

Delegated Report

Planning Ref: 24/00657/FUL
Applicants: Mr and Mrs Gary and Amy Knight
Ward: Ratby, Bagworth, and Thornton



Hinckley & Bosworth
Borough Council

Site: Barnhills Farm, Merrylees Road, Thornton

Proposal: Erection of two storey childcare facility with ancillary services and associated external play areas and animal interaction areas.

1. Recommendations

1.1. Refuse planning permission subject to:

- Planning reasons detailed at the end of this report.

2. Planning Application Description

- 2.1. This planning application seeks full planning permission for the erection of a new two-storey child day care facility (Use Class E(f)) at Barnhills Farm, Merrylees Road, Thornton. The Applicants have stated that the proposal represents the growth and expansion of an existing nearby facility, Markfield Day Nursery.
- 2.2. The development provides for 70 children and creates 14 full-time jobs. The ground floor accommodates children up to three years of age, and the first floor provides care for children over the age of three. The opening hours of the proposal shall be between 07:00 and 18:30 Monday to Friday, and the scheme shall not operate on weekends or bank holidays including Christmas and New Year.
- 2.3. The application site and the wider Barnhills Farm site are both accessed via an amended existing vehicular site access via Merrylees Road. To support the development, 25 off-street vehicle parking spaces are proposed (13 of which are for members of staff and 12 of which are for parent drop off and collection space) alongside cycle storage provision.
- 2.4. The proposed structure externally measures 12m in width by 30.6m in depth, which creates a total footprint of 370sqm. The scheme features a pitched roof with a ridge height of 7.2m and an eaves height of 4.7m. The Design and Access Statement states that the development is constructed with timber cladding and composite cladding panels. This proposal includes five childcare rooms, a sleep room, a kitchen, a laundry room, and a staff room, amongst others, as well as 450sqm of external play areas, 932.7sqm of recreational areas, and 1,235sqm of animal housing and grazing areas. The play area is constructed with soft rubber-crumb porous surfacing, which is bounded by round-top picket fencing. The wider site is

bounded by timber post and rail fencing to the car parking and animal areas. The recreation area and animal areas are not proposed to be surfaced.

- 2.5. The Applicants have stated that the animals within the site shall include donkeys and goats, but they shall be housed elsewhere. It was asserted that the animals involved with the development are only intended to be within the site on short-term basis to enhance children's educational learning and therefore only one mobile timber field shelter is proposed for the animals within the site.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located outside of the identified settlement boundary of Thornton within the designated countryside, Charnwood Forest, and the National Forest. The application site is also partially within Flood Zone 2 along its eastern site boundary and within 18m of a main river watercourse, Rothley Brook
- 3.2. The application site is accessed via an existing access onto Merrylees Road, which was approved via planning application 80/0514/4. Merrylees Road is an adopted and classified 'C' road that is subject to a 30mph speed limit when adjacent to the application site. This speed limit increases to the National Speed Limit 100m north along Merrylees Road.
- 3.3. Within the application site, the site consists of dilapidated agricultural buildings and grassland. The site has planning permission for the removal of 98.7sqm of these buildings and the provision of a new agricultural building via planning application 22/00883/FUL. This approved development externally measured 9.5m in width by 45m in depth, and featured a ridge height of 3.9m and an eaves height of 2.5m. The Applicants stated that this development was for the breeding and rearing of small game birds and would benefit from four full time members of staff.
- 3.4. Beyond the red line boundary, the site is associated with Barnhills Farm, which is within the ownership of the Applicants. Prior to the Applicants' ownership of the site, Barnhills Farm was previously principally utilised to raise beef cattle. Beyond the red line boundary, Barnhills Farm now consists of a dwelling and various outbuildings associated with the dwelling and the agricultural use within the site.
- 3.5. The site is surrounded by agricultural fields with other farms to the north, south, and northwest. Public Right of Way (PRoW) Footpath R77 runs in a northern direction from the western boundary of the site. Rothley Brook bounds the eastern boundary of the site. The deciduous woodland to the east of the site is highlighted as a habitat of principle importance for conserving, or enhancing, biodiversity.

4. Relevant Planning History

- 4.1 Pre-application advice was sought via application 24/10008/PREHMO for a two-storey child day care facility (Use Class E(f)) for up to 70 children. The Local Planning Authority advised that such a proposal was unlikely to be supported due to the significant environmental harm of the scheme.

