

Plans Committee Date	28 th September 2023
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Item Number: 5b

Application Reference Number

P/22/1852/2

Application Type: Full **Date Valid:** 17th October 2022

Applicant: HBR Estates

Proposal: Demolition of existing dwelling, garage and outbuildings and construction of replacement dwelling and car port with associated landscaping and parking

Location: Barn South of Heatherfield Cottage, Benscliffe Road, Newtown Linford, Leicestershire, LE67 9PZ

Parish: Newtown Linford

Ward:

Forest Bradgate

Case Officer: Liam Ward

Tel No:

07808 844786

1 Background

- 1.1 This application is referred to Plans Committee in accordance with the scheme of delegation as the scale of the replacement dwelling proposed is greater than envisaged by the relevant policy, CT/14 part (iii), and it therefore represents a departure from the development plan and the Officer recommendation is one of approval.
- 1.2 The application site, in the countryside, is comprised of a group of buildings, some of which appear to have been constructed as agricultural, or equine buildings. Further to consideration of an enforcement matter council officers found that the existing two-storey barn on the site was being used as a dwelling, without the benefit of a planning permission.
- 1.3 A Certificate of Lawfulness P/21/1926/2 was issued on 23rd December 2021 on the basis that the material change of use of the subject building had occurred so long ago that the breach of planning control was by then immune from enforcement, and therefore lawful. The certificate is for 'The use of the barn as a single dwellinghouse in Class C3 use'. The certificate did not consider the curtilage of the dwelling. It is this dwelling which the applicant seeks permission to replace.

- 1.4 The building outlined in red in Figure 1 below is the dwelling that was subject of the lawful development certificate P/21/1926/2. The sheds inside, and outside the blue line take their access from areas within the blue line. There is only one access point to the public road, and the fenceline forming the south-eastern boundary is unbroken.

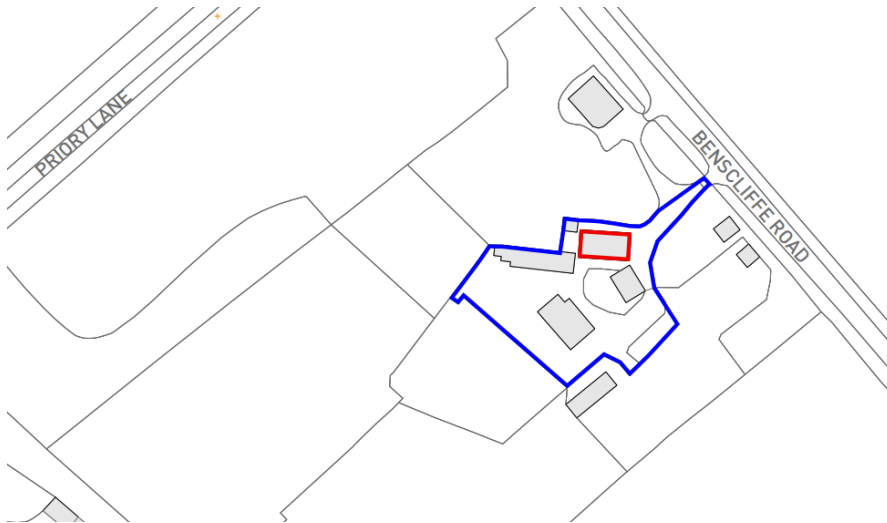


Figure 1 - Extract from Location Map for P/21/1926/2

2 Description of the application site

- 2.1 The site is situated south of the dwelling known as Heatherfield Cottage within the defined countryside. The site includes a group of existing buildings including the dwelling, double garage, four stable blocks and three open barns. All, bar the dwelling, are single storey.
- 2.2 Some of the buildings, including the stables and garage are in good repair. Others are of lower build quality and in a poor state of repair. A horse box is parked on the land and the site is littered with items of residential and equine related paraphernalia and building debris. Whilst some buildings had the appearance of being stone built, they are actually concrete block structures, with stone cladding.

Figure 2 - Photograph within the site showing the dwelling to be replaced and other buildings to either side



- 2.3 Within its wider context, the site comprises a clearing in Charnwood Forest, to the north of the village of Newtown Linford. To the south, east and west of the site the area is characterised by ancient woodland and further north are parcels of pasture and arable land.
- 2.4 The body of the site rises from Benscliffe Road toward the back (south-west) of the red line area by around 5m. Further south-west, beyond the site but within the applicant's ownership, the land continues to rise, reaching 24m above the adjacent road level at the ownership boundary. The woodland beyond the site forms a mature backdrop to the existing buildings. A stone wall defines the boundary with the public road, with one opening where the existing driveway breaks through it.
- 2.5 The application site is located within Flood Zone 1.
- 2.6 The development does not affect a listed building or Conservation Area.
- 2.7 The application was accompanied with a Location Plan which included all the site's buildings within its red line boundary, and which illustrated the wider ownership boundary with a blue line.

