



Report to Planning Committee

1:1,250

Application Number 2016/0124

Location

Land At South Of 64, Woodchurch Road
Bestwood, Nottinghamshire



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.
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Report to Planning Committee

Application Number:	2016/0124
Location:	Land At South Of 64 Woodchurch Road Bestwood Nottinghamshire
Proposal:	Residential development comprising seven dwellings with associated roads and driveways, hard and soft landscaping, means of enclosure and services.
Applicant:	Priory Holdings
Agent:	PP Building Design Ltd
Case Officer:	Christina Dinescu

1.0 Site Description

- 1.1 The application site relates to an area of land measuring approximately 0.47 hectares situated towards the end of Woodchurch Road to the south and west of no.64 Woodchurch Road. The application site is predominantly woodland, covered by Woodland Tree Preservation Order G31. Access to the site is by way of private road extending from an adopted section of Woodchurch Road. The private access road also gives access to several other properties. There is a registered Right of Way running along the southern boundary of the site, Bestwood St Albans Parish Path No.9 which leads to Emmanuel Church, a Grade II* Listed Building.
- 1.2 The site was previously in the ownership of Gedling Borough Council and outline planning permission was granted for the erection of four dwellings in 1985. These plots were subsequently sold with plot 4 including a substantial area of woodland. Subsequently, Outline Planning Permission was granted for residential development on the woodland area of the site in 2006 with all matters reserved.
- 1.3 The site is occupied by overgrown self-seeded woodland trees, scrub and hedging. The site gently slopes upwards to the north, with a total rise of 2 metres over a length of 115 metres.
- 1.4 The area is characterised by a mixture of older properties and more recently erected detached dwellings of varying sizes, styles and heights. The immediate adjoining neighbours benefit from landscaped frontages.

2.0 Relevant Planning History

- 2.1 Outline planning permission was granted for the erection of four dwellings in 1985 – application ref. These plots were subsequently sold with plot 4 including a substantial area of woodland. Plot 3 (now 62 Woodchurch Road), Plot 4 (now 64 Woodchurch Road), Plot 1 (now 63 Woodchurch Road), and Plot 2 (now 60 Woodchurch Road) have all been built.
- 2.2 Outline planning permission was granted in August 2007 for the erection of residential development on the woodland adjacent to no.64 Woodchurch Road. All matters except for means of access were reserved for subsequent approval – application ref. 2006/0343.
- 2.3 Outline planning permission was granted in June 2010 to replace the extant outline permission (reference 2006/0343) in order to extend the time limit for implementation of a proposal for residential development on site – application ref. 2010/0329.
- 2.4 Outline planning permission was granted in July 2013 to replace the extant outline permission (reference 2010/0329) in order to extend the time limit for implementation of the proposal for residential development on site – application ref.2013/0507.

3.0 Proposed Development

- 3.1 Full Planning Permission is sought for a residential development comprising of seven detached dwellings, associated roads and driveways, hard and soft landscaping, means of enclosure and services.

3.2 Proposed dwellings

6no. of the proposed dwellings would have gross internal floor areas of approximately 150sq/m including the integral garages.

1no. proposed dwelling would have gross internal floor areas of approximately 275sq/m with a detached garage of 35sq/m.

The heights, scale and footprints of the proposed dwellings are proposed to be in keeping with the existing pattern of development in the area with facing materials proposed as traditional brick with slated pitched roofs and casement windows.

The dwellings would have accommodation comprising a living room, study, family living-dining-kitchen, utility and coats-toilet on the ground floor, four + bedrooms, bathroom and en-suite's on the first floor.

3.3 Vehicle Access

The proposal involves the widening of the existing private road to the south of the site, with associated accesses for four new dwellings: a turning head would give access to the private driveway serving the larger dwelling, and a further two new dwellings would be served from a private drive extending from the end of the private road currently serving no's: 79, 81 and 83 Woodchurch

Road. The proposed road improvements would be constructed in accordance with Highway Authority guidelines.

Each dwelling is served by a garage, and hardstanding for the parking of 2 additional vehicles. The hardstanding would be in a hard-bound material or block paving drained within the site.

Access for fire appliances and refuse vehicles would be available from the existing (widened) private road.

3.4 Amenity

Each dwelling would be provided with a private rear amenity area enclosed by timber close-boarded panelled fencing and native species hedgerows between the new dwellings.

3.5 Landscaping and Boundary Treatments

The landscaping strategy would seek to retain the character of the existing land: the submitted Arboricultural survey indicates few existing trees of landscape value and the intention would be to clear and plant with new native specimens, and new native species hedging to plot boundaries, to retain continuity between the tree-lined Woodchurch Road, and the grounds of Emmanuel Church.

4.0 Consultations

4.1 Bestwood Parish Council

The Parish Council wish to express concerns raised by residents regarding the proposed development.

- ☐ Issues have been raised with regards to legal covenants between NCC, Gedling Borough Council and the Church.
- ☐ Concerns have been raised with regards to the footpath at the end of properties on Church View Close. Residents would incur expense as they would have to replace the trees that are present at the bottom of their gardens once the trees within the application site are felled.
- ☐ Concerns over the felling of the woodland that has a Tree Preservation Order covering the site.
- ☐ Concerns over the impact on ecology and wildlife.
- ☐ Concerns over the increased level of traffic.
- ☐ Neighbouring residents would be overlooked creating a less rural, less pleasant environment.
- ☐ Impact on the value of neighbouring dwellings.
- ☐ Concerns over the difficulty for refuse services and location of bins.
- ☐ Residents have raised concerns about the width of Woodchurch Road
- ☐ Concerns over the impact on construction traffic.
- ☐ Potential impact on existing Right of Way.
- ☐ Development would impact on the tranquillity of the area.

In light of the concerns raised the Parish Council object to the proposal.

