

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING AUTHORITY

PLANNING APPEAL BY MR N PROUD

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE PROPOSED
PART CHANGE OF USE OF THE SITE TO RETAIL TO ALLOW PUBLIC ACCESS
TO THE NURSERY AND THE PROVISION OF A CAR PARK**

**AT: POPLAR COTTAGE, LITTLE SHAW LANE, MARKFIELD, LEICESTER,
LEICESTERSHIRE**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE: 24/00021/FUL

PLANNING INSPECTORATE REFERENCE: APP/K2420/W/24/3347640

SEPTEMBER 2024

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1.0 INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's (HBBC) statement of case in relation to the appeal against the refusal of full planning permission for the part change of use of the site to retail allowing public access to the nursery and the provision of car par at Poplar Cottage, Little Shaw Lane, Markfield, Leicestershire.
- 1.2 This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, the Delegated Officer Report contained in Appendix 1 and separate Statement of Case by Leicestershire County Council as the Local Highway Authority. This statement is in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission.

2.0 SITE AND SURROUNDING AREA AND PROPOSAL

- 2.1 Poplar Cottage is located in the open countryside between Markfield and Coalville within the National Forest. The site is accessed from the A511 dual carriageway eastbound towards the M1. There is a dwelling and a number of outbuildings, together with paddock land to the north, east and west. Land levels increase from the highway towards the north west of the application site.
- 2.2 To the north of the dwelling is a polytunnel and existing storage barn, associated with the horticultural business. To the rear of the dwelling are stables and a hay/animal barn. There is a hedge along the frontage of the site with the road, including new planting associated with the permission for the polytunnel and storage barn.
- 2.3 The site sits within the National and Charnwood Forest, being defined by its upland character and rolling typography in the borough's Landscape Character Assessment 2017.
- 2.4 There is a cluster of residential properties south west of the dual carriageway. Apart from Poplar Cottage to the south east, the site does not share its boundaries with any immediate neighbours.

3.0 SITE HISTORY

Application Reference	Application Description	Application Decision	Date of Decision
17/01277/HOU	Replacement access onto A511	Withdrawn	09.03.2018
18/00272/FUL	Replacement access to field and dwelling	Approved	31.05.2018
18/00697/GDO	Agricultural building for fodder and machinery	Withdrawn	10.08.2018
18/01279/FUL	Poly tunnel and associated storage building	Withdrawn	22.03.2019
19/00623/FUL	Polytunnel and associated storage building	Approved	01.08.2019
20/01363/FUL	Hay barn, greenhouse and water tank for	Approved	07.12.2021

22/01127/FUL	horticultural use (part-retrospective) Part change of use of site to retail to allow public access to the nursery (approved under 19/00623/FUL) along with the provision of car park	Refused	15.09.2023
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4.0 NATIONAL POLICIES

4.1 National Planning Policy Framework (NPPF) (2023)

4.2 National Planning Practice Guidance (PPG).

5.0 LOCAL POLICIES

5.1 Core Strategy (2009)

- Policy 21: National Forest
- Policy 22: Charnwood Forest

5.2 Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM20: Provision of Employment Sites

5.3 Markfield Neighbourhood Development Plan (2021)

- Policy M1: Countryside
- Policy M2: Landscape Character
- Policy M10: Design
- Policy M13: Local and Neighbourhood Centres
- Policy M23: Business Conversion of Rural Buildings

6.0 THE CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 The planning application was refused for the following reason:

“This proposal, if permitted, would lead to an intensification of vehicular movements turning onto and off the A511 Shaw Lane, which is a busy high-speed dual carriageway, where the turning manoeuvres could be an additional source of danger to road users, which is not in the interests of highway safety, and is contrary to Policy IN5 of the Leicestershire Highway Design Guide, Policy DM17 of the Site Allocations and Development Management Policies DPD (2016), Policy M10 of the Markfield Parish Neighbourhood Plan (2021) and paragraphs 114 and 115 of the National Planning Policy Framework (2023)”.

6.2 The delegated officer report contained in Appendix 1 contains the full assessment of the application including:

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon the ecological value of the site and surrounding countryside
- Impact upon highways safety
- Drainage

6.5 We would refer the Inspector to the separate Statement of Case by Leicestershire County Council as the Local Highway Authority which provides the Council's detailed case with regards to the sole reason for refusal and the impact of the development on highway safety.