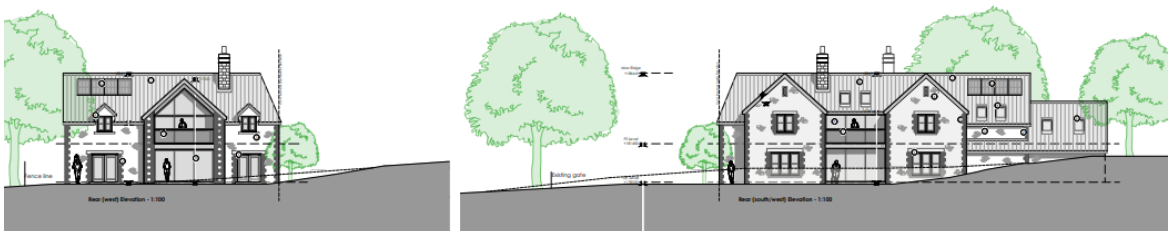
Figure 3 - View into the site from Benscliffe Road - Gable of existing two-storey dwelling shown



3 Description of the proposal

- 3.1 The proposal is a full application for a replacement dwelling. All eight existing buildings on site are to be demolished. The existing access is to be retained. The existing built form will be replaced by two new buildings, being a new dwelling and a garage with car port. The proposed dwelling is shown below:

Figure 4: Revised Proposed dwelling



- 3.2 The planning application was accompanied by a suite of drawings, including Location Map, Site Plan, floorplans, elevations, Topographical Survey, Landscaping Plan, a Landscape and Visual Appraisal, an Archaeological Appraisal, and Ecological Appraisal, a Design & Access Statement, and a Planning Statement.
- 3.3 During the processing of the application the agent was advised that the original proposed design of the dwelling was likely to be recommended as a refusal on the basis of its scale. After consulting with the applicant, the agent submitted a revised design which reduced the ridge height by approx. 1.5m and reduced the size of the garage. The revised design proposal differs from the original application proposal in three main respects:
- The original proposal was for a two and a half storey dwelling
 - The original proposal included relocating the vehicular access point, the revised proposal retains the original access.
 - The garage on the original proposal was larger
- 3.4 Cross sections show that the proposed dwelling would be cut into the existing landform with its finished ground floor level at or near existing ground level at the front of the house, and around 1m below existing ground level at the back elevation.

Figure 5: Cross-section of dwelling



- 3.5 During the early stages of the processing of the application the Local Highways Authority (LHA) had not been consulted. After checking with the applicant whether they wanted to have the changed access position considered, the LHA was consulted. Their response was to seek a speed survey and a Road Safety Audit. The applicant then changed the site plan to

show the access at its existing location thereby obviating the need for LHA commentary.

- 3.6 During the processing of the application the need arose to identify biodiversity mitigation areas. These are proposed just beyond the red line but within the blue line, between the south-eastern red line boundary and the south-east blue line boundary. The revised plans are being consulted upon and the consultation ends on the 25th September. Any further comments received from the consultation will be reported to the Plans Committee.

Figure 6: Revised Site Plan with biodiversity mitigation area shown hatched green



4 Development Plan Policies

- 4.1 The Adopted Local Plan for the area comprises the Charnwood Local Plan 2011-2028 Core Strategy (CS), the saved policies of the Charnwood Borough Local Plan 1999-2006 (LP) and the Minerals and Waste Local Plan (2019).
- 4.2 The policies relevant to the determination of this application include:

Charnwood Local Plan 2011-2028 Core Strategy

- Policy CS1 – Development Strategy
- Policy CS2 – High Quality Design
- Policy CS11 – Landscape and Countryside
- Policy CS12 – Green Infrastructure
- Policy CS13 – Biodiversity and Geodiversity
- Policy CS14 – Heritage
- Policy CS16 – Sustainable Construction and Energy
- Policy CS25 – Presumption in favour of sustainable development

[Borough of Charnwood Local Plan \(adopted 12 January 2004\) \(saved policies\)](#)

- 4.3 Where they have not been superseded by Core Strategy policies previous Local Plan policies remain part of the development plan. In relation to this proposal the relevant ones are:

- Policy ST/2 Limits to Development
- Policy CT/1 General Principles for areas of countryside
- Policy CT/2 Development in the Countryside
- Policy CT/14 Replacement Dwellings
- Policy EV/1 Design
- Policy TR/18 Parking in New Development

Minerals and Waste Local Plan (2019).

- 4.4 This document includes the County Council's spatial vision, spatial strategy, strategic objectives, and core policies which set out the key principles to guide the future winning and working of minerals and the form of waste management development in the County of Leicestershire over the period to the end of 2031.
- 4.5 Policy M11 seeks to safeguard mineral resources including sand, gravel, limestone, igneous rock, surface coal, fireclay, brick clay and gypsum. The policy sets out that planning permission will be granted for development that is incompatible with safeguarding minerals within a Mineral Safeguarding Area provided certain criteria are met.
- 4.6 Planning applications for non-mineral development within a Mineral Safeguarding Area should be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it.

5 Material Planning Considerations:

The National Planning Policy Framework 2023 (NPPF)

- 5.1 The NPPF policy guidance of particular relevance to this proposal includes:
- Section 2: Achieving sustainable development
 - Section 5: Delivering a sufficient supply of homes
 - Section 9: Promoting Sustainable Transport
 - Section 12: Requiring well-designed places.
 - Section 14: Meeting the challenge of climate change, flooding, and coastal change
 - Section 15: Conserving and enhancing the natural environment
 - Section 16: Conserving and enhancing the historic environment

The Equality Act 2010

- 5.2 This Act requires local planning authorities, when making strategic decisions about the exercise of their functions to have regard to the desirability of reducing socio-economic inequalities in society. It consolidates 7 Acts including the Disability Discrimination Act. Whilst the accessible design of buildings is regulated by Part M of the Building Regulations, the Equality Act does require 'reasonable adjustments' to be made when providing access to goods, facilities, services and premises and this also applies to the design of proposed development. In terms of planning decisions, there is a need to have 'due regard' to the impact of planning application decisions and policies on anyone with a Protected Characteristic who may be affected by the decision.

National Planning Practice Guidance (PPG)

- 5.3 This national document provides additional guidance to ensure the effective implementation of the planning policy set out in the National Planning Policy Framework. 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.

National Design Guide (2019)

- 5.4 This is a document created by government which seeks to inspire higher standards of design quality in all new development.