4.2 Nottinghamshire County Council (Highway Authority)

The applicant has attempted to find the owner/ship of the private drive without any success; therefore they are not the owners of the road. If the ownership is unknown a maintenance agreement cannot be placed on this road or even adopted. It should be noted that the plans submitted are not to adoptable standard therefore the road will always remain Private.

- For private developments with six building frontages or more, it is required under Sections 219 to 225 of the Highways Act to serve a notice on the applicant with an assessment of the full cost of the proposed roadworks under the Advance Payment Code (APC), to protect frontage's interests.
- The cost of the APC notice will reflect the full cost of the proposed street works likely to be required to complete the works to an adoptable standard and must be paid in cash and not by bond. The requirement for an APC notice can only be removed by entering into a S38 agreement to have the road adopted. However as stated above, the road layout is not to adoptable standards and the ownership unknown, therefore cannot be adopted.
- However, just as the APC would be served and money paid or retained, the Highway Authority are not indicating any future intention to adopt and maintain the street works at public expense.

The applicant should remember the implications both for himself and house purchasers if the roads are not adopted, for example:

- Future maintenance liabilities;
- Public liabilities;
- Street cleansing;
- Lack of pedestrian facilities;
- Lack of / or poor standard of lighting, drainage and so on;
- Nottinghamshire County Council have no powers under the Highways Act; and
- The police have no powers to remove obstructions.

Poorly maintained private areas can also detract from the quality and appearance of a development.

What is currently proposed is not considered suitable for adoption in terms of width or ownership unknown.

Essentially due to the APC being served the developer would be required to lodge a cash bond for the full value of constructing the road to an adoptable standard. It is unlikely the Highway Authority would release this bond unless the road was brought up to an adoptable standard. The developer should be made aware of the implications and liabilities that would be placed on them should they proceed.

It is noted that a refuse vehicle would not enter the private road, therefore the bin store should be placed in the location as per plan ref: 09/041-1C.

If the above requirements are adhered to the Highways Authority would raise no objections to the PRIVATE drive arrangement.

4.3 Nottinghamshire County Council (Nature Conservation) –

The Extended Phase 1 Habitat Survey (BJ Collins, May 2016 indicates that:

- ☐ The site is an area of semi-natural broad leaved woodland dominated by sycamore, deemed to be common and widespread habitat;
- ☐ A single standing dead tree within the woodland was assessed as having low potential for roosting bats; during a single bat emergence survey (to accord with best practice guidelines), no bats were seen to emerge from the tree; a precautionary approach is recommended;
- ☐ The site was considered to have excellent potential value for nesting birds and foraging bats (although no survey for the latter has been carried out)
- ☐ No impact is predicted on amphibians or reptiles, and precautionary measures are proposed in relation to badger and hedgehog

By way of mitigation, the Survey report recommends the following, which should be secured through conditions:

- ☐ Amenity planting should comprise native species, to mitigate for the loss of woodland habitat; the submission of a detailed landscaping scheme should be secured, to include species mixes and establishment methods (noting that native hedgerows should be c.60% hawthorn, and include species such as blackthorn, hazel, dog-wood and holly)
- ☐ Lighting should be sensitive to nocturnal wildlife (i.e. bats), and developed in accordance with paragraph 6.2.1 of the Extended Phase 1 Habitat Survey report;
- ☐ Vegetation clearance should take place outside of bird nesting season, which runs from March to August inclusive;
- ☐ Precautionary methods in relation to mammals as set out in paragraph 6.2.3 of the Extended Phase 1 Habitat Survey should be adhered to;
- ☐ Access routes for hedgehogs should be retained across the site through the provision of gaps in garden fences as described in paragraph 6.2.3 of the Extended Phase 1 Habitat Survey report
- ☐ Integrated bird and bat boxes (the former targeting house sparrow and starling) should be incorporated into the fabric of the proposed dwellings, with further details supplied prior to commencement;
- ☐ A precautionary method for the removal of the standing dead tree with low bat roosting potential should be produced prior to the commencement of development.

4.4 Nottinghamshire County Council (Lead Local Flood Authority) -

No drainage plans were submitted with the application. No comments.

4.5 Nottinghamshire County Council (Rights of Way Officer)

The application impacts on Bestwood St Albans Parish Path No.9, which runs alongside the southern boundary of the site as shown on the attached working copy of the definitive map. This is shown as private road on the developers plan but in fact only has public rights for pedestrians.

The planners must be satisfied that the developer has private vehicular rights along the footpath as shown for plots 1 – 7 otherwise a criminal offence under Section 34 of the Road Traffic Act 1988 may be committed by unauthorised motor vehicle users, alternatively the developer may wish to bring this section of road up to adoptable standards with a S38 agreement. The current adopted highway extent is shown as extending to the existing access to no.64 Woodchurch Road.

This Office requires that the availability of the above path(s) is not affected or obstructed in any way by the proposed development at this location unless subject to appropriate diversion or closure orders. That we are consulted in any re-surfacing or gating issues, also developers should be aware of potential path users in the area who should not be impeded or endangered in any way.

Any required path closure or diversion application should be made via consultation with the Rights of Way Office.

4.6 Severn Trent

No comments received to date, and if any comments are received they will be reported verbally at Planning Committee.

4.7 Nottinghamshire County Council (Arboricultural Officer) –

The woodland is in very poor condition with a distinct lack of management leading to many trees requiring to be made safe.

Historically, the woodland seems to be of a similar age and diversity to the adjacent country park, where majority of the trees would have been clear felled during the Second World War effort in the 1930's. This has resulted in the woodland becoming dominant with naturalised species such as sycamore trees which generally are not as diverse compared to native tree species and not fitting with the local landscape.

The tree survey submitted is based on the previous BS5837:2005 standards, but essentially the core details obtained from this survey should be sufficient.