7.0 SECTION 7: CONCLUSION

- 7.1 The SADMP is now over 5 years old and could be considered out of date but in this case the relevant policies of the SADMP are considered to have strong compliance, when assessed against the policies in the Framework taken as a whole. This is attributed significant weight in determining this application.
- 7.2 It is acknowledged that there are potential social benefits from the scheme such as providing a retail outlet for garden enthusiasts and economic benefits associated with ownership of this business and potentially additional employment for the local area. Nevertheless, the development would be detrimental to highway safety in terms of the intensification of vehicle movements turning on to and off the A511, a key strategic link on the County highway network which in this location would not be in the interests of highway safety. By virtue of this, it is considered that the benefits of the scheme do not outweigh the significant adverse effects of the scheme. Given the above, the development is considered to be contrary to, and in conflict with, Policy DM17 of the SADMP, Policy M10 of the Neighbourhood Plan & paragraphs 114 and 115 of the National Planning Policy Framework (2023).
- 7.3 With regard to the information contained in this statement, the accompanying Statement of Case by LCC and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the conditions and reasons suggested in Section 8 below.

8.0 CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three 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 the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site Location Plan (Received by the LPA on 10/01/2024)

Parking Plan drawing number 18.3558.04 Rev. D (Received by the LPA on 10/01/2024)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown David Granger drawing number 18.3558.04 Rev. D have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (December 2023).

4. The development hereby permitted shall not be occupied until such time as the parking (and turning facilities) has been implemented in accordance with David Granger drawing number 18.3558.04 Rev. D. Thereafter the onsite parking and turning provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

6. Opening hours to the public shall be 10:00 – 18:00 Monday to Saturday and 10:00-16:00 on Sundays, public and bank holidays only, unless otherwise agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).

4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at
<https://resources.leicestershire.gov.uk/lhdg>
5. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk

APPENDIX 1: DELEGATED OFFICER REPORT

Delegated Report

Planning Ref: 24/00021/FUL
Applicant: Mr Nathan Proud
Ward: Markfield Stanton & Fieldhead

Site: Poplar Cottage Little Shaw Lane Markfield

Proposal: Part change of use of site to retail to allow public access to the nursery (approved under 19/00623/FUL) along with the provision of car park



Hinchley & Bosworth
Borough Council

1. Recommendations

- 1.1. Refuse planning permission subject to:
- Planning reasons outlined at the end of this report.

2. Planning Application Description

- 2.1. This application seeks planning permission for a Part change of use of site to retail to allow public access to the nursery (approved under 19/00623/FUL- 'Polytunnel and associated storage building') along with the provision of a car park at Poplar Cottage, Little Shaw Lane, Markfield. The very same proposal was refused on 15.09.2023. Little Shaw Lane is an A classified dual carriageway (A511). The speed limit changes from 40mph to 50mph immediately to the west of the proposed site access. The development would be reached via an existing vehicular access off Shaw Lane. Additional growing space is required for the applicant's existing landscaping business based in Rothley (Charnwood Borough), due to increasing demand and the fact that the lease at Rothley ends in October 2024. The applicant wishes to utilise the land to the west of his residential dwelling (Poplar Cottage).
- 2.2. At Rothley approximately 250,000 seasonal bedding plants along with 35,000 perennial plants are produced per year along with a selection of trees and shrubs. The site also produces vegetable plants, herbs, fruit trees-bushes and wild flowers that are ready to plant straight into gardens. Christmas trees and homemade holly wreaths are available at Christmas. The Rothley site also sells some brought in plants sourced locally and sell compost, pots and aggregates that go alongside the nursery as well as seed potatoes, seasonal bulbs and some nursery essentials such as a small range of chemicals and tools. The site at Rothley comprises under cover areas for growing and retail combined of approximately 1400m2.
- 2.3. The applicant hopes the Markfield site can evolve to accommodate some of the activities that currently take place at Rothley. These include selling items such as seasonal bedding plants, perennial plants, fruit bushes and trees, vegetable plants, ornamental trees and flowering shrubs. All of these would be grown on the site. Other items for sale would be limited but would include seasonal bulbs, compost, pots etc. The site would not sell non-plant/horticultural items such as birthday gifts, cards etc. and there would be no café. The site would be a plant growing nursery only and not a wider garden centre/point of destination for visitors etc.
- 2.4. The opening hours for the public could be limited to 0930 or 1000 Monday to Friday to avoid the peak traffic. The busiest time for customers at Rothley is between 1030 and 1400 when traffic is likely to be at its lowest level.

- 2.5. The public areas would be limited to the car park, the polytunnel and part of the storage barn. The proposed car park comprises the provision of an area of porous granite chippings on a hardcore base to be used for customer parking. The proposed car park area would measure 35m by 30m and provide parking for up to 20 cars.
- 2.6. The applicant has agreed to amend the site access to provide increased entry and exit radii to make it easier for vehicles to turn into and out of the site access. The proposed improvements have been accompanied by a Stage 1 Road Safety Audit and a Designer's Response.