Design Supplementary Planning Document (SPD) (2020)

- 5.5 This document sets out the Borough Council's expectations in terms of securing high quality design in all new development. Schemes should respond well to local character, have positive impacts on the environment and be adaptable to meet future needs and provide spaces and buildings that help improve people's quality of life.

Leicestershire Highways Design Guide

- 5.6 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 expected to be provided in new housing development.

Technical Housing Space Standards (2015)

- 5.7 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)

- 5.8 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.

Planning Guidance for Biodiversity June 2022

- 5.9 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.

The Draft Charnwood Local Plan (2021) 2021-37

- 5.10 This document sets out the Council's strategic and detailed policies for the Borough over the period 2021-37. The local plan was submitted for examination in December 2021 with hearings concluding in February 2023. It

is anticipated that the Inspectors will issue a letter setting out the requirement for main modifications to be made to make the plan sound. These modifications will be published for six weeks of public consultation so that the responses can assist the Inspectors in preparing their final report. The precise timings of these events is dictated by the Inspectors although, subject to their report, it is anticipated the Local Plan will be adopted by the Council in early 2024.

5.11 In accordance with NPPF paragraph 48, the relevant emerging policies in the plan may be given weight in determining applications, according to:

- (a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater weight it may be given);
- (b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given);
- (c) the degree of consistency of the relevant policies in the emerging plan to the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

5.12 The following policies are considered applicable to this application

- Policy DS5 High Quality Design
- Policy C1 Countryside
- Policy T3 Car Parking Standards
- Policy CC5 Sustainable Transport
- Policy EV1 Landscape
- Policy EV4 Charnwood Forest and the National Forest
- Policy EV6 Conserving and Enhancing Biodiversity and Geodiversity
- Policy EV7 Tree Planting

6 Relevant Planning History

6.1 The relevant planning history at the site is listed below:

Reference	Description	Decision & Date
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P/21/1926/2	The use of the barn as a single dwellinghouse in Class C3 use	Granted 23 rd Dec '21
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7 Responses of Consultees & Other Comments Received

7.1 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
Leicestershire County Council Highways	<p>Requested further information in relation to the new proposed access in the form of a Stage 1 Road Safety Audit alongside.</p> <p>Since this response, the applicant has reverted to the existing access point which is deemed acceptable.</p>
Charnwood Biodiversity	<p>There is harm to protected species. The mitigation proposed is appropriate.</p> <p>The mitigation sites are within the blue line but outside the red line.</p> <p>Some concern expressed about the potential separation in ownership between the application site and the mitigation site.</p> <p>Conditions recommended which require the submission of a bat mitigation strategy; ecological management plans for the construction phase, and the long term.</p>
Charnwood Archaeology	<p>Having reviewed the application against the Leicestershire and Rutland Historic Environment Record (HER), and in view of the extent of previous modern ground disturbance within the proposed development area, we do not believe the proposal will result in a significant direct or indirect</p>

	impact upon the archaeological interest or setting of any known or potential heritage assets. We would therefore advise that the application warrants no further archaeological action (NPPF Section 16, para. 194-195).
Charnwood Landscape	No comment received
Charnwood Waste & Recycling Environmental Service	No comment received

Ward Councillor and Parish Council Response	
Newtown Linford Parish Council	No Objection
Responses to publicity	
One Comment 2/12/22	Seeking extended consultation period

8 Consideration of the Planning Issues

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 require that planning applications for planning permission must be determined in accordance with the 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 Core Strategy (2015) and those “saved” policies within the Borough of Charnwood Local Plan 1991-2026 (2004) which have not been superseded by the Core Strategy (2011-2028), Minerals and Waste Local Plan (2019).

8.2 The main planning considerations applicable to this application are considered to be:

- Principle of Development
- Design
- Impact upon the character and landscape of the area
- Impact upon amenity
- Highways
- Ecology and Biodiversity
- Heritage and Archaeology
- Sustainable Construction

9 Key Issues

9.1 Principle of the Development

9.1.1 9.1.1 The applicant considers that the tilted balance described in the NPPF paragraph 11d(ii) should apply to this proposal. The proposal would be for a replacement dwelling in the open countryside and therefore the Council's position in relation to housing land supply is not considered to be relevant in this instance, as there would be no net increase in the number of dwellings.

9.1.2 9.1.2 The application site occupies a relatively isolated location within the countryside, where there would generally be a presumption against new residential development. The site is located outside of the defined Limits to Development of any settlement, as defined by saved Local Plan policy ST/2. The proposed development would not meet any of the specific exceptions as set out in Policy CT/1.

9.1.3 Notwithstanding this, the development in question comprises the replacement of an existing dwelling and so, in principle there is policy support subject to meeting the requirements of policy CT/14 of the saved policies from the Charnwood Local Plan 2004. Policy CT/14 provides a means to consider replacement dwellings in the countryside, and permission will not be granted unless six criteria are all met. Each of these criteria is discussed in turn below.