If the LPA require up to date information regarding the two trees identified to be retained, the points below should be requested:

1. Tree protection plan to graphically show on a plan the location of tree and root protection barriers in accordance to BS5837:2012.
2. Arboricultural Method Statement to give guidance on aspects of the proposed works which may have an Arboricultural impact to retained trees and show how they are mitigated in accordance within BS5837:2012.

3. Details of any special engineering works and surfacing required in the vicinity of trees in accordance within BS5837:2012.

4.8 Scientific Officer –

The applicant's attention should be brought to the planning guidance document which has been produced to try and define what sustainable development means in the context of air quality, and how we might decrease levels by incorporating mitigation measures into scheme design as standard. Therefore it is requested that the developer considers the commitment to incorporate provision of EV charging points to allow residents to charge electric/plug-in hybrid vehicles.

4.9 Education –

No requirements for s106 contributions for education.

- 4.13** Neighbouring residents were notified and a Site Notice posted and 44 letters of objection were received and a petition containing 24 signatories. The comments can be outlined as follows: -

4.13.1 Residential Amenity

- Disturbance during the construction of the development from dust, smoke, noise and flying debris due to high winds;
- Overlooking Impact on neighbouring residential properties;
- Increase in noise impact from the increase in residents in the area;
- The development would negatively impact on the views of existing residents;

4.13.2 Covenants / Private Legal Matters

- The Council risks costs against them should permission be granted through litigation;
- The Highway Authority are unable to adopt the section of Private Drive leading to the development as they would need permission from the land owner or title holder and there is no legal title holder listed for this section of road;
- Should there be any accidents following a positive recommendation from the planning department the Council and any members of staff would be held responsible personally, corporately and criminally;
- The applicant is claiming ownership of this part of Woodchurch Drive, Gedling Borough Council should consider the matter of legitimate and lawful ownership of this area of land;
- The access road does not belong to the applicant;
- Various private covenants and legal agreements have been referred to that would prevent the development of the land in question;
- The original covenant that covered no.64 Woodchurch Road only permitted 1 dwelling to be built on this plot which has already been undertaken;
- There is a restrictive covenant that would prevent an additional dwelling on the plot that was developed originally as no.64;

4.13.3 Access, Traffic and Highway Safety

- At the edge of no.64 Woodchurch Road there is an un-adopted road that is so narrow it can only accommodate 1 car, if more buildings are allowed it would increase risk as there would be more traffic on this section of un-adopted road;
- Questions have been raised over the number of properties that are allowed to be accessed from a Private Drive. It has been stated that only 5 properties are allowed from Private Drives. This development is above the permitted 5 properties that are permissible from a Private Drive;
- No.64 Woodchurch Road has a large tree opposite where the road narrows to such a degree as to only allow vehicles to pass in single file. This danger would only be increased with the addition of higher levels of traffic;
- The new development only provides hardstanding for 1 – 2 cars and most households require more. As statistics show that some of these households would have 3 -4 cars which would result in a displacement of vehicles onto the private drive where it is proposed to be widened. This would adversely impact on the existing properties opposite;
- If the road is not widened to highway standard with full, kerbed pavement one side, street lighting and surface water drainage management it could impede access to any emergency vehicles;
- Increased traffic would impede pedestrians using the footpaths to the church;
- The visibility splay is needed to both sides of the private drive as there is potential for highway safety issues;

4.13.4 Design and Layout

- The proposed new buildings are at significant variance to the present buildings, thereby making the whole area different in structure, unsightly and uneven;
- The housing density is very high in relation to plot 1 to 6;
- The neighbouring dwelling would look directly over the proposed bin store;

4.13.5 Nature / Wildlife / Trees

- Significant environmental impacts due to the removal of trees including: flooding, and global warming;
- The Green Belt zone would be lost;
- There are bats roosting on the site;
- The developer is required to ascertain the environmental and ecological impact on the building project. If this requirement has not been met the developer would be committing a criminal offence;
- Loss of habitat for birds, bats and other woodland creatures;
- The woodland is protected by a Tree Preservation Order;
- There has been no flora or fauna survey undertaken and the Wildlife Trust should be consulted;
- The loss of trees could impact on the safety of neighbouring properties on Church View Close increasing the wind to these properties due to the loss of the tree canopy currently provided by the Woodland;

4.13.6 Flooding and Drainage

- The drainage system in the area is just adequate for a few houses, more houses would exacerbate this problem;

- There is a serious flooding issue at the bottom of Bestwood Lodge Drive, particularly between Danes Close and Hanworth Gardens;

4.13.7 Culture / Heritage

- The proposed development would have a significant adverse impact on the character and setting of the Grade II* Listed, Emmanuel Church, Historic England should have been consulted;
- There would be a negative impact on the Conservation Area;

4.13.8 Other Considerations

- Concerns raised with regards to the building process and the danger that this poses to children whom play in the area;
- Overcrowding – having more houses on the proposed piece of land would significantly overstretch the amenities in the area;
- The waste disposal area may be a health risk adjacent to plot 1;
- Concerns raised over the requirements of the previous outline permission that was granted and the discharge of the attached conditions;
- Gedling Borough Council has failed to notify a reasonable number of houses of the development for comment;

5.0 **Planning Considerations**

5.1 Assessments of Planning Considerations

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that: 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise'.

5.3 The relevant national planning policy guidance in respect of this application is set out in the National Planning Policy Framework (March 2012). The core planning principles set out in the guidance is a presumption in favour of sustainable development. In particular the following chapters are relevant in considering this application:

6. Delivering a wide choice of quality homes;
7. Requiring good design.

5.4 Section 6 of the NPPF states inter-alia that housing applications should be considered in the context of the presumption in favour of sustainable development. Section 7 of the NPPF states that it is important to plan positively for the achievement of high quality and inclusive design for all development, including individual buildings...decisions should aim to ensure developments, amongst other things, respond to local character and history, reflect the identity of local surroundings and materials. Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of the area and the way it functions.

