5,000 new homes. The policy states that the Council will plan positively for sustainable development which contributes towards meeting remaining development needs, supports our strategic vision, makes effective use of land and is in accordance with the policies in this strategy.

The site is within the Limits to Development of Shepshed as defined by policy ST/2 and is therefore considered to be in a sustainable location.

Policy CS3 of the Core Strategy outlines a requirement to secure an appropriate housing mix having regard to the identified housing needs and the character of the area. The Leicestershire Housing and Economic Needs Assessment (HENA) 2022 is a material consideration. HENA outlines a recommended housing mix for the Borough in respect of both market and affordable housing. This includes the following market housing mix:

Market housing	
1 bed	5%
2 bed	30%
3 bed	45%
4+ bed	20%

This application seeks to provide 8 x 1 bedroom dwellings within close proximity to local amenities and public transport. As noted by Cllr Popley, these residential units are not considered to be accessible to any persons with disabilities. This is not however contrary to any adopted design and amenity policies and cannot therefore form a reason for refusal. It is noted that emerging policy H2 does include a requirement for a proportion of market homes to be accessible and adaptable dwellings, but this applies to major applications only and would not apply to this proposal.

.Whilst the proposal does not provided a mix that reflect the evidence of need found in the HENA, it fulfils part of that identified demand for smaller dwellings. Policy CS3's supporting text (paragraph 5.7) states that it is important to recognise that some smaller dwellings will still be needed and does not prescribe that a mix is required on

every site, depending on circumstances. Therefore although the mix does not reflect the profile of need identified by HENA, this is not considered to be in conflict with policy CS3.

Given the proposal would provide 8 new dwellings within a sustainable settlement in the Borough, it is considered that the proposal would be in principal accord with Policies CS1 and CS3 and the NPPF as being a sustainable form of development. The limited dwelling mix proposed does conflict with recommended housing mix in HENA but this is a minor negative of the proposal, to be weighed in the planning balance.

Design and the Impact on the Character and Appearance of the Area

Policy CS2 of the Core Strategy and saved policy EV/1 requires new developments to respect and enhance the character of the area and supports development that is of a design, scale, layout and mass compatible with the locality and which uses materials appropriate to the locality. Developments should function well and add to the overall quality of the area, be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and be sympathetic to local character, including the surrounding built environment and landscape setting. The NPPF and PPG advise that in order to meet the objectives of sustainable development new development should be well-designed and provide a safe built environment. The Design SPD provides design principles to guide new proposals. These policies generally accord with the NPPF and National Design Guide and do not frustrate the supply of housing. As a result, it is not considered that there is a need to reduce the weight that should be given to them.

In the immediate area, dwellings on the western side of Leicester Road are sited close to the road and have long rear gardens. The dwellings are two-storey and a mix of detached and terraced dwellings. The local materials are red brick and grey tile with eaves and stone cill/lintel detailing and feature sash and bay windows.

The proposed block of flats will be situated over 50m to the west of Leicester Road on garden land of nos. 39 and 41. Despite breaking the established building line along the western side of Leicester Road, the sloping ground level, measuring at a difference of approximately 2.9m between Leicester Road and the front elevation of the proposed block, will soften the visual impact of the two storey building. The submitted plan (KDP/002A) shows a site section to indicate that the block of flats will be lower in height than the eaves of number 39a. The existing street scene is made up of predominantly detached and terraced Edwardian dwellings, so the block of flats will contrast with the prevailing street scene. However, due to the set-back position and the reduced visibility due to the land levels, this contrast will be lessened as the structure would not be prominent within the street. It is also noted that there are dwellings to the rear of other properties on Leicester Road, for example the dwellings on Spring Close to the south. Final levels details for the building and the parking can be secured by planning condition.

The proposed block has a central door with two gabled wings either side. The roof has a low pitch due to the width and depth of the block. The block and its windows have a horizontal emphasis, in contrast to the existing older dwellings on Leicester

Road. The proposed materials of red brick, stone detailing and grey roof tile do reflect the materials of the immediate area. Subject to final materials details being secured by condition, the proposed block of flats is not considered to create an incongruous feature in the street scene.

The submitted landscaping plans show that landscaping can be used to soften the impact of the proposed building and the large area of parking/hardstanding and will provide some greenery on the site, although less than is common in the surrounding properties.