- 9.1.4 Point (i) the replacement would not result in the loss of a building acknowledged to be of local historic or architectural interests - The dwelling to be replaced comprises of a relatively modern, dilapidated former barn which is of limited historical or architectural interest. Its replacement would therefore not result in the loss of a building acknowledged to be of local historic or architectural interest. The car garage and stables are of solid construction, but are of recent construction and of no architectural merit. The balance of buildings on the site are of low grade build quality.
- 9.1.5 Point (ii) the original building is unsuitable for habitation and/or not viable to repair - The dwelling to be replaced has been vacant since the death of its former occupier. During this time the dwelling has not been maintained and has fallen into a state of disrepair, which is supported by justification and photographs submitted by the applicant. As such, it is considered unsuitable for habitation and not viable to repair.
- 9.1.6 Point (iii) the proposed replacement dwelling represents only a modest change in the size of the original property and is of a mass, height, colour, design and materials compatible with the traditional character and appearance of the locality. – Whilst the scale of the proposed dwelling significantly exceeds that of the existing dwelling (719sqm compared with 102sqm), when taking into account the cumulative footprint of the existing buildings which are to be demolished the conflict with this policy is reduced. The precise policy wording requires decision takers to compare the proposed dwelling's size with that of the existing **property**. The combined floor areas of all of the existing buildings within the application site, based on the red line, is 504sqm. Whilst the design approach differs from that of the existing, simplistic form of the barn, which is to be replaced, the barn is not characteristic of the existing dwellings within the vicinity and is at odds with the existing character. The design of the proposed replacement dwelling has been developed based upon an appraisal of the characteristics of the nearby properties and dominant features of which have been incorporated within its design. The applicant has considered the height, scale and appearance of the replacement dwelling in light of the character and appearance of the locality and as set out in the submitted Landscape Visual Assessment and there will be no adverse effects in this regard. The increase from 102sqm dwelling floorspace (504sqm total floorspace at the property) to 719sqm is not considered to be a modest change in the size of the original property and

therefore the proposal does not accord with this part of the criteria. The conflict with this policy is discussed in the planning balance.

- 9.1.7 Point (iv) the proposed replacement dwelling is on the site of the original dwelling or, if appropriate, in a siting elsewhere within the curtilage where there would be a less damaging visual impact and provided that the original dwelling is demolished – The existing dwelling is sited close to the northern boundary of the site and overlooks the garden of the neighbouring dwelling to the north. The replacement siting is proposed to be further back from the road, and further from the neighbouring dwelling. It is still within the curtilage of the dwelling to be replaced. The policy does not define a meaning for curtilage, and neither does statute, save in the context of listed buildings. Case law suggests that the extent of curtilage is a matter of fact and degree and is to be adjudged by the decision taker. In this case, the red line defining the applicant's assessment of the curtilage is within a single ownership, has no walls or fences which define physical extents, and contains buildings which are incidental to the enjoyment of the dwelling house. Therefore, whilst the extant use of the existing dwellinghouse has no defined curtilage as part of the lawful development certificate, the case officer has assessed that the curtilage as identified in this current application is considered to be the curtilage of the existing dwelling and therefore the proposed replacement dwelling is sited within the curtilage and as such this criterion is satisfactorily addressed.
- 9.1.8 Even though the proposed ground floor level would be higher than the existing, because the proposed siting is uphill from the existing dwelling, the new siting would mitigate the additional visual impact of a larger dwelling. The front elevation of the proposal is 24m further away from the roadside viewer, and the main body of the proposed house is sited as far west within the site as possible. This siting, together with landscaping would combine to reduce the visual impact of the large house proposed. As such, the location of the replacement dwelling is acceptable from a landscape and visual perspective.
- 9.1.9 Point (v) there is no increase in the number of dwellings on the site – The dwelling is to be replaced with a single new dwelling, with no increase in the number of dwellings proposed in accordance with this requirement.
- 9.1.10 Point (vi) There would be no significant adverse impact on the amenities enjoyed by neighbouring properties. The replacement dwelling is located a

greater distance from the neighbouring dwelling and shared boundary of Heatherfield Cottage than the existing dwelling. The alternative position for the replacement dwelling would result in a lesser impact on the amenity of the neighbouring property. The scale and massing of the replacement dwelling would not result in overshadowing or loss of light and would not impact on privacy.

- 9.1.11 Emerging Local Plan policy is a material consideration. Policy CS11 of the Core Strategy and EV1 of the emerging Local Plan are also relevant as it is located in the countryside and it requires new development to protect landscape character. These impacts are considered later in the report.
- 9.1.12 Emerging Local Plan Policy DS1 is relevant as it explains that areas are designated as Countryside as an integral part of the spatial strategy towards the objective of conserving and protecting the character of our towns and villages and the intrinsic character and beauty of the countryside. Policy DS1 of the Draft Charnwood Local Plan (2021-2037) adopts a similar approach to CS1 as both propose a focus of new development in Loughborough and other urban centres. Under the guidance of NPPF paragraph 48 it is considered that the emerging Local Plan is 'well advanced' having been subject to Examination and policies are consistent with the NPPF. However, Policy DS1 is contested and can therefore be given only limited weight currently.
- 9.1.13 The proposal does not accord with the development strategy set out in DS1 as the site is located outside limits to development and within the countryside defined by emerging policy C1. Policy C1 sets out the limited circumstances in which development is permitted in areas defined as 'countryside' in the Plan (including new dwellings), and in common with CS11 above, but the application does not meet with the stated exceptions in policy C1. Under the guidance of NPPF para. 48 it is considered that the emerging Local Plan is 'well advanced' having been subject to Examination and policies are consistent with the NPPF. Policy C1 currently has moderate weight.
- 9.1.14 The building, now derelict, was last used as a dwelling. The Certificate of Lawful Use or Development (CLUD) was issued in December 2021 and the current application was submitted 10 months later. The evidence at the date of the CLUD was that the building was inhabited, or capable of being inhabited. It is now in poor condition, with a hole in the roof and water ingress causing further damage. Much of the degradation has occurred while the

current application was being considered. Its layout is below current space standards. It is not a heritage asset. The new building would be a 1- to-1 replacement so the criteria v) of CT/14 regarding number of units is met. It is however larger than the existing property. The new house proposed is 719sqm, plus a garage of 62sqm, replacing a dwelling of 102sqm and total property floorspace of 504sqm. The proposed garage measures an additional 62sqm. However, it is acknowledged that the existing dwelling could be increased in size under permitted development, and ancillary structures such as garages added to the large plot. The replacement dwelling brings a much improved quality of design overall, as the existing buildings on the site are of low architectural quality, and many in a poor state of repair.