- 5.5 Gedling Borough Council Aligned Core Strategy (GBACS)(September 2014) which is now part of the development plan for the area. The following policies are relevant: -
- Policy 8 – Housing Size, Mix and Choice.
 - Policy 10 – Design and Enhancing Local Identity
- 5.6 Appendix E of the GBACS refers to the saved policies from Adopted Local Plans. The following policies contained within the Gedling Borough Replacement Local Plan (GBRLP) (Certain Policies Saved 2014) are relevant:
- ENV1 – Development Criteria.
 - H7 – Residential Development on Unidentified Sites within the Urban Area and the Defined Village Envelopes.
 - H8 – Residential Density.
 - H16 – Design of Residential Development.
- 5.7 Criterion a. c. and d. of Policy ENV1 of the Replacement Local Plan are relevant in this instance. These state that planning permission will be granted for development provided it is in accordance with other Local Plan policies and that proposals are, amongst other things, of a high standard of design which have regard to the appearance of the area and do not adversely affect the area by reason of their scale, bulk, form, layout or materials. Development proposals should include adequate provisions for the safe and convenient access and circulation of pedestrians and vehicles and incorporate crime prevention measures in the design and layout.
- 5.8 Design and layout are also considered in criterion a. and b. of Policy H7 and criterion c. of Policy H16 of the Replacement Local Plan. These policies state inter alia that permission will be granted for residential development, including conversions and the change of use of buildings to residential use within the urban area and the defined village envelopes provided it is of a high standard of design and does not adversely affect the area by reason of its scale, bulk, form, layout or materials and that it would not result in the loss of buildings or other features including open space which make an important contribution to the appearance of the area.
- 5.9 Policy 10 of the ACS also looks at design and enhancing local identity and reflects the guidance contained in both the NPPF and the Replacement Local Plan policies.
- 5.10 In respect to car parking, regard should be had to the Borough Council's Supplementary Planning Document 'Parking Provision for Residential Developments' (May 2012).
- 5.11 The Publication Draft Local Planning Document (LPD) for Gedling Borough was submitted for examination in October 2016. The Secretary of State appointed an Inspector to determine whether the plan is sound and complies with all legal requirements. Paragraph 216 of the NPPF sets out that from the day of publication weight may be given to relevant policies in emerging plans according to:

- The stage of preparation (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency with the NPPF (the greater the consistency, the greater the weight that may be given).

5.12 Following publication it is recommended that moderate weight can be given the LPD. Relevant policies in the LPD include:

- LPD 4 Surface Water Management; and
- LPD 32 Residential Density

5.13 In making a recommendation in relation to this application, regard has been given to the above legislation and policy and as a result it has been determined that the main planning considerations in relation to this proposal are: -

- Principle of development
- Ecology / Trees
- The impact on neighbouring amenity
- Masterplan and design
- Transport and connectivity
- Water resources, flood risk and drainage
- Heritage and archaeology
- Other material considerations

Each of the above aspects is considered in detail below.

6.0 Principle of development

6.1 I note, as outlined under section 2.0 above, that the application site currently under consideration has benefitted from outline planning permission for residential redevelopment since 2006. Therefore, I consider that planning permission should be granted unless other material planning considerations or any changes in Planning Policy for the area indicate otherwise.

6.1 The National Planning Policy Framework attaches great importance to sustainable development. It states: *“Development that is sustainable should go ahead without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision”* (NPPF - ministerial foreword). This is further confirmed in paragraph 14 which states that - *“at the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking.”* One of the core principles of the NPPF is to support and deliver economic growth to ensure that the housing, business and other development needs of an area are met.

6.2 The GBACS sets a housing target of 7,250 dwellings in Gedling Borough between 2011 and 2028 and requires 4,045 homes to be located within and adjoining the Nottingham built up area. In order to meet this target the

GBACS adopts a strategy of urban concentration with regeneration. This means the following hierarchy will be used to identify sites:

- Within or on the edge of the built up area of Nottingham.
- Adjacent to the sub regional centre of Hucknall.
- Key villages (Bestwood, Calverton and Ravenshead).
- Other villages.

6.3 The proposed development therefore accords with the highest priority site in the housing hierarchy, being within an established urban residential area within the built-up area of Bestwood.

6.4 Given the above I am of the opinion that the principle of residential development in this location is acceptable. Whilst I consider that the principle in this location is acceptable this needs to be balanced against other material planning considerations relating to the application site including the Tree Preservation Order that covers the site and other material matters. The material planning considerations that need addressing relate to the following:

- Ecology / Trees
- The impact on neighbouring amenity
- Masterplan and design
- Highway Safety, Car Parking Provision and Rights of Way
- Water resources, flood risk and drainage
- Heritage and archaeology
- Other material considerations

7.0 Ecology / Trees

7.1 I note that the application site has no statutory designation as a Local Wildlife Site or as a Site of Importance for Nature Conservation; however, I would note the site is located within established woodland with the potential for an adverse impact on biodiversity and ecology.

7.2 I would note however, that the application site is covered by existing Woodland Tree Preservation Order (G31). In considering the issues relating to the Woodland TPO and the nature conservation on the site I have been mindful of the comments and advice received from the County Council's Forestry Officer. In particular, the woodland is in very poor condition with a distinct lack of management leading to many trees requiring to be made safe. The woodland has become dominated with sycamore trees which generally are not as diverse compared to native tree species and do not fit in with the local landscape character for the area.

7.3 Given that the Forestry Officer has confirmed that the majority of the trees within this woodland could be removed without the formal consent of the authority, bearing in mind their status as dead, dying or dangerous, I am of the opinion that a refusal of this planning application on the loss of trees covered by the TPO would be difficult to defend at appeal. I also note that the principle of the development was already established through outline planning permissions since 2006 where the adopted Local Plan Policies remained the same.