Policy CS16 requires development to provide for suitable storage of waste and allow convenient waste collections. The proposed bin storage has been placed adjacent to the southern boundary which will ensure the bin structure will not be visible from the street, thus having minimal impact on the street scene. The bin collection point is adjacent to 39, which will be prominent in the street scene, but this negative impact is only on bin collection day. The provision of the bin storage and collection area can be secured by condition.

In conclusion, subject to planning conditions, it is considered that the design, scale, form and materials of the proposal complies with Policies CS2, CS16 and EV/1, the Design SPD and the NPPF.

The Impact on Residential Amenity

Saved policy EV/1 of Local Plan and policy CS2 of Core Strategy require high quality design that does not impact on the amenity of adjacent properties or create poor standards of amenity for future occupiers. The Charnwood Design SPD (2020) also provides spacing standards and guidance to ensure an adequate level of amenity is achieved.

The NPPF states that planning decisions should ensure new development is appropriate for its location, and avoid noise giving rise to significant adverse impact on health and quality of life. Planning decisions should identify opportunities to improve air quality or mitigate impacts.

With regards to occupier amenity, all the proposed residential units will measure either 42.27 or 51.76 sq/m internally, which meets the nationally described space standards for a single bedroom dwelling with one and two occupants. Living spaces are positioned to face east and west. Each unit is afforded a suitable level of natural light and due to the distance between the proposed block of flats and any neighbouring dwellings, occupiers will be given a sufficient level of privacy and outlook.

With regards to impact on neighbouring amenity, as noted above, the distance between the proposed building and neighbouring properties (nos. 39 and 41 Leicester Road to the east and nos. 60, 62, 64, and 66 Sullington Road some 58m. to the west) is sufficient to ensure the block of flats will protect the amenity of neighbours in terms of impact upon daylight, sunlight, privacy and outlook.

The proposal ensures that the garden space remaining for nos. 39 and 41 Leicester Road is suitably scaled to address the amenities of the occupants. The ground floor

of No. 39 retains its private amenity space on the patio area, with the first floor retaining its balcony area.

The proposed access will be situated between the dwellings at nos. 39 and 41 Leicester Road, and this area will subsequently see an increase in traffic using a newly established access serving the 8 the new flats. The access is currently used as 4 parking spaces for number 39. The new access will serve 14 spaces (1 for each flat, 2 visitor spaces and 4 for 39a/b Leicester Road).

The Environmental Health Team has been consulted and provision of acoustic fencing for no. 41 (the northern and western garden boundary) and acoustic fencing for no. 39a/b (the southern and western garden boundary) will acceptably alleviate noise impacts to these two properties. Final details of the acoustic fencing can be secured by planning condition. The fence height and design will need to take account of proposed site levels. Due to the height and proximity of the acoustic fencing provision, impact of the fence on daylight must be considered in relation to the ground floor habitable windows of no. 39a Leicester Road. The kitchen window of no. 39a will face the acoustic fencing to the south and it is considered that its southerly orientation will ensure that the habitable room will receive ample daylight provision. There are no side elevation windows on no. 41 adjacent to the proposed access.

With regards to the positioning of the bin collection area, the Environmental Health Team have expressed no objection to its siting below the ground and first floor side windows of no. 39. These windows serve small storage rooms, meaning the habitable rooms of the two dwellings will remain unaffected by potential odours and early morning noise from the bins on collection day. The other ground floor rooms closest to the bin storage area are a lounge to the front of no. 39a and a bedroom to the rear of no. 39a. Bin storage provision for 16 bins is proposed in a wooden enclosure 8m by 1.8m by 1.9m high and can be secured by planning condition.

In conclusion, it is considered that the proposal would not adversely affect the amenity of existing and future residents, subject to the imposition of planning conditions. As such, the proposal accords with Core Strategy Policy CS2, saved local plan policy EV/1, the NPPF, and the Design SPD.

Highway Safety

Paragraph 111 of the NPPF states that; new development should only be resisted on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impact on the road network would be severe.

Leicester Road has a 30mph limit and experiences heavy traffic throughout the day with a large amount of on street parking spanning the length of the street, due to limited off-road parking provision. Comments have raised concerns regarding parking pressures, traffic movements and access visibility.