9.1.15 The provision of dwellings in the open countryside is usually not supported under Saved Policy CT/1 of the 2004 Local Plan, Policy CS11 of the Core Strategy and emerging Policy C1 of the Draft Local Plan. However, Policy CT/14 is a saved policy and remains extant and does support replacement dwellings. As a replacement dwelling, the proposal would not significantly increase trip generation, servicing requirements etc. The size of the replacement dwelling is more than a 'modest change' in the size of the original property and so conflicts with part of CT14(iii). However, there are acknowledged design benefits to the proposal.

9.2 Design

9.2.1 Policy CS2 of the Core Strategy requires new developments to respect and enhance the character of the area and saved policy EV/1 of the Local Plan supports development that is of a design, scale, layout and mass compatible with the locality and which uses materials appropriate to the locality. 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.

9.2.2 Policy CT/14 iii) requires that the replacement dwelling is of a mass, height, colour, design and materials compatible with the traditional character and appearance of the locality. Emerging Local Plan Policy DS5 requires development to make a positive contribution to Charnwood by responding positively to local distinctiveness. The policy is at an advanced stage and hearing sessions in June 2022 considered the policy and it is consistent with the NPPF. The policy can be given moderate weight.

9.2.3 The dwelling is of a substantial size, with a dog-leg form responding to the site's context, with a duo pitched roof along its length articulated by dormer windows and forward projecting entrance and gables which provides good architectural balance and legibility. It would be constructed from Swithland stone with brick detailing and a heritage reproduction slate roof, with heritage style windows. The framing for the porch and carport will be in oak. The traditional design and materials are appropriate for the location and the mass is appropriate for the site and locality.

Figure 7 - CGI of proposed dwelling



9.2.4 It is therefore considered that the design is acceptable and subject to conditions, would be in accordance with Saved Policy EV/1 of the 2004 Local Plan, Policy CS2 of the Core Strategy, emerging Policy DS5 of the Draft Charnwood Local Plan and the Council's Design SPD 2020. As discussed in section 9.2, there is a conflict with saved policy CT/14(iii) in terms of the size of the dwelling, but the design is considered to meet the rest of CT/14(iii).

9.3 Impact upon the character and landscape of the area

9.3.1 Core Strategy Policy CS2 and saved Local Plan policy EV/1 seek to respect and enhance the landscape character of the area and the form of existing settlements and the open and undeveloped nature of the countryside. Policy CS11 of the Core Strategy seeks to protect the character of our landscape and countryside and reinforce sense of place and local distinctiveness. These policies generally accord with the National Planning Policy Framework and do not directly impact on 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.

- 9.3.2 Emerging Local Plan Policy C1 covers the Council's approach towards development in the countryside and states that development will be managed to protect its largely undeveloped character. Emerging Local Plan Policy EV1 requires new development to protect landscape character and to reinforce sense of place and local distinctiveness and maintain separate identities of settlements. These policies are at an advanced stage and were discussed at the hearing sessions in June 2022 and are consistent with the NPPF so can be given moderate weight.
- 9.3.3 The proposed development site occupies a secluded position and is largely screened by dense tree cover and landscaping. The site topography provides opportunities for the massing and scale of the proposal to be reduced and assimilated into its landscape setting.
- 9.3.4 The application is supported by a Landscape Visual Assessment (LVA), with the height, scale and appearance of the replacement dwelling being considered in light of the character and appearance of the locality, with it being concluded there will be no adverse effects in this regard. The LVA suggests that a slight adverse effect is predicted on the visual amenity of the landscape during construction, changing to negligible effects post construction. In the long term, the appropriate landscape mitigation and restoration is predicted to bring beneficial visual effects to more proximal views. In part that assessment is based upon the Landscape Strategy drawing number 1252 003 rev B A. The drawing outlines the landscape strategy for the site and that is acceptable. Final details of hard and soft landscaping can be secured by condition.
- 9.3.5 The development would remove existing barns and outbuildings, which given their poor state of repair contribute little to the local landscape character. Whilst the scale of the proposal is extensive, the site is of a scale which can visually accommodate the proposal and its ancillary features whilst also resulting in an enhancement to the locality. The design and proposed materials of the development, including slate, stone and locally prevalent materials, would respond well to local character and form.
- 9.3.6 The alternative siting of the replacement dwelling would result in the built form being set further away from the neighbouring property, and further from public viewpoints.

9.3.7 Subject to detailed hard and soft landscaping to be secured by condition, the design approach adopted is therefore considered policy compliant with Core Strategy Policies CS2 and CS11, alongside the Design SPD.

9.3.8 On this basis it is considered to accord with saved Local Plan Policy EV/1, Core Strategy Policy CS11, and emerging local Plan Policies C1 and EV1.

9.4 Impact upon amenity

9.4.1 9.4.1 Policy EV/1 (saved policy from 2004 Local Plan), Policy CS2 of the Core Strategy and Policy DS5 from the emerging Local Plan aim to protect the amenity of neighbours and occupants of new buildings. The Charnwood Design SPD (2020) also provides spacing standards and guidance to ensure an adequate level of amenity is achieved. Policy DS5 is at an advanced stage and hearing sessions in June 2022 considered the policy and it is consistent with the NPPF. The policy can be given moderate weight. Emerging Local Plan policy H3 relates to internal space standards. This policy is at an advanced stage and hearing sessions in February 2023 considered the policy and it is consistent with the NPPF but is subject to objections and can therefore be given limited weight.