- 7.4 The relevant planning policies that need to be considered in relation to ecological matters are set out in Policy 17 of the ACS and Section 11 of the NPPF.
- 7.5 Policy 17 of the ACS states that development on or affecting non-designated sites or wildlife corridors with biodiversity value will only be permitted where it can be demonstrated that there is an overriding need for the development and that adequate mitigation measures are put in place.
- 7.6 Section 11 of the NPPF advises, at paragraph 118, that when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying a number of principles, including the encouragement of opportunities to incorporate biodiversity in and around developments. If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 7.7 I note the comments from the County Council's Nature Conservation Practitioner and the recommendations with regards to mitigation that has been recommended and highlighted in the submitted Phase 1 Habitat Survey. I also note that the submitted landscape and tree planting scheme includes provision of native species trees with heights of 2.5 metres. Notwithstanding the details submitted which highlights a schedule of native tree planting, given the recommendations in the Phase 1 Habitat Survey and the recommendations of the Nature Conservation Practitioner I consider, should planning permission be forthcoming, a condition should be attached to any approval requiring a detailed landscape plan to be submitted to incorporate the recommendations set out in the Phase 1 Habitat Survey. I consider that a detailed landscape and planting scheme would secure satisfactory mitigation to biodiversity and ecology as a result of the development and would enhance the woodland character of the area.

8.0 The impact on neighbouring amenity

- 8.1 Individual houses have been arranged within the site so as to minimise the opportunity for direct overlooking, particularly from upper floor windows. The layout of the site as a whole has oriented properties to minimise the potential for overlooking and overshadowing. I note that the rear garden boundaries of the proposed properties would adjoin the existing side boundary with no.64 Woodchurch Road; I also consider that the distance from the rear elevations of these properties (approximately 16 metres) would be at a sufficient distance from the rear amenity of no.64 to not have an undue overlooking impact on the private amenity of this property. I also note, given the orientation of the sun, and that no.64 Woodchurch Road would be to the south of Plot 7, that there would be no undue overshadowing impact on the amenity of this property.
- 8.2 I note that the dwelling proposed to Plot 7, as indicated on the site layout plan, would incorporate upper floor windows in the southeast elevation facing no.64 Woodchurch Road. I note that 1 window would serve an en-suite and one would be a second window serving bedroom 5. Given the location of these

windows and the proximity to the neighbouring rear boundary it is recommended that a condition be attached to any approval requiring these windows to be obscure glass and top opening to prevent any undue overlooking impact on neighbouring amenity. I also note that the entrance hall incorporates a void area with clear glass that forms a feature of this elevation and would provide light into the hallway and the landing area. I note at first floor level, adjacent to this glass, the area remains a void and the landing at the top of the stairs would be located 4.5 metres from this window. However, I would note that planning permission would not be required to insert a new floor area over this void and the potential for this new relationship to give rise to undue overlooking of no.64. I also consider that a large expanse of clear glass at first floor level could give the impression of an undue overlooking impact particularly at night time should lights be on. I therefore consider that, should planning permission be forthcoming, attaching a condition requiring the glazing above the entrance hall to be obscure glass to prevent any impression of overlooking impact from the proposal would be reasonable in this instance.

- 8.3 I note the comments received with regards to the nearby neighbouring property overlooking the bin store, however, I am satisfied; given the distance to the proposed bin store (approximately 13 metres) from the property opposite, and that a side elevation with no primary windows would face it, that there would be no undue visual impact on neighbouring amenity. Should planning permission be forthcoming it is recommended that a condition is attached to any approval requiring precise plans and elevations of the proposed bin store to be submitted in order to secure an appropriate design for the facility.
- 8.4 I am satisfied that the proposed development would not result in any material overbearing impact on neighbouring residential amenity due to the scale of the properties and their relationship with neighbouring dwellings. It is therefore considered that the indicative details deposited with the application accord with the NPPF, Policy ENV1 of the RLP and Policy 10 of the GBACS.

9.0 Masterplan and design

- 9.1 Policies ENV1, H7, H8 and H16 of the Replacement Local Plan require development to be of high standard of design. The policies require regard to be given to the appearance of the surrounding area, the provision of safe and convenient access and circulation of pedestrians and vehicles, and incorporating crime prevention measures in the design and layout in terms of good lighting levels, natural surveillance and defensible space and well considered layouts and landscaping.
- 9.2 I note the comments received with regards to the density and design of the proposal. I also note that the surrounding area is defined by traditionally designed detached, two-storey properties set within large plots.
- 9.3 The proposal is to provide 7 homes on a site of 0.47 hectares, equating to a residential density of approximately 14 dwellings per hectare. Policy H8 of the RLP states: 'on site of 0.4 ha and above, planning permission will not be granted for residential development with a net density of less than 30 dwellings per hectare unless physical constraints are demonstrated'. Whilst I

note that the residential density is significantly below the requirements of Policy H8, I consider that the density proposed is more consistent with the pattern of residential development in the immediate area which is characterised by large detached properties within large plots. I also consider that the large amenity areas proposed would assist in achieving a comprehensive landscaping scheme of native planting to the boundaries to help achieve a tree-lined character to this section of Woodchurch Road and the approach to Emmanuel Church when the proposed tree planting scheme is implemented and the vegetation matured.

9.4 I note that the proposal incorporates detached two-storey properties with front facing gables and bay windows on the front elevations. It is my opinion that the traditional design of the proposed dwellings facing onto Woodchurch Road would be in keeping with the design and scale of dwellings in the area and would not detract from the architectural characteristics of the surrounding area. I also consider that the inclusion of landscaped frontages which set the properties back from the highway would be reflective of a distinctive feature of the residential properties in this area. I would also note that the proposal incorporates a landscaping scheme that includes the planting of 2.5 metre high, 6 – 8 cm stem girth, replacement native species trees within the landscaped frontages and the side boundaries of the plots. Whilst I consider the loss of the woodland would alter the character of the application site, the wider area is defined by residential development which incorporates street trees and landscaped frontages. I consider that the replacement planting and landscaping scheme would help assimilate the proposal within the existing streetscene and would help retain the distinctive tree lined character of this end of Woodchurch Road.