3. Description of the Site and Surrounding Area

- 3.1. Poplar Cottage is located in the open countryside between Markfield and Coalville within the National Forest. The site is accessed from the A511 dual carriageway eastbound towards the M1. There is a dwelling and a number of outbuildings, together with paddock land to the north, east and west. Land levels increase from the highway towards the north west of the application site.
- 3.2. To the north of the dwelling is a polytunnel and existing storage barn, associated with the horticultural business. To the rear of the dwelling are stables and a hay/animal barn. There is a hedge along the frontage of the site with the road, including new planting associated with the permission for the polytunnel and storage barn.
- 3.3. The site sits within the National and Charnwood Forest, being defined by its upland character and rolling topography in the borough's Landscape Character Assessment 2017.
- 3.4. There is a cluster of residential properties south west of the dual carriageway. Apart from Poplar Cottage to the south east, the site does not share its boundaries with any immediate neighbours.

4. Relevant Planning History

17/01277/HOU	Replacement access onto A511	Withdrawn	09.03.2018
18/00272/FUL	Replacement access to field and dwelling	Approved	31.05.2018
18/00697/GDO	Agricultural building for fodder and machinery	Withdrawn	10.08.2018
18/01279/FUL	Poly tunnel and associated storage building	Withdrawn	22.03.2019
19/00623/FUL	Polytunnel and associated storage building	Approved	01/08/2019
20/01363/FUL	Hay barn, greenhouse and water tank for horticultural use (part-retrospective)	Approved	07.12.2021
22/01127/FUL	Part change of use of site to retail to allow public access to the nursery (approved under 19/00623/FUL) along with the provision of car park	Refused	15.09.2023

5.0 Publicity

- 7.2. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 7.3. No comments were received.

6. Consultation

- 7.1. No objections were received from:

- HBBC Pollution
- HBBC Waste

- 6.3 Objections were received from:

- LCC Highways- This proposal, if permitted, would lead to an intensification of vehicular movements turning onto and off the A511 Shaw Lane, which is a busy high-speed dual carriageway, where the turning manoeuvres could be an additional source of danger to road users, which is not in the interests of highway safety, and is contrary to Policy IN5 of the Leicestershire Highway Design Guide and paragraphs 114 and 115 of the National Planning Policy Framework (December 2023). (Full comments are contained in this report).
- The applicant wished to address the reasons for Highways Objection and submitted additional information. LCC Highways were re-consulted and a final response was received from LCC Highways on 24 April 2024 which stated that the previous observations submitted by the Local Highway Authority on 27th February 2024 remain in full and that there are no further comments the LHA wish to make at this time.

6.4 Markfield Parish Council commented on the previous application which is the same as the current proposal. No comments were received for the current application but comments for the previous application were *'The Parish Council supports the comments made by LCC Highways. If HBBC is minded to approve this application then the Parish Council requests that conditions to address the concerns raised by LCC Highways are put in place.'*

7. Policy

- 7.1. Core Strategy (2009)

- Policy 21: National Forest
- Policy 22: Charnwood Forest

- 7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM20: Provision of Employment Sites

- 7.3. Markfield Neighbourhood Development Plan (2021)

- Policy M1: Countryside
- Policy M2: Landscape Character

- Policy M10: Design
- Policy M13: Local and Neighbourhood Centres
- Policy M23: Business Conversion of Rural Buildings

- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)

8. Appraisal

7.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon the ecological value of the site and surrounding countryside
- Impact upon highway safety
- Drainage

Assessment against strategic planning policies

- 7.2. Paragraph 2 of the National Planning Policy Framework (NPPF) 2023 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making.
- 7.3. Policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay subject to other material planning considerations.
- 7.4. The relevant development plan documents in this instance consist of the adopted Core Strategy (2009), the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP) and Markfield Neighbourhood Development Plan (2021).
- 7.5. Policy DM4 of the SADMP states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. The policy lists five primary criteria; proposals are required to meet at least one of these. A further five secondary criteria should then be met. Of the primary criteria, criterion C considers development in the countryside sustainable where it significantly contributes to economic growth, job creation and/or diversification of rural businesses. The proposed part change of use of the site to retail to allow public access to the nursery along with the provision of car park space would help satisfy a retail demand for the applicant's existing business. The lease for the Rothley site is due to end in October 2024. The applicant believes the part change of use of this horticultural site at Poplar Cottage would help satisfy the retail demand for these products & provide an area for expansion within close proximity to the applicant's personal residence.
- 7.6. Policy M1 of the Markfield Neighbourhood Plan states that the Countryside will be protected for the sake of its intrinsic character, beauty, heritage and wildlife, the

wealth of its natural resources and to ensure it may be enjoyed by all. The policy lists development which will be supported in countryside locations as:

- 1. Recreation and tourism that cannot be provided within the Settlement Boundary;*
- 2. Development by statutory undertakers or public utility providers;*
- 3. The subdivision of an existing residential dwelling; and*
- 4. Development that is otherwise in accordance with: national policies; or strategic planning policies or allocations; or with the other policies of the Neighbourhood Plan.*

7.7. Policy M13 of the Neighbourhood Plan states that development proposals that will adversely affect the vitality and viability of the Main Street Local Centre or the Chitterman Way Neighbourhood Centre will not be supported.