9.4.2 The existing dwelling sits within close proximity of the boundary shared with the adjacent dwelling, Heatherfield Cottage, and the existing access drive also runs parallel with this boundary. The proposed dwelling has been positioned at a greater depth in the site and a greater distance from the neighbouring dwelling, whilst remaining within the existing curtilage. The separation between dwellings, measured at the closest points, would increase by 25m. The gable on the northern elevation, and closest to the northern boundary has a bathroom window with obscure glass at first floor level, and a small window at ground floor level which will look into a new 1.8m high boundary fence. Given the increased separation distance, privacy protection at gable windows and set-back location within the landscape, the proposals do not result in any material harm to amenity. The new dwelling would not be overbearing and would not result in overshadowing or loss of light, and would not impact negatively on privacy. They would offer a modest degree of betterment for the amenity of the adjacent dwelling.

9.4.3 In terms of the amenity of future occupiers, all rooms would have natural light and the dwelling would also comply with National Space Standards.

9.4.4 The impact of the proposed development on residential amenity is therefore considered to be acceptable and would be in accordance with Saved Policies EV/1 and CT/14(vi) of the 2004 Local Plan, Policy CS2 of the Core Strategy, Policies DS5 and H3 of the Draft Local Plan and the Council's Design SPD 2020.

9.5 Highways

9.5.1 In terms of highway safety, as the proposal is for a replacement dwelling, it is considered that there would be no intensification of the existing access. There is also a substantial area for car parking at the site that could easily accommodate the parking spaces required for the dwelling. Furthermore, there have been no objections raised by the Local Highway Authority. The proposal therefore satisfies policy TR/18 of the Charnwood Local Plan 2004, Policy T3 of the emerging Local Plan, and the NPPF.

9.6 Ecology and Biodiversity

9.6.1 Policy CS13 of the Core Strategy seeks to conserve and enhance the natural environment with regard to biodiversity and ecological habitats. The policy supports development that protects biodiversity and geodiversity and those that enhance, restore or re-create biodiversity. The loss of features of biodiversity and geodiversity will only be supported in exceptional circumstances where the benefit of the development clearly outweighs the impact. Where there are impacts, the policy requires mitigation or compensation of equal or greater value, likely to result in a net gain in biodiversity. The NPPF states that planning decisions should minimise impacts upon and provide net gains for biodiversity.

9.6.2 Emerging policy EV6 of the Draft Local Plan 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. Therefore, emerging Local Plan policy EV6 can be given moderate weight but 10% net gain cannot yet be secured.

9.6.3 Core Strategy Policy CS12 aims to protect and enhance green infrastructure assets for their community, economic and environmental values and to define, protect and enhance the Charnwood Forest Regional Park and support the aims of the National Forest Strategy by:

- supporting the woodland economy,
- seeking planting from developments that are within the Charnwood Forest Regional Park that meet National Forest Planting Guidelines;

These expectations are reiterated by Policy EV4 of the emerging Local Plan, to which moderate weight can be assigned.

9.6.4 The site layout allows for the retention of existing woodland along the western and southern fringes, vegetation along the northern boundary, and seeks to replace the existing low ornamental hedge to the road frontage with a taller hedgerow comprising locally occurring species.

9.6.5 The Ecological Appraisal (August 2022) identifies that a number of bat roosts would be lost through the proposed demolition of existing structures/ buildings on the site. In order to reduce potential impacts on the identified species, a specific License from Natural England will be necessary. Similarly, the development, without mitigation (proposed on the adjacent biodiversity mitigation land) would cause the destruction of reptile habitats.

9.6.6 Because of the above, whilst there is a policy conflict with CS13 by virtue of destruction of habitats, the application is accompanied by a comprehensive landscaping scheme and an area of land for biodiversity mitigation adjacent to the site, in the ownership of the applicant. This provides a management approach, identifying ways in which the existing landscaping features will be managed and enhanced. The existing self-set and foreign plant species will be cleared, making way for a sympathetic, native planting scheme. As such, the site will become more biodiverse, and its original characteristics would be re-enforced, in accordance with Policy CS13.

9.6.7 The Council's Senior Ecologist considers that the outlined proposals are appropriate, and that they will deliver a biodiversity net gain. Full details can be secured by condition in accordance with the recommendations at 6.3 of the Ecological Appraisal August 2022. In relation to trees, the majority of trees on site are located in the vicinity of the site access and are predominantly of low to moderate quality. The application is supported by a Tree Survey Report. The site presents good scope for new planting, which, if

considered appropriately could significantly enhance the tree stock in terms of quality as well as age structure and contribution to biodiversity improvements. The landscaping strategy (1252 003A) includes a significant amount of new tree planting and management of existing trees throughout the site. As such, the scheme is acceptable from an arboricultural perspective in accordance with Policy CS12.

- 9.6.8 It is therefore considered that, subject to conditions to secure a detailed hard and soft landscaping proposal in accordance with the landscaping strategy (1252 003B), and conditions to secure the recommendations of the Ecological Appraisal to secure mitigation and a legal agreement to secure biodiversity net gain off site, the impact of the proposed development on biodiversity therefore can be made acceptable, to both ensure in accordance with Policies CS12 and CS13 of the Core Strategy and Policies EV4, EV6 and EV7 of the Draft Charnwood Local Plan.

9.7 Heritage and Archaeology

- 9.7.1 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Policy CS14 (Heritage) seeks development to conserve and enhance historic assets in the Borough for their own value and the community, environmental and economic contribution they make, developments are expected to not only protect the assets, but also their setting.
- 9.7.2 Saved Policy CT/14(i) of the Local Plan requires that the replacement would not result in a loss of a building acknowledged to be of local historic or architectural interest. Emerging Local Plan policy EV8 seeks to protect and enhance heritage assets, including non-designated heritage assets, and prevents harm to their significance and setting. Under the guidance of NPPF paragraph 48 it is considered that the emerging Local Plan is 'well advanced' having been subject to Examination and policies are consistent with the NPPF. Policy EV8 is largely uncontested and can therefore be afforded moderate weight. The application is accompanied by a heritage assessment addressing the building itself and the settings of nearby heritage assets.