9.5 Having considered the overall design of the development and the constraining factors of the site, it is my opinion that the proposal would satisfy the design and landscaping criteria of Policies ENV1 of the RLP and Policy 10 of the ACS. I also consider that the proposed development accords with the broad design aims of the NPPF, which states that good design is a key aspect of sustainable development, is indivisible from good planning and should contribute positively to making places better for people. Notwithstanding the details of materials submitted with this application I consider that attaching a condition to any approval requiring detailed samples of the materials to be submitted and approved by the Borough Council would assist in securing appropriate external facing materials for the development.

9.6 In my opinion, the proposed development would meet the relevant design elements of Policy 10 of the ACS/PV in terms of the positive contribution it would make in the streetscene by virtue of its architectural style, detailing and materials.

10.0 Highway Safety, Car Parking Provision and Rights of Way

10.1 I note the comments received with regards to highway safety, the ownership of the private drive, the number of properties that can legally be accessed from a private drive and car parking provision.

- 10.2 When considering the car parking provision the adopted Parking Provision for Residential Development Supplementary Planning Document (SPD) May 2012 is relevant. The proposed development is for 7 residential units within a 'built-up area' with allocated car parking provision in excess of 3 spaces per dwelling when including the integral garages. When referring to the Parking Provision for Residential Development Supplementary Planning Document (SPD) the developments allocated provision would result in no additional demand for unallocated spaces (on-street car parking) given that the development provides at least 3 off street car parking spaces for each dwelling. The development therefore accords with the SPD.
- 10.3 I also note that the Highway Authority have been consulted on this application and have not objected to the proposal on highway safety grounds or for the new development of 7 houses being accessed from a private drive.
- 10.4 I note the comments with regards to the Section 219 to 225 of the Highways Act and the requirements of the Advanced Payments Code (APC) to provide a cash bond for the road for future adoption. I consider this to be a matter to be resolved between the developer and the Highway Authority and would not be material to the grant of this planning permission, however; I would attach an informative should planning permission be forthcoming, advising the applicant of the implications and requirements of the Highways Act – APC.
- 10.5 I note that the first 55 metres of the private drive within the application site would be brought up to an adoptable standard allowing 2 vehicles to be able to pass, however, I also note that the Highway Authority is unable to adopt this section of highway given that there are private legal matters relating to the ownership of the land and that there is an area outside of the applicants ownership that is narrow. The widening and improvement of the existing private drive would in my opinion be an improvement to the existing situation and would leave only 4 properties at the end of the existing narrow section of the private drive with the rest of the properties being served from a private drive that accords with the requirements of the Highway Authorities Design Guide.
- 10.6 Given that the Highway Authority have not objected to the proposal on highway safety grounds and that the matters relating to ownership are private legal matters, I am satisfied, the development can be achieved without any significant adverse impact on Highway Safety. Whilst I note the comments relating to more than 5 dwellings being served from a private drive I also note that the Highway Authority have not objected to this arrangement. I therefore do not consider that the additional dwellings being proposed to be served from the private drive would warrant a refusal of this application.
- 10.7 I note the comments with regards to the location of the bin store and the difficulty for refuse services to collect the bins. However, I also note that the Highway Authority have not objected to the location of the bin store provided it is placed in the location as shown on the submitted plans.
- 10.8 I note the comments from the Rights of Way Officer and should planning permission be forthcoming I would suggest attaching an informative to any approval advising that should the path be affected or obstructed in any way by

the proposed development then appropriate closure orders or diversion orders should be sought. The surfacing of the unbuilt on portions of the site would be secured by condition and the Rights of Way office would be consulted should the surface of the path be proposed to be altered.

11.0 Water resources, flood risk and drainage

- 11.1 I note that the application site is located within Flood Zone 1 and is therefore considered to have a low level risk of fluvial flooding. Given that the application site is not over 1 hectare and does not impact on an area at risk of flooding or existing water courses the Environment Agency were not required to be consulted for this development.
- 11.2 Policy LPD 4 – Surface Water Management requires all development proposals to include measures to pro-actively manage surface water including the use of appropriate surface treatments and Sustainable Drainage Systems in order to minimise the risk of flooding on the development site without increasing flood risk elsewhere.
- 11.3 Paragraph 100 of the NPPF states that: Local Plans should take into account climate change and use opportunities offered by new development to reduce the causes and impacts of flooding.
- 11.4 Paragraph 103 states: ‘When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere’
- 11.5 I note the comments with regards to localised flooding in the area, and I also note that the Lead Local Flood Authority was consulted and responded with no comments. Given that the development is a complete redevelopment of woodland and the potential for increased surface water run-off as a result of the proposed development, I consider it would be appropriate, in line with the requirements of LPD 4, to secure details of appropriate Surface Water Drainage by way of condition. In terms of foul drainage, Severn Trent Water have not made any comments, therefore there are assumed to be no issues with connecting to foul drainage systems. The connection to foul drainage systems would however be a Building Regulations matter.
- 11.6 In my opinion, given the site is low risk of flooding and subject to acceptable surface water drainage plans being approved the development is acceptable in terms of water resources, flood risk and drainage.

12.0 Heritage and archaeology

- 12.1 The NPPF has a number of core principles at paragraph 17, one of which states that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations.
- 12.2 I note the comments received with regards to the consultation of Historic England. However, given that the site is not within a Conservation Area and that the development is not considered to have an adverse impact on the setting of the Grade II* Emmanuel Church I am satisfied that appropriate

consultation has been undertaken in this instance. I would also note that the Grade II* Listed Lych Gate has been dismantled and relocated to the entrance facing Church View Close (reference: 2008/0380 and 2008/0381).