7.8. Policy M23 of the Neighbourhood Plan states that the re-use, adaptation or extension of rural buildings for business use will be supported where:

- 1. Any enlargement is proportionate to the size, scale, mass and footprint of the original building;*
- 2. The development would not have a detrimental effect on the fabric, character and setting of historic buildings;*
- 3. The development respects local building styles and materials;*
- 4. The building is surveyed for protected species and mitigation measures are approved where necessary;*
- 5. The proposed development would not generate traffic of a type or amount harmful to local rural roads, or require improvements which would detrimentally affect the character of such roads or the area generally; and*
- 6. The proposed development would not materially harm the character of the surrounding rural area.*

7.9. Despite being outside the settlement boundary, the land proposed is considered to be appropriate for the development. According to the horticultural nature of the business, which falls under the definition of agriculture within Section 336 of the Town and Country Planning Act 1990, a rural landscape would support the use proposed. The additional space would facilitate the economic growth of the applicant's existing business and is thus sustainable in this regard.

7.10. Should the scheme be acceptable a suitably worded condition would be necessary to ensure that the site would only be open to the general public between certain hours and that no café would operate from the site, and listing with the goods sold ensuring the use remains as a nursery. This would help to conserve the significance of the surrounding countryside, and to ensure the part change of use is compatible with this location and would not harm the vitality of retail units found within the local/neighbourhood centres. Notwithstanding this assessment, the proposed development is still subject to the secondary design criteria of DM4 and other criteria of M23, addressed in the following section.

7.11. It is considered that subject to the aforementioned condition the proposal meets the tests set in the NPPF and Development Plan in supporting appropriate rural businesses that have to operate from a rural base. It is therefore concluded that in principle, the proposal is acceptable.

Design and impact upon the character of the area

- 7.12. Policy DM4 of the SADMP allows for sustainable development in the countryside where it meets both primary and secondary criteria. Within the latter, criterion i) and v) are most relevant. Criterion i) requires development to have no significant adverse effect upon the beauty, open character and landscape character of the countryside. Criterion v) requires development within the National Forest to be in line with Core Strategy Policy 21, which seeks to ensure proposals contribute to the National Forest Strategy.
- 7.13. Policy 22 of the Core Strategy requires development to retain local character and the traditional working landscape of Charnwood Forest.
- 7.14. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials and architectural features.
- 7.15. Policy M2 of the Neighbourhood Plan requires development to be sensitive to its landscape setting. Development should meet a number of criteria including conserving and, where possible, enhancing the character and qualities of the local landscape through appropriate design of development proposals. Policy M10 also states that to be supported development must be sympathetic to local character and history, unless the development is of exceptional quality or innovative design. Furthermore development should meet the general design principles of the National Forest.
- 7.16. The polytunnel and associated storage buildings are already in place and approved from previous permissions. The proposed carpark would be located approx. 30m from the highway to the north west of Poplar Cottage and its nearby stables. The proposed carpark would consist of porous granite chippings on 150mm hardcore base & would be well screened by existing mature trees & hedgerow along Shaw Lane & the entrance drive. The Highway implications of the additional usage and suitability of the access will be discussed in the 'Highways' section below.
- 7.17. The storage building approved in a previous application would be used for the retail part of the business. There would also be a small outdoor retail area.
- 7.18. Both the polytunnels, the storage building & carpark are enclosed by heavy landscaping along the north east, and north-west boundaries, which provides significant screening of the site from the surrounding countryside. Despite the polytunnel's large footprint, both buildings are well set back from the public highway, and by virtue of the 5 metre deep planting belt along the south west boundary, they would also be adequately screened from public view. This belt of Fir trees would also enhance the woodland provision and tree cover on site, reflecting the wider countryside character in which the site sits. Considering the landscaping provided through the previous consent (including the Fir trees), additional landscaping isn't considered a requirement for this proposal.
- 7.19. The existing buildings are typical of buildings serving a horticultural use.
- 7.20. Due to the rolling, sloping landform of the site and surrounding fields, as described in the Hinckley and Bosworth Landscape Character Assessment (2017) and the careful design of the site, views of the wider countryside surrounding the site would still be largely unimpeded, according to the higher land levels beyond the rear of the development. The section of landscape which the site forms part of is not deemed to be rich in amenity value; the site is located alongside an important transport route

which experiences a substantial amount of traffic movement. By virtue of the existing landscaping which borders the A511, and the limited view of the site from the existing access, it is noted in the Hinckley and Bosworth Landscape Character Assessment (2017) that only glimpses of the landscape can currently be seen from this public vantage point. Agricultural buildings are not atypical in countryside landscapes and therefore combined with the site's location within an area of not particularly attractive countryside, it is not considered that the part change of use to retail or the proposed carpark would have any significant impact upon the open and landscape character of the surrounding countryside.