The proposed site access is 4.8m in width with an additional 0.5m clearance margin to either side. The site access will be a private road and thus will not adopted by the Local Highway Authority. As a refuse vehicle will not enter the site, and 4.8m is sufficient for two cars to pass, this width is acceptable to the Local Highway Authority.

The Local Highway Authority also advise that vehicular visibility splays 2.4m by 47m either side of the site access exceed the required 43m. Pedestrian visibility splays of 2.0m by 2.0m are also provided at the site access, subject to alteration to existing boundary walls (details to be secured by condition). Dropped kerb provision is already present on site due to an existing small scale parking bay serving 39 Leicester Road, which will allow the safe entrance and exit to the site, subject to a small increase in the dropped kerb, to be secured by condition. Likewise, the proposed parking plan allows for vehicles to face Leicester Road upon their exit of the site through the provision of turning provision within the site.

Cycle storage provision for 8 cycles has also been shown on site, which the Local Highways Authority confirm will encourage sustainable transport to and from the site and in accordance with Highway Requirements for development Part 4 parking standards. The final design of the cycle store and its provision prior to occupation can be secured by planning condition.

Regarding the impacts of construction to highway safety, the Local Highway Authority have requested the inclusion of a condition which requires the submission of a construction management plan to be approved in writing prior to the commencement of works.

It is therefore considered that the development has minimal impact to highway safety and parking and accords with saved Policy TR/18 of the adopted Local Plan and Paragraph 111 of the NPPF. The safe use of the site and its access will be secured by planning conditions requested by the Local Highway Authority.

Impact on biodiversity

Policy CS13 seeks to conserve and enhance the natural environment. The policy states that where there are impacts on biodiversity, adequate mitigation is required, or as a last resort, compensation which results in replacement provision that is of equal or greater value and potential than that which is lost and is likely to result in a net gain in biodiversity. NPPF paragraph 174 is a significant material consideration and states that planning decisions should minimise impacts on and provide net gains for biodiversity. The adopted biodiversity planning guidance sets out how development impacts can be mitigated by using Biodiversity Impact Assessment to calculate a sites biodiversity before and after the proposed development (expressed as habitat units). Where BIA indicates that on-site provision will not secure net gain, off-site habitat creation is required.

Emerging policy EV6 seeks 10% biodiversity net gain and the protection and enhancement of habitats, species and networks. Emerging policy EV7 supports the retention of existing trees and new tree planting. Although the Environment Act 2021 makes provision for 10% biodiversity net gain, the relevant sections of the Act have not yet been brought into force to make it a legal requirement and is not currently required by national policy. Nevertheless, policy EV6 can be given only limited weight until the emerging policy is further progressed towards adoption.

The existing back garden of no. 39a had been cleared prior to the submission of this application. The southern part of the site is currently the rear garden of no. 41 and contains small ancillary structures, shrubs and trees. To enable the development, the back garden of no. 41 will be cleared and the poorly maintained hedgerow and trees along the boundary of nos. 39 and 41 will be removed.

The application is supported by a preliminary ecological appraisal (February 2022). The report states that the site comprises amenity grassland, bare ground, hardstanding, a mosaic of poor semi-improved grassland and tall ruderals, scattered broadleaved trees, scattered introduced shrubs, scattered scrub, and species-poor hedgerows. The Site has potential to support sheltering common amphibians and reptiles, commuting badger, roosting bats within trees, nesting birds, and small mammals including European hedgehog and polecat. An invasive, non-native plant species, variegated yellow archangel, was also present onsite. Within the site 9 trees were identified. The mitigation recommended within section 5 of the Appraisal is:

- Native trees within new landscaped areas to replace those lost at 2:1 ratio
- Protection of retained mature trees during construction
- Native shrub planting and wildflower area
- Retain hedgerows on south and western boundary and new native hedgerows to replace those lost at 2:1 ratio
- Removal of invasive plant species and contaminated soils
- Precautionary measures for amphibians, mammals, reptiles and badgers
- Bat-sensitive lighting scheme
- Clearance works outside bird nesting season
- Fencing to be suitable for mammals and amphibians and reptiles
- Installation of bird boxes