- 12.3 The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of the asset; may affect the ability to appreciate that significance; or, may be neutral.
- 12.4 It is my opinion the development would not adversely affect the setting of any Listed Buildings or Locally Listed Buildings given the significant distance to Emmanuel Church (approximately 34 metres to the northwest corner of the application site) and the Lych Gate. The impact on these heritage assets would be localised to the approach and the development would, in my opinion, not directly impact any important views or vistas leading to the Listed Buildings. I would note that there is a registered right of way adjacent to the application site that leads to the rear entrance to Emmanuel Church. I would also note that the original configuration of the footpath would remain the same and the boundaries to the application site would be improved with native species planting to retain the tree lined approach to the church. It is my opinion, given that the current setting of the church is predominately defined by existing mature trees and the residential nature of the surrounding area, the distances to the church, and the proposed landscaping scheme; the impact on the setting of Emmanuel Church could be assessed as neutral and the benefits that would arise from the proposal would outweigh any harm in this instance.

13.0 Public Open Space

- 13.1 I note that the development would be over the threshold of 0.4Ha and that a contribution towards open space would be required. The necessary improvements to open space can be secured by means of a financial contribution by way of a S106 planning obligation, should members agree with the recommendation, in accordance with Policies 12 and 19 of the ACS and paragraph 204.

14.0 Other considerations

- 14.1 I note the representations received with regards to private covenants contained within the deeds of neighbouring dwellings and the ownership of the private drive being unknown. However, matters relating to covenants remain private legal matters and are not material planning considerations when determining planning applications. I therefore, given the correct declarations have been made on the application form; do not consider that there are private legal matters that would warrant the refusal of this application.
- 14.2 I note the comments received with regards to the impact on the value of nearby residential properties, however, when considering planning applications matters relating to property value are not material planning considerations.

- 14.3 I also note the comments received with regards to the liability of the Borough Council and its Officers should a favourable decision be reached. However, I am satisfied that the correct procedures have been followed in accordance with the Town and Country Planning Development Management Procedure 2015 and that current National / Local Guidance and Policies have been fully considered.

15.0 Conclusion

- 15.1 I consider that, on balance, and taking into account the benefits that would be generated as a result of this proposal, it would constitute a sustainable form of development. In reaching this conclusion I have had regard to paragraph 98 of the NPPF which advises that when determining planning applications, local planning authorities should approve the application if impacts are, or can be made, acceptable. Given the considerations set out above, I consider that it has been demonstrated that, on balance, the planning impacts have been addressed and have therefore been made acceptable, or that such impacts are outweighed by the benefits of the scheme.

- 16.0 Recommendation: To GRANT FULL PLANNING PERMISSION subject to the applicant entering into a Section 106 planning obligation with the Borough Council as Local Planning Authority for the financial contributions towards Public Open Space; and subject to the following conditions:**

Conditions

1. The development must be begun not later than three years beginning with the date of this permission.
2. The development hereby permitted shall be constructed strictly in accordance with the following approved and revised plans submitted with the application drawing numbers: Design and Access Statement (Feb 2016 [Amendment B: 15-11-16]); Site Location Plan (09/041 LOCN: Rev B); SITE LAYOUT showing landscape (09/041: Rev C); Alternative Site Layout - April 2016 - (09/041 Rev C); House Types A and B: Plans and Elevations (09/041 - 2); House Plot 7; Plans and Elevations (09/041 - 3); Extended Phase 1 Survey: (BJ Collins, May 2016); Tree Survey: Job.no: 3354_Tree Survey; and Tree Protection Measures - Residential development Woodchurch Road, Bestwood.
3. No part of the development hereby permitted shall be brought into use until the private car parking areas are surfaced in a bound material with the parking bays clearly delineated in accordance with drawing number 09/041 Rev C. The parking areas shall be maintained in the bound material for the life of the development and shall not be used for any purpose other than the parking of cars.
4. No part of the development hereby approved shall be brought into use until the shared private drive is provided in accordance with the approved plan, drawing no: 09/041 - 1 Rev C. The private drive shall then be retained in accordance with the approved plans for the life of the development.

5. Before development is commenced there shall be submitted to and approved in writing by the Borough Council drainage plans for the disposal of surface water shall be submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use and shall be retained for the life of the development, unless otherwise agreed in writing by the Local Planning Authority.
6. Before development hereby approved is first commenced, precise details, elevations, and materials of the proposed bin store shall be submitted to and approved in writing by the Borough Council. The development shall be implemented and maintained in accordance with the approved details for the life of the development.
7. Before development hereby approved is first commenced full details of both soft and hard landscape works shall be submitted to and approved in writing by the Local Planning Authority. The proposed landscape works shall incorporate the mitigation measures recommended within The Extended Phase 1 Habitat Survey (BJ Collins, May 2016). The detailed landscape plans and particulars shall include: (a) details of size, species, positions and densities of all trees, hedges and shrubs to be planted; (b) details of the boundary treatments, including those to individual plot boundaries; (c) the proposed means of surfacing access roads, car parking areas, roadways, and the frontages of properties such as driveways and footpaths to front doors and (d) a programme of implementation. The development shall be implemented in accordance with the approved details, which shall be retained for the lifetime of the development, unless otherwise prior agreed in writing by the Borough Council.
8. If within a period of five years beginning with the date of the planting of any tree or shrub, approved in relation to Condition 7, that tree or shrub, or any tree or shrub that is planted in replacement of it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the Borough Council seriously damaged or defective, another tree or shrub of the same species and size as that originally planted shall be planted at the same place, unless otherwise prior agreed in writing by the Borough Council.
9. Before development is commenced there shall be submitted to and approved by the Borough Council precise details of the bricks and tiles to be used in the external elevations of the proposed development. Once approved the development shall be carried out strictly in accordance with these details, unless otherwise agreed in writing by the Borough Council as the Local Planning Authority.
10. Prior to the development hereby approved commencing (including site preparation) a tree protection plan and an Arboricultural Method Statement shall be submitted to the Local Planning Authority and approved in writing, which shall: (i) graphically show on a plan the location of tree and root protection barriers; and (ii) give guidance on aspects of the proposed works

which may have an Arboricultural impact to retained trees and show that they are mitigated in accordance with BS5837:2012.