4.2 22/00883/FUL

- Erection of barn (resubmission of 19/00263/FUL)
- Permitted
- 07.09.2023

4.3 19/00263/FUL

- Demolition of existing barns and erection of a new barn
- Permitted
- 20.05.2019

5. Publicity

5.1 The application has been publicised by sending out letters to local residents and a site notice was also posted within the vicinity of the site.

5.2 In total, members of the public from 16 separate addresses objected to the development. The following concerns were raised from these objections:

- Environmental concerns:
 - The development does not deliver sufficient biodiversity net gain
 - Harm to bats, badgers, newts, otters, owls, and other wildlife
 - Harm to existing hedgerows, woodlands, and water bodies
 - Harm to local ecosystems
 - Harm to the local environment
 - Harm to trees
 - Lack of sufficient green infrastructure
 - Queries in relation to the quality of the submitted badger survey
 - Sewage is proposed to be deposited into Rothley Brook
 - The site is only accessible by private motorised transport
 - Unsustainable location for this form of development
- Existing structures within the wider site do not have planning permission
- Flooding concerns:
 - The application site is prone to flooding
 - The proposed animal housing is adjacent to the highest flooding risks within the site
 - Rothley Brook is liable to flooding
- Harm to the character of the area:

- The development disrupts the natural landscape and the rural vistas of the area
- The proposal does not align with the objectives of the National Forest Strategy
- The scale of the proposal is incompatible with the rural character of the area
- The scheme results in adverse visual impacts to the surrounding area
- The site is highly visually prominent from elevated perspectives in the nearby area
- The use of the site is incompatible with the rural character of the area
- Harm to existing infrastructure:
 - Loss of productive farmland
 - The proposal does not represent the diversification of an existing agricultural business
 - The proposal will negatively impact the Bagworth Preschool
 - The proposal will negatively impact the Bagworth Community Centre
 - The proposal will negatively impact the Thornton Playgroup
 - The proposal will negatively impact the Thornton Community Centre
 - The impact on surrounding infrastructure could result in the loss of employment within the local area
- Harm to neighbouring residential amenity:
 - Noise and disturbance concerns
- Harm to the accessibility and the infrastructure of the adjacent Public Right of Way
- Highway safety concerns:
 - The entrance to the site is on a very tight bend
 - Exacerbation of existing road issues within the local area
 - The existing site access is likely to be a safety hazard in winter weather conditions
 - Further congestion from deliveries and waste services
 - Inaccurate trip generation movement assumptions
 - Increased congestion
 - Limited vehicular visibility from the site access
 - Queueing on a single carriage 'S' bend
 - Safety and logistical concerns with the use of a single access point for the existing agricultural use and the proposed daycare facility
 - Site access concerns
 - There is no provision for drop-off and collection of children
 - Unsafe access and egress from the site

- Unsafe active travel routes to the site
 - The re-location of the static caravan has not been confirmed
 - Parking concerns:
 - Insufficient off-street parking provision
 - On-street parking concerns
 - Pollution concerns:
 - Impacts of pollution have an adverse impact on the future users of the scheme
 - Noise pollution
 - Odour pollution from farm waste
 - Public health and safety risks:
 - Contamination risks from animal waste
 - Risk of zoonotic diseases (pathogens from non-humans to humans) such as Bovine Spongiform Encephalopathy (BSE)
 - Regulatory concerns:
 - Access and movement restrictions
 - Animal welfare requirements
 - Biosecurity measures
 - Diseases control
 - Inappropriate disposal of asbestos and waste
 - Use of chemicals such as pesticides within the remaining agricultural use of the site
 - Waste management concerns
 - There are better, more sustainable locations for this form of development.
 - The site is not big enough to host the proposed development
- 5.3 Several members of the public have queried the economic viability and sustainability of the development, and why the existing facility in Markfield cannot accommodate the business' growth demands. One member of the public highlighted that there are already nurseries and daycare facilities within all the rural villages and Key Rural Centres that have been identified within a 5km Cycle Catchment Plan by the Applicants.
- 5.4 An additional member of the public suggested there was another educational use along Merrylees Road that had recently received planning permission. However, based on the records of the Local Planning Authority, no further planning

permissions have been sought for an educational use along Merrylees Road, with the exception of Clovelly House via 20/01049/CLE since 2020.

- 5.5 Another member of the public suggested that there was no need for an animal interaction centre in the area given the site's proximity to facilities such as Gorse Hill City Farm, Tropical Bird Land, and Twycross Zoo, amongst others.