- 7.21. By virtue of the building's appropriate design, appearance and location, along with the adequate screening of the site, the proposed development would not have any significant impact upon the character of the wider countryside in accordance with policies DM4 and DM10 of the SADMP, Policies 21 and 22 of the Core Strategy and Policies M2 and M10 of the Neighbourhood Plan.

Impact upon neighbouring residential amenity

- 7.22. Policy DM10 of the SADMP seeks to ensure that development proposals shall not harm the amenity of neighbouring residential properties. It is contended that the development proposed in this application would meet this requirement for the reasons given below.

- 7.23. By virtue of the site's remote location, neighbouring residential properties within the immediate vicinity are limited. The nearest would be Poplar Cottage, sited adjacent to the application site and occupied by the applicant. According to the appropriate separation distance and use of a separate access, disturbances and visual amenity impacts upon this neighbouring dwelling would be limited, in accordance within Policy DM10 of the SAMDP.

Impact upon the ecological value of the site and surrounding countryside

- 7.24. Policy DM6 of the SADMP requires development proposals to demonstrate how features of ecological value on site will be conserved and enhanced.
- 7.25. Policy M10 of the Neighbourhood Plan requires development to 'take advantage of wildlife habitats'.
- 7.26. The site has been identified as a 'Historic Local Wildlife Site' and thus its grassland has been assessed previously as having botanical interest. An ecological report was submitted by the applicant for the previous application which adequately demonstrated that the site has since lost its ecological value. Leicestershire County Council (Ecology) considered the previous application and identified that notwithstanding the finding of limited ecological value conditions should be added to enhance both the grassland and hedgerows as noted within the submitted report. These conditions have been satisfied as part of the previous consent and no objections or suggested conditions were required by LCC ecology in respect of this application and the proposal is considered to be in accordance with Policy DM6 of the SADMP and Policy M10 of the Neighbourhood Plan.

Impact upon highways safety

- 7.27. Paragraph 114 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 115 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 7.28. Section 9 of the NPPF promotes sustainable transport. Paragraph 128(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, “The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.”
- 7.29. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 7.30. Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 7.31. Policy M10 of the Neighbourhood Plan, requires development to have safe and suitable access, be designed in a way that encourage low vehicle speeds, ensure parking is integrated so that it does not dominate the street.
- 7.32. The principle of using the site as a nursery has already been established and the site has been the subject of significant investment. This application seeks to allow limited access to the public to purchase plants and associated goods. The proposal comprises the provision of an area of porous granite chippings on a hardcore base to be used for customer parking. The area would be of a limited size with landscaping to the east and south.
- 7.33. The Local Highway Authority (LHA) has been re-consulted on this full application & made the following comments- *‘The Local Highway Authority (LHA) are in receipt of a consultation for a full application for the part change of use of site to retail to allow public access to the plant nursery (approved under 19/00623/FUL) along with the provision of a car park at Poplar Cottage, Little Shaw Lane, Markfield. The proposed internal floorspace of the area open to the public would be 350sqm.*

The LHA is aware of previous applications at the site for similar proposals, including reference 22/01127/CONDIT to vary conditions 2 (approved drawings) and 6 (public access to the site) of application 19/00623/FUL. The LHA previously advised objection to the variation of conditions 2 and 6 within its observations dated 22nd December 2022. That application was however withdrawn and converted to a full application under reference 22/01127/FUL. The LHA subsequently advised refusal of that application on 4th September 2023 with an identical reason for refusal as per the above, albeit reflecting a now superseded version of the NPPF.

The LHA is also aware of other applications at the site, including 18/00272/FUL for a replacement access to a field and dwelling and 20/01363/FUL for a hay barn, greenhouse and water tank for horticultural use (part-retrospective). While the LHA advised no objection subject to conditions of both applications, this was on the basis that the new access would not result in an increase in traffic along with replacing a sub-standard access and that there was a minimal, if any, daily increase in use of the access as a result of the barn/ greenhouse.

The Applicant has submitted an Accompanying Highways Report dated 13th December 2023 and authored by Edwards & Edwards in support of the current proposals.