NPPF chapter 16 provides national guidance on consideration of heritage assets.

- 9.7.3 There are no designated heritage assets on site or within the local area which would be impacted by the proposed development.
- 9.7.4 An Archaeological Heritage Assessment accompanies the submission, which confirmed that the proposed development area is located within an area of limited archaeological potential. The required desktop archaeological has been undertaken at this stage, meeting the requirements of Policy CS14. The Council Archaeologist advises that no further investigation is required.
- 9.7.5 The proposal is in accordance with Policy CS14 of the Core Strategy, saved Policy CT/14(i) of the Local Plan and Policy EV8 from the emerging Local Plan.

9.8 Sustainable Construction

- 9.8.1 Core Strategy policy CS16 encourages developers to go further than required by the Building Regulations toward sustainable design and construction methodology. Policy CC4 in the emerging Local Plan shares similar sustainability design and construction methods and material usage. CC4 has moderate weight, and is consistent with NPPF paragraph 157.
- 9.8.2 The proposed development incorporates high levels of energy efficiency, including PV solar panels, an air source heat pump and high levels of insulation. The replacement dwelling has been designed to consider the Future Homes Standards, which exceeds current Building Regulations.
- 9.8.3 As such, the proposals represent sustainable design and incorporates renewable energy generation in accordance with Policy CS16 and with emerging policy CC4 of the Local Plan.

10 Conclusion

- 10.1 The primacy of the development plan as the decision-making tool is emphasised in paragraph 38(6) of the Planning and Compulsory Act 2004 and at section 70(2) of the Town & Country Planning Act 1990.
- 10.2 The development sits outside the limits to development for any settlement and is therefore contrary to policies ST/2 and CT/1 of the adopted Local Plan 2004, CS1 of the Core Strategy 2015 and DS1 of the emerging Local Plan.

However, saved Policy CT/14 makes specific provision for replacement dwellings (subject to criteria). The new dwelling would not undermine the sustainable pattern of development that the policies aim to achieve as the dwelling is a replacement. It is considered that all but part of criteria iii) of policy CT/14 have been satisfied by the proposal.

- 10.3 There is a conflict with criterion (iii) of Policy CT/14 on the basis that the replacement dwelling would be of a much larger scale and footprint than the existing property. However, the siting and landscaping proposed would combine to reduce the visual impact. That impact can be assessed against the existing situation, whereby a group of 8 buildings, some in poor repair, extend to near the roadside, and have themselves an adverse impact on the landscape. The objectives of Policy CT/14 are in part about ensuring that a replacement dwelling is of an appropriate design and can be absorbed into the landscape. The design is considered to be of high quality and the Landscape and Visual Assessment of the proposal demonstrates that it can be successfully absorbed. The visual impact of the proposal would cause minor adverse impact during construction, but following the maturity of the proposed landscape strategy, to be controlled by planning conditions, the medium to long term visual impact would be positive.
- 10.4 A number of bat roosts would be lost through the proposed demolition of existing structures / buildings on the site. The mitigation proposed is acceptable and biodiversity net gain can be secured, subject to planning conditions and S106 legal agreement.
- 10.5 On balance, the replacement dwelling is considered to be acceptable, and although the floor area proposed is larger than the floor areas of the existing buildings on the site, with suitable mitigation measures in landscape and ecological terms some betterment of both the visual impact and biodiversity is possible, by comparison with the existing site's condition. There would be some harm caused during the construction phase, but after completion, and where strictly controlled by planning conditions, long term benefit can be achieved.

11 Recommendation

11.1 RECOMMENDATION A:

That authority is given to the Head of Planning and Growth and the Head of Strategic Support to enter into an agreement or accept a unilateral undertaking under section 106 of the Town and Country Planning Act 1990 to secure the delivery, appropriate long term management and maintenance, details of which shall first be agreed in writing by the local planning authority, and retention in perpetuity of the proposed off-site biodiversity enhancements within the green hatched land adjacent to the site within land owned by the applicant and identified on the site location plan.

11.2 RECOMMENDATION B:

That subject to the completion of an agreement under S106 in recommendation A above, to grant conditionally subject to the imposition of the following draft conditions and reasons and that the Head of Planning and Growth, in consultation with the Chair of the Plans Committee for amendments to the conditions and reasons, be given delegated authority to determine the final detail of planning conditions.

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 approved plans and documents:
 - Location Plan 8408-03-001 rev D received 8/9/23
 - Site Plan 8408-03-004 rev E received 8/9/23
 - Proposed Site Block Plan 8408-03-003F received 8/9/23
 - Ground Floor Plan 8408-03-005 rev E received 21/3/23
 - First Floor Plan 8408-03-006 rev E received 21/3/23
 - Second Floor Plan 8408-03-007 rev D received 21/3/23
 - Elevations Sheet 1 8408-03-008 rev D received 21/3/23
 - Elevations Sheet 2 8408-03-009 rev D received 21/3/23
 - Cross Sections 8408-03-010 rev D received 21/3/23
 - Access Details 8408-03-011 rev A received 21/3/23
 - Landscape Strategy Drawing 1252-003 rev B received 12/9/23

- Archaeological Report ABRS Report No 2022-HNLL_v1 received 17/10/22
- Ecological Appraisal August 2022 received 17/10/22
- Tree Survey Report ref: 220101_TCS received 17/10/22

REASON: To define the terms of the planning permission.