- 5.6 Two further members of the public have queried the ownership of the land.

Officer comment: On 25 September 2024, the Applicants confirmed that the red line boundaries within the submitted Site Plans were in accordance with their Land Registry Plans.

- 5.7 In light of these comments, the Applicants have stated that their proposed business model does not compete with the existing community asset facilities within the local area because the existing premises in the area such as Thornton Preschool does not offer baby care, they operate reduced hours, they do not offer an educational programme, and there is no direct price comparison between the facilities.

- 5.8 No further responses have been received.

6. Consultation

- 6.1 A Borough Councillor has called the application into Planning Committee should the recommendation be for approval.

Bagworth and Thornton Parish Council

- 6.2 Bagworth and Thornton Parish Council have objected to the planning application for the following reasons and requested that the scheme was determined by the Planning Committee:

- Environmental concerns:
 - The development is not in a sustainable location
 - The development is not accessible by sustainable modes of travel
 - Harm to protected species like bats, badgers, newts, and otters
- Flooding concerns:
 - The area is prone to flooding and is located within Flood Zone 2
 - Surface water flooding concerns
- Harm to the countryside:
 - Adverse visual impacts to the character of the countryside
 - The application site is outside of identified settlement boundaries

- Highway safety concerns:
 - Congestion concerns
 - Insufficient off-street parking provision
 - Insufficient vehicular visibility splays
 - Infrastructure concerns:
 - Harm to existing community assets such as pre-school facilities and community centres in Bagworth and Thornton
 - The development results in the loss of productive farmland
 - Public Health and Safety concerns:
 - Contamination risk from animal waste
 - Use of chemicals on the farm present risk of exposure to children
 - Zoonotic diseases
- 6.3 The Parish Council highlighted a disparity between the number of children being catered for by the development as the Design and Access Statement suggests 70, whereas the Travel Plan suggests 72. In addition, the Parish Council have acknowledged a discrepancy between the number of off-street parking provision, which states 18 spaces within the Design and Access Statement but 17 within the Travel Plan.

Officer comment: The Applicants confirmed the development was for 70 children on 20 September 2024. As per the Proposed Site Plan, the scheme features 25 off-street vehicle parking spaces.

- 6.4 The Parish Council have also criticised the comparison site for traffic flow calculations given the current site is not in a location that is accessible by sustainable modes of transport.
- 6.5 Bagworth Community Centre strongly objected to the planning application as the Community Centre heavily relies on the income from its existing pre-school and a further childcare facility is likely to detrimentally affect a lot of existing businesses in the area including Thornton's pre-school and childminder facilities in the area.

Officer comment: Whilst the Local Planning Authority appreciate the circumstances of Bagworth Community Centre and other local facilities, the Local Planning Authority cannot demonstrate that this proposal is likely to result in a significant adverse impact on these existing businesses facilities.

Highways

- 6.6 On 17 September 2024, 14 November 2024, 06 December 2024 and 13 January 2025, Leicestershire County Council, as the Local Highway Authority (LHA), did not consider the application to fully assess the highway impact of the proposal.

6.7 On 17 September 2024, the LHA highlighted 10 points including:

- The scheme has a a substandard vehicular access
- A Stage One Road Safety Audit (RSA) and Designer's Response is required
- Visibility splays needed to be confirmed via measured 85th percentile speeds
- The Personal Injury Collision Data Analysis is out-of-date and needed revising
- The LHA do not support the use of tandem parking to support the user type being applied for
- Clarification was required on sufficient manoeuvring space for the parking facilities
- No details were submitted in relation to the retained farm movements
- Concerns with accessibility of the site by non-car modes
- The LHA disagreed with content of the submitted Travel Plan
- Four issues relating to the Public Footpath

6.8 Despite the submission of a Stage 1 Road Safety Audit, and several revised Proposed Site Plans, Swept Path Analysis Plans, Travel Plans, and Transport Notes, the LHA stated on both 06 December 2024 and 13 January 2025, that the Applicants had failed to demonstrate a safe and suitable access for all users, contrary to Paragraph 115 of the National Planning Policy Framework.

6.9 On 13 January 2025, the LHA stated that:

- Trip generation predictions were based on a non-comparable development in terms of location and accessibility
- There were discrepancies within the submitted trip generation data
- The proposed visibility splays are not sufficient and result in a significant blind spot
- The proposal doesn't provide adequate parking provision to serve the development
- The Applicants have failed to address the LHA's concerns over the impact of the development on Public Footpath R77
- The application site suffers from poor transport sustainability and cannot be reached safely by walking, cycling, or public transport routes

6.10 On 15 January 2025, the Applicants declined to undertake a speed survey and requested that the Local Planning Authority determined the planning application.