The Council's ecologist has suggested that whilst some of these recommendations can be implemented and would help to mitigate some of the impact of the development during its operational and construction phases, others are not appropriate or are unenforceable, as follows:

- The layout does not allow for replacement of all trees removed
- It is unlikely that any mature trees could be retained. Of the three trees identified as significant in the ecological appraisal, only one (an offsite ash tree at no. 43) could be retained under these proposals.
- Some planting can be secured under a landscaping condition, but its long-term retention and management could not be enforced longer than 5 years. It is not reasonable to project the value of new landscaping as being any greater for biodiversity than any other private garden. A landscaping planning condition is required to assimilate the development into its surroundings.
- The central hedgerow will be removed and there is no prospect of replacing it on site at a 2:1 ratio. Boundary hedges are between private gardens and a condition requiring hedgerow retention is not recommended.
- The removal of variegated yellow archangel is welcome.
- Measures to prevent harm to protected and notable species during the construction phase can be made subject to a planning condition requiring a CEMP

- A bat sensitive lighting scheme can be secured by planning condition.
- The design of boundary features to allow movement of wildlife between gardens can be secured by planning condition.
- The inclusion of bat roosting and bird nesting features in the new building is welcome and can be secured by a pre-commencement planning condition.

The Council's Ecologist considers that a Biodiversity Impact Assessment (BIA) is necessary in this instance. The western part of the garden at no. 39 has historically been fenced off and developed naturally as part of an area of broadleaved scrub spanning several gardens. As such it did previously contribute to a local ecological network. However, the land was cleared prior to the pre-application advice request and the current application and prior to the applicant purchasing the site. The applicant has agreed to provide a Biodiversity Impact Assessment for the proposal based upon its condition at the point of the pre-application request. The Biodiversity Impact Assessment will need to be submitted and agreed and inform a Biodiversity Mitigation and Enhancement Scheme, including the possibility of off-site provision or compensation.

The Biodiversity Impact Assessment may indicate that on-site mitigation will not secure net gain and as such off-site provision, or as a last resort a financial contribution to off-site compensation for the loss of biodiversity, may be required. As the agreed Biodiversity Impact Assessment may require an off-site solution or a financial payment (which cannot be secured by condition) a S106 legal agreement will be required.

This planning obligation is considered to meet policy CS13 and the statutory tests contained in Regulation 122 of the Community Infrastructure Levy Regulations, and the requirements of paragraph 57 of the NPPF.

An illustrative landscaping scheme has been submitted, but this has not been informed by the Biodiversity Impact Assessment and does not indicate the trees to be felled or the sections of hedgerows to be removed or retained. Therefore, a final landscaping scheme is to be secured by planning condition.

With the recommended planning conditions and the obligation to provide a BIA, and potentially compensation, under S106 of the Planning Act, it is considered that the proposal will conserve existing features where possible and mitigate for biodiversity impacts in accordance with policy CS13 of the Core Strategy, the NPPF and the Biodiversity Planning Guidance.

Other matters

Charnwood Housing have noted that the internal layout will require fire safety measures. These requirements are noted; however, this will be addresses during the building regulations stage of the proposal and is therefore not a planning consideration.

Conclusion

Decisions on applications need to be made in accordance with the adopted development plan policies unless material considerations indicate otherwise.

As the Core strategy is now five years old, the Planning Authority cannot currently demonstrate a 5-year supply of housing land (3.04 years) and, as a result, any policies which directly relate to the supply of housing are out of date and cannot be afforded full weight. The shortfall in the supply of deliverable housing sites also means that, in accordance with the presumption in favour of sustainable development (at paragraph 11d), any adverse impacts caused by the proposal must significantly and demonstrably outweigh its benefits for planning permission to be refused.

The design of the building is considered acceptable in design terms and would comply with Policies CS2, CS16 and EV/1 and the Design SPD. The development would not form a prominent or incongruous aspect of the street scene although the design of the block of flats bears little reference to the character of the street.

With regards to neighbouring amenity, the development complies with the provisions of policies CS2 and EV/1 along with the advice given in the Design SPD with regards to loss of light, privacy, outlook and noise. Acoustic fencing will be provided to the north and south of the access to alleviate noise impacts to nos. 39 and 41 Leicester Road. The windows of no. 39 closest to the bin collection area are confirmed to serve small storage rooms, which alleviates any odour impacts arising from proposed siting of the bins.