Access to the site is proposed off Little Shaw Lane, an A classified dual carriageway (A511). The speed limit changes from 40mph to 50mph immediately to the west of the proposed site access.

The Applicant undertook a speed survey as part of an Automatic Traffic Count at the location of the site access between 17th and 23rd June 2023. The precise location of the survey and the raw survey data has not been provided, however the LHA has checked its records and can confirm a survey permit was issued for a survey in the eastbound carriageway immediately to the west of the access between 15th and 23rd June 2023. The Applicant states that the 85th percentile speeds for eastbound traffic were 50.3mph.

Details of the site access are proposed on David Granger drawing number 18.3558.04 Rev. D. The Applicant has stated that whilst not previously requested by the LHA, the Applicant has now agreed to provide increased (4.0m) junction radii at the site access. The proposed improvements have been accompanied by a Stage 1 Road Safety Audit and a Designer's Response.

The LHA consider that increasing the junction radii as shown would not be of any considerable highway benefit to the proposed development in order to resolve its concerns over an intensification of vehicular movements turning onto and off the A511 Shaw Lane, which is a busy high-speed dual carriageway.

The Applicant has used Crashmap to consider Personal Injury Collisions (PIC's) within the vicinity of the site access for the five years up to the end of 2022. This identified that no PIC's have occurred at the site access during the study period, with PIC's only occurring at the roundabouts at each end of this section of the A511. While the LHA advise that the Applicant's data is considered to be out of date, based on the LHA's own records, the LHA are not aware of any additional PIC's occurring in the area during 2023.

Overall, two PICs have occurred between the A511 Saw Lane/ A511 Little Shaw Lane/ B591 Copt Oak Road/ Stanton Lane (Flying Horse) roundabout and M1 Junction 22 roundabout within the last five years. These were recorded as slight and occurred on the westbound carriageway in March 2020 and July 2022 which appear to be rear end shunt PIC's on the approach to the Flying Horse roundabout.

Based on application 20/01363/FUL for the demolition of an existing hay barn, erection of a replacement hay barn and the erection of a greenhouse for horticulture at the site, the Applicant stated that use of the site would vary throughout the year, dependant on growing cycles. Some days the site would not be accessed at all, while other days, when the plants are ready, may result in the use of the access by between 6-10 journeys in total per day (to and from the site counting as a total of two journeys). Other works on the site would include potting up which would involve other staff, but these would be limited in number and period. Staff carrying out such duties would be from the Rothley site and the Applicant stated that they could travel together from there. It was also stated that working on site would mostly involve the client who lives in the adjacent cottage and that large vehicles would generally not visit the site.

In terms of the current application, the Applicant has provided the same information in respect of trip generation as per application 22/01127/FUL, which is based on till roll transactions for their existing site in Rothley.

The Applicant has advised from January to the end of March, the Rothley site generates an average of 5 – 10 cars an hour. From April to the end of June (which are stated to be the busiest months), there is an average of between 16 and 25 vehicles per hour. From July through to September the site generates up to 14 vehicles per hour, reducing down to around 9 per hour from October to December.

The Applicant advises however that a direct comparison between the sites cannot be drawn. This is because the site at Rothley is a little more like a 'Garden Centre' in that it sells a wider range of goods than will be sold at Poplar Cottage. Also the site at Rothley contains a very popular café. The café draws customers to that site and those customers can then also make purchases at the 'Garden Centre'. The Applicant considers that as a result, the number of visitors to the application site will be a lot lower than those to the Rothley site. The Applicant therefore expects that the number of cars visiting the site would be around half of those visiting Rothley. Therefore the predicted number of cars per hour would be between 5 an hour during the low seasons and 13 an hour during the busier months.

As part of the previous application, the LHA requested clarification as to whether the proposed levels of trips were inclusive of both arrivals and departures (two way trips), or whether they were one way trips. The Applicant subsequently confirmed there is an expectation of between five arrivals and five departures (10 two-way trips) per hour throughout the day during the low season and 13 arrivals and 13 departures (26 two way trips) per hour throughout the day during the busier months. It was also confirmed by the Applicant that no additional HGV trips would be generated by the proposed development and that the proposals are purely to allow the public to visit the site. In addition, it was stated that it is very rare that a HGV would visit the site currently.

Noting that no comparison of the calculated traffic flows to a similar scale plant nursery has been made, based on the information provided by the Applicant alone, the LHA considers there could be between 80 - 208 two way trips per day (10 two way trips x 8 hours = 80 daily trips or 26 two way trips x 8 hours = 208 daily trips) between the opening hours of 10:00 - 18:00 (stated in the submitted application form) depending on the season. Within Paragraph 3.2 of the Applicants Highways Report it is accepted the proposals will result in an increase in the use of the access, however the Applicant considers there is no evidence the proposals could lead to an unacceptable impact on highway safety. This is due to a number of existing access points in the areas such as petrol stations and industrial units and no evidence of PIC injuries occurring.