Statutory Consultees with No Objections

6.11 There have been no objections from the following consultants:

- The Coal Authority
- Environment Agency (subject to conditions)
- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer (subject to conditions)
- HBBC's Environmental Services' Pollution Officer (subject to conditions)

- HBBC's Waste Management Officer
- Leicestershire County Council (LCC)'s Archaeology Department
- LCC's Drainage Department (subject to conditions)
- LCC's Ecology Department (subject to conditions)
- Leicestershire Police

Archaeology

- 6.12 The County Council's Archaeology Department reviewed the Leicestershire and Rutland Historic Environment Record (LRHER) and stated that they did not consider the proposal to result in a significant direct or indirect impact upon the archaeological interest or setting of any known or potential heritage assets.

Drainage

The Environment Agency

- 6.13 On 17 September 2024, the Environment Agency objected to the development in the absence of an acceptable Flood Risk Assessment (FRA). Subsequently, the Applicants submitted an FRA and a Drainage Strategy on 23 September 2024.
- 6.14 On 09 October 2024, the Environment Agency confirmed that a planning condition should ensure that the development is carried out in accordance with the submitted FRA and its recommended mitigation measures. These measures should be retained and maintained throughout the lifetime of the development.

Leicestershire County Council as the Lead Local Flood Authority (LLFA)

- 6.15 Leicestershire County Council as the Lead Local Flood Authority (LLFA) advised that the proposal to seek to discharge 2 l/s via an attenuation tank to the adjacent Rothley Brook is acceptable, subject to four planning conditions.
- 6.16 The LLFA requested four planning conditions that ensure the submission of details in relation to: a surface water drainage scheme, the management of surface water on site during the construction of the development, the long-term maintenance of the surface water drainage system, and infiltration testing that has been carried out on site to confirm or otherwise the suitability of the site for the use of infiltration as a drainage element.

Hinckley and Bosworth Borough Council's Drainage Officer

- 6.17 The Council's Drainage Officer requested three planning conditions in relation to the provision of a sustainable surface drainage system, details in relation to the management of surface water during construction of the development, details in relation to the long-term maintenance of the sustainable surface water drainage system.

Ecology

- 6.18 The County Council's Ecology Department confirmed that the Badger Survey was acceptable, which found no evidence of badgers on site. Due to the scale of the development and its limited impact on suitable habitat, the Ecology Department confirmed that no ecological surveys for badgers or other protected species were required.
- 6.19 The Case Officer had further discussions with the Ecology Department following the submission of images and videos of badgers and bats within the vicinity of the application site from members of the public.
- 6.20 Whilst the Ecology Department acknowledged that the surrounding habitat is very good for foraging bats, the submitted surveys found the buildings to have negligible potential for roosting bats. Therefore, the County Council have no reason to believe that there are bats on-site that are likely to be affected by this development.
- 6.21 Although concerns were raised in relation to the removal of the roof of the structures within the site by the Case Officer, the County Council confirmed that the original structures had single skin corrugated roofs, which generally have negligible potential for roosting bats. Therefore, the Ecology Department does not have any concerns about the loss of any potential bat roots in relation to the removal of the existing roofs.
- 6.22 The Ecology Department also confirmed that badger surveys typically cover the site and within 30m of the site boundaries. The closest badger sett that a member of the public has identified is approximately 55m from the site boundary. As such and given the relatively small scope of the proposed works, the County Council considered the recommendations in the badger survey report to be suitable to avoid any accidental damage to badgers during construction.
- 6.23 A member of the public also provided photographic evidence of a newt within a neighbouring site. The Ecology Department confirmed that they were not aware of any nearby records of newts. Nevertheless, given the proposed development's low to negligible ecological value of the application site, it is unlikely the presence of newts in the area is unlikely to be an ecological constraint to the development. Therefore, the Ecology Department recommended an advisory note in relation to great crested newts.
- 6.24 Notwithstanding this, the Ecology Department still had a holding objection to the development until revisions were made to the Biodiversity Net Gain (BNG) plans and metric.
- 6.25 The Applicants submitted a revised BNG Metric and summary on 02 December 2024. On 17 December 2024, the Ecology Department confirmed that they were confident that the BNG proposals were appropriate and reasonable, and that with appropriate mitigation, the proposed development would not impact any protected or notable species, or habitats, subject to three planning conditions included the

deemed BNG condition, a biodiversity enhancement scheme, and a Construction Environment Management Plan for Biodiversity (CEMP: Biodiversity).