It has been demonstrated that the proposed access, parking provision and access will not severely impact highway safety, in accordance with Saved Policy TR/18. The proposal therefore adheres to paragraph 111 of the NPPF.

The proposal will result in the loss of garden land and existing trees and hedges, but a net gain in biodiversity can be secured via an obligation in a S106 legal agreement, appropriate measures to protect biodiversity and an appropriate landscaping scheme can be secured by planning condition.

The proposed housing mix is for one bed flats only, which does not reflect the evidence of need identified in HENA, this is not prescriptive and as such there is no direct conflict with policy CS3.

Applying the tilted balance in paragraph 11dii), it is not considered that the identified adverse impacts (the conflict with the character of the area in design terms) would significantly and demonstrably outweigh the benefits of the development when assessed against the NPPF taken as a whole.

The application is therefore recommended for approval, subject to appropriate planning conditions being attached and an obligation to secure a net gain in biodiversity as part of S.106 Legal Agreement as set out below.

RECOMMENDATION A

That authority is given to the Head of Planning and Growth and the Head of Governance and Human Resources to enter into a legal agreement under section 106 of the Town and Country Planning Act 1990 to secure Biodiversity Impact Assessment and any resultant compensation, on terms to be finalised by the parties, as set out below:

Biodiversity	<ul style="list-style-type: none"> • To submit a Biodiversity Impact Assessment, to be agreed by the Local Planning Authority • To submit to the Local Planning Authority a Biodiversity Mitigation and Enhancement Scheme for approval and to provide biodiversity net gain on site in accordance with the Approved Biodiversity Mitigation and Enhancement Scheme. • Where the provision of the biodiversity net gain on site cannot be achieved, to provide the mitigation measures off site pursuant to the Approved Biodiversity Mitigation and Enhancement Scheme and if biodiversity net gain cannot be achieved fully by on and/or off-site to provision to pay the Biodiversity Impact Compensation to the Council, to be calculated in accordance with the Council's guidance.
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RECOMMENDATION B

That subject to the completion of the S106 legal agreement in recommendation A above, grant conditionally subject to the imposition of the following draft planning conditions and reasons and that the Head of Planning and Growth, in consultation with the Chair of the Plans Committee, be authorised to make minor amendments to the conditions and reasons, as might be necessary and appropriate.

- 1) The development, hereby permitted, shall be begun not later than 3 years from the date of this permission.

REASON: To comply with the requirements of Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby permitted shall be carried out in accordance with the following plans:
 - Site Location Plan at Scale 1:1250- received by the Local Planning Authority on 9/5/22.
 - 'TOPOGRAPHICAL SURVEY', HAS/22-003 (01A-09A), KDP/01B/PLANNING/2021 - received by the Local Planning Authority on 9/5/22.
 - Preliminary Ecological Appraisal- received by the Local Planning Authority on 9/5/22.
 - Highways and Access Report- received by the Local Planning Authority on 9/5/22
 - Elevations and Section KDP/02A/PLANNING/2021 – received by the Local Planning Authority on 30/9/22
 - Floor Plans and Bin Store KDP/01B/PLANNING/2021 received by the Local Planning Authority 9/5/22
 - Site Layout HAS/22-003/01 Rev A received by the Local Planning Authority 9/5/22

- Proposed Site Access/Car Parking Arrangements HAS/22-003/02 Rev A received by the Local Planning Authority 9/5/22
- Proposed Site Access with demolition/clearance overlay HAS/22-003/03 Rev A received by the Local Planning Authority 9/5/22
- Vehicular visibility splay (north of access) HAS/22-003/04 Rev A received by the Local Planning Authority 9/5/22
- Vehicular visibility splay (south of access) HAS/22-003/05 Rev A received by the Local Planning Authority 9/5/22
- Proposed Works at Site Entrance HAS/22-003/08 Rev A received by the Local Planning Authority 9/5/22

REASON: To define the terms of the planning permission.

- 3) No materials shall be placed on the site until such time as details of the type, texture and colour of the materials to be used on the external surfaces of the proposed development have been submitted to and approved in writing by the Local Planning Authority. Only materials approved in writing by the Local Planning Authority shall be used in carrying out the development.