The LHA consider the proposals could introduce a considerable number of additional turning manoeuvres to and from the A511 dual carriageway over and above the permitted use for the site. These manoeuvres would be on to a highly trafficked part of the network, currently with minimal access points and where drivers are accelerating away from the Flying Horse roundabout towards Junction 22 of the M1. As such, the LHA consider an intensification in use of the existing access could be of detriment to highway safety, contrary to paragraphs 114 and 115 of NPPF, as well as Part 1 Section IN5 of the Leicestershire Highway Design Guide (LHDG), which can be found at resources.leicestershire.gov.uk/lhdg.

Part 1, Section IN5, Paragraph 1.26 of the Interim Leicestershire Highway Design Guide states: We will normally apply restrictions on new accesses for vehicles and the increased use of existing accesses on:

- roads with a speed limit above 40 mph (that is 50mph, 60mph or 70mph) or where measured vehicle speeds are in excess of 40mph;
- roads with a speed limit of 40mph or less which are essentially rural in nature;
- routes where the access would affect bus-corridor or bus-priority measures being put in place;
- roads that are at or near capacity (cannot carry more traffic); and
- roads where there is an existing problem with road safety

The A511 is part of LCC's resilient road network. It is considered essential for economic activity and for key services in the event of extreme weather events, major incidents and other disruption. It forms a key route linking North West Leicestershire, including Coalville and Ashby de la Zouch with the A42, M1 and Leicester city.

Further, the A511/ A50 between the county boundaries with Derbyshire and Leicester City forms part of the Major Road Network (MRN), which forms a middle tier of the country's busiest and most economically important local authority 'A' roads, sitting between the national Strategic Road Network (SRN) and the rest of the local road network.

Leicestershire County Council holds traffic count data at the Flying Horse roundabout, which indicates on Wednesday 6 October 2021 there were 13,989 vehicles travelling along the eastbound carriageway past the site access between the hours of 07:00 – 19:00. This indicates that the road is a highly trafficked part of the road network. The LHA is also aware of capacity issues at the Flying Horse roundabout, partly due to the increase in traffic using the route as a result of a number of major residential/ employment developments which are coming forward in the surrounding area. Those permitted have been required to contribute towards the Coalville Transport Strategy in order to mitigate the otherwise severe highway impact of the specific development, where considered appropriate by the LHA. This aims to deliver improvements to key junctions in the area including the Flying Horse roundabout.

The Applicant considers that while recorded speeds are in excess of 40mph at the location of the site access, they would be 'well below 40mph' at the roundabout junction to the west and at the start of the visibility splay envelope and if policy IN5 was considered at that point, the proposals would not be contrary to policy. Furthermore, the Applicant has highlighted North West Leicestershire District Council (NWLDC) application reference 18/01890/OUT for an industrial development which was accessed directly off the A511 approximately 1.5 miles from this application site. It is stated that the access to that development has now been constructed with visibility splays 'far less' than those available at this application site and with development flows of 100 vehicles in the peak hour. The Applicant has quoted part of the LHA's response to that application which states 'the criteria set out in Policy IN5 was not formed as conduit to resist development, rather as a context in which to ensure that the appropriate levels of care and attention to maintain traffic flow and safety.' It is also highlighted that a central island was installed at the access to prevent right turns and address the LHA's concerns in respect of Policy IN5 and that the available visibility splays are shorter than those available at Poplar Cottage.

NWLDC application 23/00129/FULM at Molehill Farm, Kegworth for the change of use of agricultural land to a motorcross training park has also been identified by the Applicant. Access to that development is proposed off the A6 and the Applicant highlights the LHA suggested that measures to physically prevent right turns may be sufficient to counter-balance highway safety concerns.

The Applicant suggests that the main concern for the LHA in both instances appears to be right turning traffic, however in the case of Polar Cottage this is already not possible. The Applicant considers the proposals would have been 'waived' on a site at the A6 and in addition the proposed development would not generate considerable numbers of HGVs unlike the recent development further down the A511.

The LHA advises that the location of both the above developments, on a single lane section of the A511 and the A6 are not comparable to that of the proposed development, which is situated on a dual carriageway on approach to Junction 22 of the M1.

In the case of the development on the A511, recorded 85th percentile speeds were 44.1mph westbound and 39.4mph eastbound at the site access. The LHA is also aware that access was only taken from the A511 due to environmental and flooding constraints preventing access off the C classified Reg's Way and that appropriate vehicular visibility splays were secured as part of that application. The Officers Report for that development dated 17 March 2020 also states that the proposals would meet an immediate demand for B1c/B2 and small scale employment uses in the area.