Leicestershire Police

- 6.26 Leicestershire Police have no formal objections to the development but have provided several recommendations in relation to security measures for the site.

National Forest Company (NFC)

- 6.27 The National Forest Company (NFC) confirmed that the site area associated with the application to the north of the existing buildings would not exceed the National Forest planting threshold (between 1ha and 10ha of employment land). However, the NFC expressed disappointment that no planting was originally proposed within the submission as there is potential to introduce parkland planting to the north of the proposed buildings and south of the existing buildings.

Officer comment: The Applicants stated that parkland planting was not considered as part of this proposal as it would be directly detrimental to the existing proposed site uses in terms of the existing and proposed animal uses upon the site.

- 6.28 If timber is included within the building design, the NFC requested a planning condition that requires this to be a timber finish as opposed to a timber effect finish so it can contribute to the character of the National Forest.

Planning Obligations

- 6.29 The County Council's Planning Obligations Team confirmed that no Section 106 contributions were necessary for this proposal in relation to Education (including Early Years), Libraries, and Civic Amenities.
- 6.30 As the development does not directly relate to housing, Leicester, Leicestershire and Rutland Integrated Care Board (LLRICB) did not request any funding contributions towards health-related infrastructure.

Pollution

- 6.31 The Council's Pollution Officer requested a planning condition that ensures that the potential sources of asbestos within the existing structures that are proposed to be demolished within the site need to be suitably assessed and accompanied by a removal plan. This was agreed by the Applicants on 20 September 2024.

Waste

- 6.32 The Council's Waste Management Officer requested that adequate space was provided within the site to store the commercial waste containers.

Other Responses from Statutory Consultees

- 6.33 The Canal and River Trust did not comment on the planning application.
- 6.34 The County Council's Children and Young People's Services, the Friends of Charnwood Forest, Leicestershire Badger Group, and Severn Trent Water did not respond to the planning application.
- 6.35 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

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

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (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

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Landscape Character Assessment (LCA) (2017)
- Landscape Sensitivity Assessment (LSA) (2017)
- Leicestershire Highway Design Guide (LHDG) (2024)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity

- Impact upon parking provision and highway safety
- Planning balance

Principle of Development

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.
- 8.3 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP).
- 8.4 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.5 Nevertheless, in accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 8.6 The Applicants have referred to the Bagworth, Thornton, and Stanton Under Bardon Neighbourhood Plan within their Planning Statement. To date, this Neighbourhood Plan has not been formally adopted by the Local Planning Authority and therefore the Neighbourhood Plan attracts no weight in the planning balance.

The Principle of the Transport Sustainability of the Site

- 8.7 Paragraph 161 of the NPPF confirms that the planning should support the transition to net zero by 2050. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and association infrastructure.
- 8.8 Chapter 9 of the NPPF promotes sustainable transport. Paragraph 115(a) and (b) of the NPPF state that in assessing specific applications for development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development, and its location, and ensure a safe and suitable access to the site can be achieved for all users.
- 8.9 Policy DM17(b) of the SADMP requires development proposals to be located where the need to travel will be minimised, and the use of sustainable transport modes can be maximised. Policy DM17 of the SADMP also states that development

proposals should seek to ensure that there is convenient and safe access for walking and cycling to services and facilities; and that scheme should make the best use of existing public transport services.