REASON: To ensure that the appearance of the completed development is satisfactory, in accordance with Core Strategy Policy CS2 and Saved Policy EV/1.

- 4) No development shall commence on the site until such time as a Construction Traffic Management Plan, including as a minimum details of wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

REASON: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area in accordance with the National Planning Policy Framework (2021).

- 5) No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Drawings HAS/22-003/04 Rev A and HAS/22-003/05 Rev A have been implemented in full. Visibility splays once provided shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

REASON: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network in the interests of general highway safety and in accordance with the National Planning Policy Framework (2021).

- 6) No part of the development hereby permitted shall be occupied until such time as pedestrian visibility splays of 2 metres by 2 metres and the extended dropped kerb have been provided at the site access in accordance with plan HAS/22-003/08 Rev A. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

REASON: In the interests of pedestrian safety and to allow emergency access in accordance with the National Planning Policy Framework (2021).

- 7) The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

REASON: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

- 8) The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with drawing number HAS/22-003/02 Rev A. Thereafter the onsite parking provision shall be so maintained in perpetuity.

REASON: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).

- 9) The development hereby permitted shall not be occupied until such time as secure (and under cover) cycle parking for 8 cycles shall be provided in accordance with details first submitted to and approved in writing by the Local Planning Authority. Thereafter the cycle parking shall be maintained and kept available for use in accordance with the approved details.

REASON: To promote travel by sustainable modes in accordance with the National Planning Policy Framework (2021).

- 10) Prior to commencement of development, full details and specification of the acoustic fencing to be erected around the northern and western rear garden boundaries of no. 41 Leicester Road and the southern and western rear garden boundaries of no. 39a/b Leicester Road, shall be submitted to and approved in writing by the Local Planning Authority. The acoustic fencing shall be erected in accordance with the approved details prior to the construction of the building above slab level. The development shall thereafter be carried out in accordance with the approved details. The

acoustic fencing shall be retained as approved for as long as the development remains.

REASON : To ensure the creation of a satisfactory environment free from intrusive levels of noise during construction and occupation of the development in accordance with policy CS2 of the Core Strategy and saved policy EV/1 of the Local Plan and paragraph 185 of the NPPF.

- 11) No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed in accordance with the approved levels.

REASON : In order to safeguard the visual amenities of the area in accordance with policy CS2 of the Core Strategy and saved policy EV/1 of the Local Plan.

- 12) Prior to the first occupation of the development hereby approved, a designated bin storage bin building for at least 16 wheelie bins and a bin collection area as shown on the approved plans shall be provided and be available for use and retained for such use thereafter.

REASON: In the interests of safeguarding residential amenity in accordance with Policy CS2 of the Core Strategy and saved policy EV/1 of the Local Plan.

- 13) Full details of the boundary enclosures along the northern, western and southern boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority before the block of flats hereby approved reaches slab level and such means of enclosure shall be erected prior to the first occupation of the flats.

REASON: To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to allow for connectivity for wildlife to comply with policies CS2 and CS13 of the Core Strategy and saved policy EV/1 of the Local Plan.

- 16) A scheme for landscaping the site shall be provided to and approved in writing by the Local Planning Authority which shall include:

- a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc),
- b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the

- base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- c) details of the hard landscaping including hard surface areas, pavements, pedestrian areas and steps.

All species used in the planting proposals associated with the development shall be native species of UK provenance.

Such details shall be provided prior to the development progressing above slab level or such alternative time frame as agreed in writing by the developer and the Local Planning Authority. The approved scheme shall be implemented by the end of the first planting season following first occupation of the development.

REASON: To ensure that a satisfactory landscape scheme is provided in the interest of well-planned development and visual amenity and to accord with

- 17) All planting, seeding or turfing comprised in the approved details of landscaping shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

REASON : To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy CS2 of the Core Strategy 2015.

- 18) No external lighting shall be installed within the site unless and until full details of external lighting have been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development does not cause harm to any protected species or their habitats in accordance with policy CS13 of the Core Strategy and paragraph 185 of the NPPF.