Given the above, the LHA considers that if the proposed development would intensify the use of the access then it would be contrary to Policy IN5, increasing the risk to road users of vehicular movements turning onto and off the busy high-speed dual carriageway.

The internal layout of the site is detailed on David Granger drawing number 18.3558.04 Rev. D. This details 20 car parking spaces within the site. Based on the information available from the Applicant, it would appear that sufficient parking provision is proposed within the site.

Whilst not submitted as part of the current application, swept path analysis of an HGV turning within the site was provided by the Applicant as part of the previous application using an identical layout drawing (Edwards and Edwards drawing number 001), which is accepted by the LHA.

The site is located an approximate 200m from bus stops served by half hourly bus services between Leicester and Swadlincote/ Coalville, which may be of benefit for staff in particular. Given the location of the site however, which is detached from any particular settlement, the LHA considers customers are more likely to drive to the site'.

- 8.39 Given the above, the LHA considers that if the proposed development would intensify the use of the access then it would be contrary to Policy IN5.
- 8.49 It is therefore considered that this proposal, if permitted, would lead to an intensification of vehicular movements turning onto and off the A511 Shaw Lane, which is a busy high-speed dual carriageway, where the turning manoeuvres could be an additional source of danger to road users, which is not in the interests of highway safety, and is contrary to Policy IN5 of the Leicestershire Highway Design Guide and paragraphs 114 and 115 of the National Planning Policy Framework (2023). As a result it is considered the proposal would not be in accordance with Policy DM17 of the SADMP or Policy M10 of the Neighbourhood Plan.

Drainage

- 7.34. Policy DM7 of the SADMP requires development proposals to demonstrate adequate flood prevention measures.

7.35. The proposed site is situated within the Rothley Brook Catchment. The river leads east and joins the River Soar near Rothley. There is history of flooding within this catchment and Leicestershire County Council has stated any development has the potential to cause or aggravate flooding and it is essential that all forms of flooding are taken into consideration within any planning application. The proposal would introduce run-off from the additional area of hardstanding. Ground water would be collected and drained into soakaways within the field. The proposal would therefore ensure there would be no additional runoff from the development. A condition to implement the drainage scheme will be added to an permission, if granted..

7.36. By virtue of these details, the proposed development would be in accordance with Policy DM7 of the SADMP.

Planning Balance

7.37. The SADMP is now over 5 years old and could be considered out of date but in this case the relevant Policies of the SADMP are considered to have strong compliance, when assessed against the policies in the Framework taken as a whole. This is attributed significant weight in determining this application.

7.38. It is acknowledged that there are potential social benefits from the scheme such as providing a retail outlet for garden enthusiasts and economic benefits associated with ownership of this business & potentially additional employment for the local area. Nevertheless, the development is detrimental to highway safety in terms of the increased usage of this access. By virtue of this, it is considered that the benefits of the scheme do not outweigh the significant adverse effects of the scheme. Given the above, the development is considered to be contrary to, and in conflict with, Policy DM17 of the SADMP, Policy M10 of the Neighbourhood Plan & paragraphs 114 and 115 of the National Planning Policy Framework (2023).

9. Equality Implications

7.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

7.3. There are no known equality implications arising directly from this development.

7.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 7.1. The proposed development is not considered to be compliant with the relevant national and local policy as it:

Has an adverse impact upon highway safety.

- 7.2. Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is refused.

11. Recommendation

- 7.1. **Refuse planning permission** subject to:

- Planning reasons outlined at the end of this report.

7.2. Reason

1. This proposal, if permitted, would lead to an intensification of vehicular movements turning onto and off the A511 Shaw Lane, which is a busy high-speed dual carriageway, where the turning manoeuvres could be an additional source of danger to road users, which is not in the interests of highway safety, and is contrary to Policy IN5 of the Leicestershire Highway Design Guide, Policy DM17 of the Site Allocations and Development Management Policies DPD (2016), Policy M10 of the Markfield Parish Neighbourhood Plan (2021) and paragraphs 114 and 115 of the National Planning Policy Framework (2023).

a. Notes to Applicant

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 10.01.2024)
 - Landscape Plan Drg No. 18.3588.04D submitted 10.01.2024
 - Parking Plan Drg No. 18.3588.04D submitted 10.01.2024
 - Site Location Plan – (submitted: 10.01.2024)
 - Proposed Block Plan Drg No. 18.3588.04D submitted 10.01.2024
 - Final Highway Report submitted 10.01.2024
 - Road Safety Audit Stage 1 submitted 10.01.2024