- 8.10 Highway Development Management (HDM) Policy 1 of the Leicestershire Highway Design Guide (LHDG) states that development must be accessible for all highway users and maximise the uptake of sustainable travel choices.
- 8.11 Notably, the Local Highway Authority have confirmed that the site suffers from poor transport sustainability and cannot be reached safely by walking, cycling, or public transport routes.
- 8.12 Nevertheless, the application is supported by a Transport Statement and Travel Plan to justify the accessibility of the site by sustainable modes of transport to their proposal for a daycare facility for very young children.
- 8.13 However, Paragraph 2.2 of the Travel Plan states that, *“Many parents/ carers who are dropping off their child may not be able to utilise the sustainable travel options to the site, given they have young children with them.”*
- 8.14 Paragraph 2.6 of the Travel Plan and Paragraph 4.5 of the Transport Statement attempt to justify the accessibility to the site for pedestrians by suggesting that the application site is at the preferred maximum walking distance for commuting, going to school, or sightseeing as detailed within the Chartered Institution for Highways and Transportation (CIHT)’s *Providing for Journeys on Foot*.
- 8.15 Firstly, the CIHT document was published in 2000 and Table 3.2 of this document that details the suggested acceptable walking distances does not differentiate its maximum preferred walking distance between the requirements of a fully grown adult commuting to work and the requirements of children predominantly below the age of three. It is therefore not considered that this suggested acceptable walking distance guidance is sufficient justification to demonstrate that the application site is accessible to pedestrians and in particular young children.
- 8.16 Importantly, Paragraph 3.35 of this CIHT document confirms that:
- “The practicality and attractiveness of walking depend not only on the general location but also on the access details. The most important considerations are likely to be: The ease of pedestrian access to the site, the orientation and location of buildings within the site, the access arrangements within the site, [and] the architectural style of the development (car or pedestrian oriented).”*
- 8.17 Figure 2.1 of the Travel Plan and Figure 4.2 of the Transport Statement then highlight the public footpaths in the nearby area.
- 8.18 However, Paragraph 2.7 of the Travel Plan confirms that there is, *“No footway provision in the vicinity of the site... to either Thornton or Merry Lees.”*

- 8.19 The application site is 1km south of Thornton via an unlit classified 'C' road that is largely subject to the National Speed Limit and does not benefit from any surfaced or lit pedestrian footways. Furthermore, none of the nearby public rights of way are lit or surfaced. This is evident via the photographic images near the site at Figure 3.1 of the Transport Plan. It is therefore not considered that the application site can be reached via convenient or safe walking or cycling routes.
- 8.20 Figures 2.4 and 2.5 of the Travel Plan and Figures 4.4 and 4.5 of the Transport Statement then indicate the 5km cycle catchment of the application site and the cycle routes nearby respectively.
- 8.21 Despite these cycle plans, Paragraph 4.14 of the Transport Statement confirms that, *"There is no formal cycle provision along Merrylees Road."* In addition, Paragraph 4.16 of the Transport confirms that some of the cycle routes indicated in Figure 4.5 of the Transport Statement are, *"Off-road,"* and, *"May not be easily accessible in bad weather."*
- 8.22 Ultimately, it is not considered that a 5km cycle catchment area is acceptable justification to demonstrate the accessibility of the site by sustainable modes of transport for a daycare facility for very young children in an area with no formal cycleway provision or street lighting. In addition, whilst the Applicants highlight the 5km cycle catchment area of the application site, Paragraph 2.22 of the Travel Plan and Paragraph 4.21 of the Transport Statement suggest that the application site can be accessed by cycle from Narborough Train Station, which is 13.5km southeast of the application site. This is almost three times the cycling catchment size and is not considered to represent a convenient or safe route to the site via sustainable modes of transport.
- 8.23 Paragraph 2.19 of the Travel Plan and Paragraph 4.18 of the Transport Statement then suggest that there are two bus stops within 750m and 900m of the application site. However, these same paragraphs also highlight that, there is no formal bus service provision to the bus stop to the south of the site.
- 8.24 Nevertheless, both bus stops exceed the 400m maximum walking distance to bus stops that has been recommended within England since the Department of Environment Circular 82/73 (1973) and is more recently recommended at Figure 4 of the CIHT's Buses in Urban Developments (2018). Whilst the CIHT document refers to urban developments, this does not suggest that bus stops in excess of these distances in rural areas where there are no footpaths, cycleways or street lighting are likely to represent convenient public transport routes for people utilising a daycare facility for very young children.
- 8.25 Although the Applicants highlight a variety of measures that could be utilised to promote active travel and public transport to the application site at Table 7.1 of the Travel Plan, these measures include creating a transport newsletter, providing bus timetables, and promoting initiatives such as the 'Cycle to Work' scheme. In light of the extremely poor transport sustainability of the site, these proposed measures are

not considered to effectively encourage people to utilise active travel or public transport routes, nor make them more convenient or safe for users.

- 8.26 In summary, Paragraph 2.23 of the Travel Plan and Paragraph 4.22 of the Transport Statement both that acknowledge that, *“Travel by non-car modes is unlikely by parents dropping off/ picking up their children who don’t live by.”* Ultimately, the Local Planning Authority do not consider that the site is accessible by convenient or safe walking, cycling, or public transport routes, and visitors and staff are highly likely to be dependent on private motorised transport to access the site due to the poor transport sustainability of the site. Therefore, the proposal is contrary to Policy DM17 of the SADMP, HDM Policy 1 of the LHDG, and Chapter 9 of the NPPF.