11. The upper floor windows shown on the front elevation of plan no.09/041 - 3, serving the rooms labelled (i) en-suite, (ii) Bedroom 5, facing no.64 Woodchurch Road shall be obscure glazed to a minimum of Pilkington Level 4 and shall be top hung opening windows at all times, unless otherwise agreed in writing by the Borough Council as Local Planning Authority.
12. The windows on the southeast, Front Elevation serving the entrance hall and the void; Plot 7 (09/041 - 1C (Site Layout showing Landscaping), as shown on plan no:09/041 - 3 (House Plot 8 Plans & Elevations); shall be obscure glazed to a minimum of Pilkington Level 4 at all times, unless otherwise agreed in writing by the Borough Council as Local Planning Authority.

Reasons

1. In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area.
4. In the interests of Highway safety.
5. To ensure that the development is provided with satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.
6. For the avoidance of doubt.
7. To ensure a satisfactory development and that the landscaping of the development accords with the requirements of Policy ENV1 and ENV2 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008) and Policy 17 of the Aligned Core Strategy.
8. To ensure a satisfactory development and that the landscaping of the development accords with the requirements of Policy ENV1 and ENV2 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008) and Policy 17 of the Aligned Core Strategy.
9. To ensure a satisfactory development, in accordance with the aims of policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).
10. To ensure satisfactory development, in accordance with the aims of Policy 17 of the Gedling Borough Council Aligned Core Strategy.

11. In order to protect the privacy of the adjoining dwellings, in accordance with the aims of policy ENV1 of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2016)
12. In order to protect the privacy of the adjoining dwellings, in accordance with the aims of policy ENV1 of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2016)

Reasons for Decision

The development has been considered in accordance with the National Planning Policy Framework, the Aligned Core Strategy for Gedling Borough (September 2014) and the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014), where appropriate. In the opinion of the Borough Council, the proposed development accords with the relevant policies of these frameworks and plans. Where the development conflicts with the Development Plan, it is the opinion of the Borough Council that other material considerations indicate that permission should be granted. The benefits of granting the proposal outweigh any adverse impacts that can be mitigated through further details and particulars secured by condition.

Notes to Applicant

The attached permission is for development which will involve building up to, or close to, the boundary of the site. Your attention is drawn to the fact that if you should need access to neighbouring land in another ownership in order to facilitate the construction of the building and its future maintenance you are advised to obtain permission from the owner of the land for such access before beginning your development.

The applicant is advised that all planning permissions granted on or after 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website. The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

I bring your attention to Bestwood St Albans Parish Path No.9 which runs along the southern boundary of the site. The availability of the footpath should not be affected or obstructed in any way by the proposed development at this location unless subject to appropriate diversion or closure orders. The Rights of Way Office should be consulted in any re-surfacing or gating issues. You are advised that potential path users in the area should not be impeded or endangered in any way.

Your attention is brought to the recommendations of the Highway Authority. The plans submitted are not to an adoptable standard therefore the road will always remain Private. For private developments with six building frontages or more, it is required under Sections 219 to 225 of the Highways Act to serve a notice on the applicant with an assessment of the full cost of the proposed roadworks under the Advance Payment Code (APC), to protect frontage's interests. The cost of the APC notice will reflect the full cost of the proposed street works likely to be required to complete the works to an adoptable standard and must be paid in cash and not by bond. The requirement for an APC notice can only be removed by entering into a S38 agreement to have the road adopted. However as the road layout is not to

adoptable standards and the ownership unknown, it cannot therefore be adopted. However, just as the APC would be served and money paid or retained, the Highway Authority are not indicating any future intention to adopt and maintain the street works at public expense.

Your attention is drawn to an informal planning guidance document which has been produced to try and define what sustainable development means in the context of air quality, and how to decrease levels by incorporating mitigation measures into scheme design as standard. (see:

<http://gedling.gov.uk/planningbuildingcontrol/planningpolicy/emerginglocalplan/supplementaryplanningdocuments/>). It is therefore requested commitment to incorporate provision for an EV (electrical vehicle) charging point per dwelling; to allow future residents to charge electrical/hybrid vehicles into the future. Reference can be made to guidance produced by IET 'Code of Practice for EV Charging Equipment Installation' for details of charging points and plugs specifications.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.

No removal of hedgerows, trees or shrubs which have the potential to support nesting birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before clearance works commence and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority. As you will be aware all birds, their nests and eggs (except pest species) are protected by the Wildlife and Countryside Act 1981 (and as amended).

Planning Statement - The Borough Council has undertaken negotiations during the consideration of the application to address adverse impacts identified by officers to address concerns in connection with the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and favourable recommendation. The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework (March 2012).

The applicant is advised that all planning permissions granted on or after 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website. The proposed development has been assessed and it is the Council's view that CIL is not payable on the development hereby approved as the development type proposed is zero rated in this location.

Your attention is brought to the implications of the private drive for future occupiers if the roads are not adopted. (i) Future maintenance liabilities; (ii) Public liabilities; (iii) Street cleansing; (iv) Lack of pedestrian facilities; (v) Lack of / or poor standard of

lighting and drainage; (vi) Nottinghamshire County Council have no powers under the Highways Act; (vii) The police have no powers to remove obstructions.