- 19) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;

- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

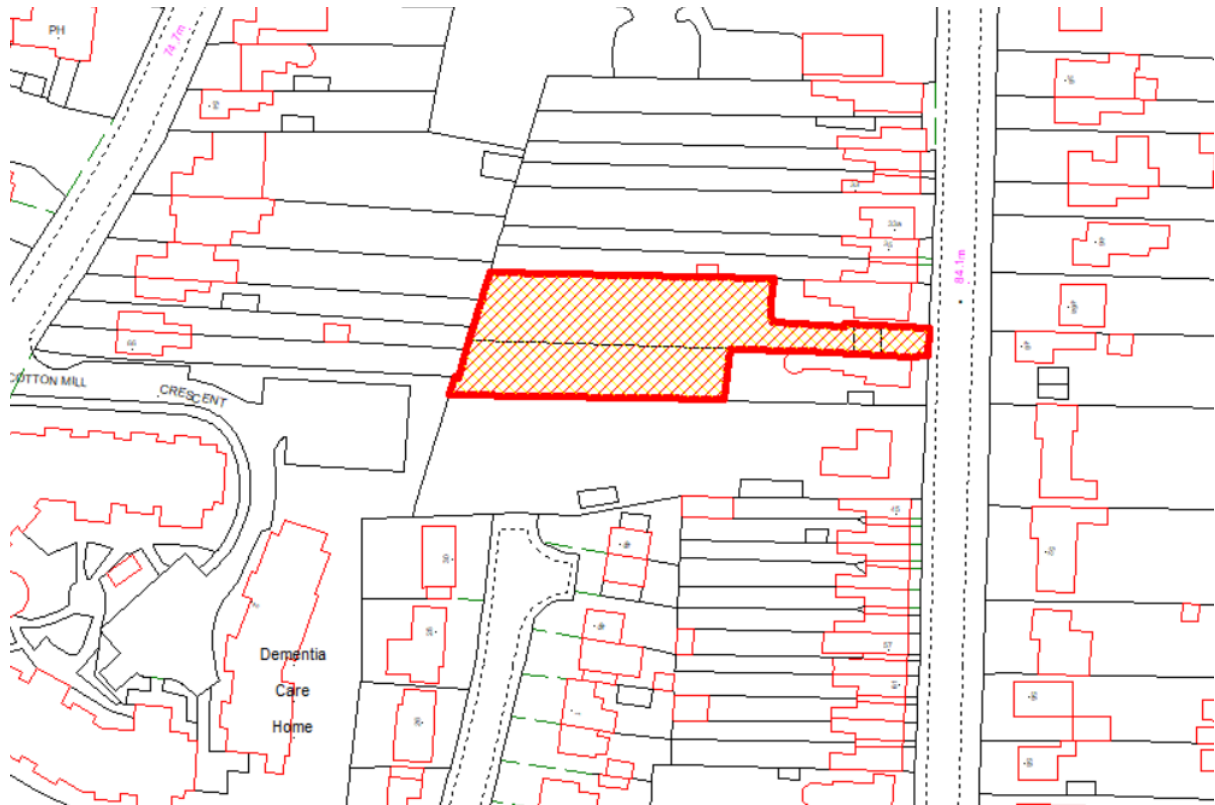
REASON: To protect habitats of importance to biodiversity conservation from any loss or damage and prevent harm to wildlife in accordance with Policy CS13 of the Charnwood Local Plan 2011-2028 Core Strategy (2015).

- 20) Full details of a scheme for the location of bat and bird boxes, to be integrated into the block of flats, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first use or occupation of the block of flats, the bat and bird boxes shall be installed on that building in accordance with the approved details.

REASON: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy CS13 of the Charnwood Local Plan 2011-2028 Core Strategy (2015) and the NPPF.

The following advice notes will be attached to a decision

1. DEVELOPMENT PLAN POLICIES RELEVANT TO THIS DECISION - Policies EV/1, H/17 and TR/18 of the Borough of Charnwood Local Plan (adopted 12th January 2004) and CS2, CS3 and CS13 of the Core Strategy (adopted 9th November 2015) have been considered in reaching a decision on this application.
2. Planning permission has been granted for this development because the Council has determined that it is generally in accord with the terms of the above-mentioned policies and the Council's adopted Design Supplementary Planning Guidance.
3. The decision has been reached taking into account paragraph 38 of the National Planning Policy Framework and in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015.



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