The Principle of Development within the National Forest and Charnwood Forest

- 8.27 Policy 21 of the adopted Core Strategy confirms that proposals will be supported in the National Forest providing that they contribute to the delivery of the National Forest Strategy (increasing woodland cover; enhancing biodiversity; developing a new woodland economy for timber products and wood fuel energy; outdoor recreation and sports provision; and tourism developments, especially overnight quality accommodation linked to tourism in the Forest).
- 8.28 The proposed development fails to contribute to the National Forest Strategy and is therefore contrary to Policy 21 of the adopted Core Strategy. It is noted that the Applicants have failed to identify Policy 21 of the adopted Core Strategy within their Planning Statement.
- 8.29 Policy 22 of the adopted Core Strategy states that proposals within Charnwood Forest will be supported that:
- Maintain the traditional working landscape of the Forest, particularly those which involve rural diversification and sustainable tourism, including green tourism initiatives; or
 - Provide new recreation facilities around the fringes of the area.
- 8.30 Whilst the proposal is considered to involve rural diversification, the Applicants have failed to demonstrate how their proposal maintains the traditional working landscape of Charnwood Forest. It is noted that the Applicants have also failed to identify Policy 22 of the adopted Core Strategy within their Planning Statement.
- 8.31 Policy 22 of the adopted Core Strategy confirms that proposals within Charnwood Forest will be supported where they provide access to and from the rural areas into and within the regional park by non-vehicular means, provided that they:
- Retain local character and complement the local landscape
 - Enhance open spaces, including the treatment of built edges
 - Enhance woodland and habitat provision and connectivity
 - Manage and enhance the cultural heritage of the area.

- 8.32 As highlighted previously within this report, the proposal is located in an area of poor transport sustainability and does not provide access into Charnwood Forest via non-vehicular means. In addition, the proposal does not enhance open spaces, woodland, habitat provision, or connectivity, nor manage or enhance the cultural heritage of the area. The scheme's ability to retain local character and complement the local landscape is assessed further in this report.
- 8.33 In light of the above, the development fails to contribute to the National Forest Strategy, which is contrary to Policy 21 of the adopted Core Strategy and fails to meet the requirements for proposals within the Charnwood Forest, which is contrary to Policy 22 of the adopted Core Strategy.

The Principle of Development within the Countryside

- 8.34 Chapter 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 187(b) specifically highlights that this should be achieved by, *"Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services."*
- 8.35 To support this, Policy DM4 of the SADMP states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development.
- 8.36 As a result, Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 8.37 The Applicants have suggested that the scheme complies with Policy DM4(c) of the SADMP because:

“The proposal will assist with the diversification of the rural economy and contribute to job retention and creation, and deliver economic growth within the Borough, whilst delivering a much needed and required service within the local area.”

- 8.38 However, the Applicants have not demonstrated that the proposal significantly contributes to economic growth, job creation, nor the diversification of a rural business. Ultimately, the creation of 14 full-time jobs is not considered to significantly contribute to job creation within the Borough.
- 8.39 Therefore, the proposed development does not relate to, or comply with, any of the criteria of Policy DM4 of the SADMP and represents new and unjustified development within the open countryside, which causes significant harm in principle. However, this does not mean that the development is not sustainable.
- 8.40 Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.

The Principle of Rural Businesses

- 8.41 For example, Policy 7 of the adopted Core Strategy states that the Council will ensure there is a range of employment opportunities within the Key Rural Centres, such as Thornton.
- 8.42 However, the application site is not within the identified settlement boundaries of any Key Rural Centre and is therefore not supported by Policy 7 of the adopted Core Strategy.
- 8.43 Notwithstanding this, Paragraph 85 of the NPPF highlights that planning decisions should help create the conditions in which businesses can invest, expand, and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 8.44 Paragraph 88 of the NPPF also states that, planning decisions should enable:
- a) The sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed beautiful new buildings; and
 - b) The development and diversification of agricultural and other land-based rural businesses; and
 - c) Sustainable rural tourism and leisure developments, which respect the character of the countryside; and
 - d) The retention and development of accessible local services and community facilities such as local shops, meeting places, sports venues, open space, cultural buildings, public houses, and places of worship.