3. Only those materials specified in the approved plans and documents shall be used in carrying out the development hereby permitted.

REASON: To ensure the satisfactory appearance of the completed development in accordance with Policy CS2 of the Core Strategy 2015, emerging policy DS5 of the Charnwood Local Plan and the Council's Design Supplementary Planning Document 2020.

4. All existing trees on the site as identified in the approved Tree Survey Report (ref: 220101_TCS) shall be retained unless otherwise agreed in writing by the local planning authority.

REASON: To ensure that the retention and protection of existing trees in the Charnwood Forest in the interests of biodiversity and visual impact of the proposed development in accordance with Policies CS2, CS11 and CS13 of the Core Strategy and emerging Policies EV1, EV4, EV6 and EV7 of the Charnwood Local Plan, and CT/14 of the Charnwood Local Plan 2004.

5. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (a tree protection plan) and the appropriate working methods (an arboricultural method statement) have been submitted to and approved in writing by the local planning authority. The submitted details shall be in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced). The scheme and appropriate working methods shall be in accordance with the approved Landscape Strategy Plan (1252-003 Rev B) for the protection of the retained trees and shall be carried out as approved for the duration of construction works.

REASON: To ensure that the retention and protection of existing trees during construction in the interests of biodiversity and visual impact of the proposed development in accordance with Policies CS2, CS11 and CS13 of the Core Strategy, emerging Policies EV1, EV4, EV6 and EV7 of the Charnwood Local Plan, and CT/14 of the Charnwood Local Plan 2004.

6. The buildings and structures on the site at the date of this permission and as identified on drawing 8408-03-002 Rev E (received 8/9/23) shall be

demolished and the debris and materials removed from the site prior to the first occupation of the development hereby approved or completion of the development hereby approved, whichever is the sooner.

REASON: To ensure that the visual impact of the proposed development is mitigated in accordance with Policy CS11 of the Core Strategy and emerging Policy EV1 of the Local Plan, and CT/14 of the Charnwood Local Plan 2004.

7. A scheme for hard and soft landscaping of the site shall be submitted 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, boundary treatments, pedestrian areas and steps.

The Scheme shall be in accordance with the recommendations of Section 4 of the Ecological Appraisal (Heatherfield, August 2022). 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 occupation or completion of the development (whichever is sooner) and shall thereafter be retained and maintained in perpetuity.

REASON: To ensure that the visual impact of the proposed development is mitigated, biodiversity enhanced and tree planting secured in the Charnwood Forest in accordance with Policies CS11, CS12 and CS13 of the Core Strategy and emerging Policies EV1, EV4, EV6 and EV7 of the emerging Local Plan, and CT/14 of the Charnwood Local Plan 2004.

8. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building, and 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.

REASON: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual impact, biodiversity enhancement and tree retention in the Charnwood Forest in accordance with Policies CS11, CS12 and CS13 of the Core Strategy and emerging Policies EV1, EV4, EV6 and EV7 of the emerging Local Plan.

9. A bat mitigation strategy shall be submitted to and approved in writing by the local planning authority prior to the commencement of development, including demolition or tree felling. Thereafter, the mitigation works shall be carried out in accordance with the approved details.

REASON: To ensure that the mitigation measures are designed and implemented to ensure no harm to protected species or their habitats, in accordance with Policy CS13 of the Core Strategy, emerging Policy EV6 of the Local Plan and NPPF paragraphs 174 and 179.

10. No work shall commence to clear the site in preparation for the development hereby permitted 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 be in accordance with the recommendations of Section 4 of the Ecological Appraisal (Heatherfield, August 2022) and include the following:

- a) risk assessment of potentially damaging construction activities;
- b) identification of biodiversity protection zones;
- c) practical measures to avoid or reduce impacts during construction;
- d) the location and timing of sensitive works to avoid harm to biodiversity;
- e) the requirements for when an ecological clerk of works (ECoW) or similarly competent person is needed to oversee works;
- f) the use of protective fences, exclusion barriers and warning signs.
- g) details of the glazing products to be used and its performance in respect of preventing or limiting the illumination of external spaces

The approved CEMP should be implemented throughout the construction process of the development hereby permitted.

REASON: To ensure that the mitigation measures are implemented, in accordance with Policy CS13 of the Core Strategy, emerging Policy EV6 of the Local Plan and NPPF paragraphs 174 and 179.

11. Prior to the commencement of development an Ecological Management Plan shall be submitted to and approved by the local planning authority which explains how the 'area for biodiversity measures' (identified Site Plan 8408-03-004 rev E received 8/9/23) will be managed, implemented and maintained in the long term as suitable habitat for reptiles. The plan should be capable of being understood and implemented by the residents of the new dwelling and should also explain how the land will be accessed and managed should the land fall into different ownership.

Thereafter the Ecological Management Plan shall be carried out in accordance with the approved details for the lifetime of the development, unless otherwise agreed in writing by the local planning authority

REASON: To ensure that the mitigation measures are implemented, in accordance with Policy CS13 of the Core Strategy, emerging Policy EV6 of the Local Plan and NPPF paragraphs 174 and 179.

Informatives:

All bats and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended by the Countryside and Rights of Way Act 2000) and are further protected under Regulation 39(1) of the Conservation (Natural Habitats etc) Regulations 1994. Should any bats or evidence of bats be found prior to or during development, work must stop immediately, and Natural England contacted on 0300 060 3900 for further advice. This is a legal requirement under the Wildlife and Countryside Act 1981 (as amended) and applies to whoever carries out the work. All contractors on site should be made aware of this requirement and given information to contact Natural England or the Bat Conservation Trust national helpline on 0845 1300 228.

Application – Location Plan