- 8.45 The Applicants claim that the proposal enables the growth and expansion of Markfield Day Nursery via a new building in accordance with Paragraph 88(a) of the NPPF. The LPA does not consider though that the proposal represents the growth and an expansion of an existing business located in a rural area.
- 8.46 Paragraph 89 of the NPPF states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.
- 8.47 Whilst the Applicants have highlighted the national eligibility for government funded childcare support as of April 2024, and provided an unnamed study that suggests there is an increase in demand for childcare at Paragraphs 6.4 to 6.6 of their Planning Statement, this information does not demonstrate, nor justify why community needs for childcare need to be found beyond existing settlement boundaries in locations that are not well served by public transport.
- 8.48 Importantly, the existing business is 6km away from the application site within the settlement boundary of a Key Rural Centre. Whilst Paragraph 3.12 of the Applicants' Planning Statement highlights that the current proposal shall support the growth and expansion of an existing daycare business, the Applicants do not confirm why the expansion of the existing facilities is required in a location outside of existing settlement boundaries in an area of poor transport sustainability.
- 8.49 Nevertheless, in these circumstances, Paragraph 89 of the NPPF confirms that it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope of access on foot, by cycling, or by public transport.) The use of previously developed land, and sites that are we physically well-related to existing settlements should be encouraged where suitable opportunities exist. These factors are assessed later in this report.

Summary

- 8.50 To summarise, the proposed development does not relate to, or comply with, any of the criteria of Policy DM4 of the SADMP and represents new and unjustified development within the open countryside, which causes significant harm in principle. The proposal is in an unsustainable location that is not accessible by convenient or safe walking, cycling, or public transport routes, and therefore the users of the site are highly likely to be dependent on private motorised transport, which results in significant environmental harm in principle. This is considered to be contrary to, and in conflict with, Policy DM17 of the SADMP, HDM Policy 1 of the LHDG, and Paragraph 161, Chapter 9, and the overarching ambitions of the NPPF when read as a whole.

- 8.51 The development fails to contribute to the National Forest Strategy, which is contrary to Policy 21 of the adopted Core Strategy and fails to meet the requirements for proposals within the Charnwood Forest and the open countryside, which is contrary to Policy 22 of the adopted Core Strategy and Policy DM4 of the SADMP in principle. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.
- 8.52 Ultimately, the harm of the development to the Charnwood Forest, the National Forest, the open countryside, and the environment should therefore be weighed against the benefits of the scheme.

Design and Impact upon the Character of the Area

- 8.53 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.54 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.55 In accordance with Policy 21 of the adopted Core Strategy, developments that contribute to the National Forest Strategy shall be supported provided that:
- The siting and scale of the proposed development is appropriately related to its setting within the Forest; and
 - The development respects the character and appearance of the wider countryside; and
 - The development does not adversely affect the existing facilities and working landscape of either the Forest or the wider countryside.
- 8.56 Policy 22 of the adopted Core Strategy supports proposals within Charnwood Forest that retain local character and complement the local landscape.
- 8.57 Policy DM4(i) and (v) of the SADMP states that development in the countryside will be considered sustainable where:
- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and

- v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.58 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.59 As highlighted previously within this report, the development is not identified as a use acceptable in the National Forest, Charnwood Forest, or the open countryside, and therefore represents new and unjustified development that causes significant harm to the character of these areas in principle. The application site also suffers from poor transport sustainability, which results in environmental harm due to the dependence on private motorised transport.
- 8.60 Therefore, the scheme is considered to be contrary to Policy DM4 of the SADMP, Policies 21 and 22 of the adopted Core Strategy, and the overarching environmental aim of the NPPF in principle.
- 8.61 The change of use of the site to a commercial child daycare facility is considered to significantly and detrimentally alter the character of the site from its current rural and agricultural character. This is compounded by the intensification of the use of the site to accommodate 70 children and 14 full-time members of staff. The impacts of this change of use are also considered to be emphasised by the provision of 450sqm of surfaced external play areas and the minimum of 579sqm of hard concrete surfacing to accommodate the off-street vehicle parking areas.
- 8.62 This proposal is therefore considered to result in significant harm to the rural and agricultural character of the site, the countryside, and National Forest, and Charnwood Forest.
- 8.63 However, within their submitted Planning Statement, the Applicants state that they do not consider the scheme to have an impact upon the character of the area. The Applicants suggest that this is because the application site benefits from planning permission for a new agricultural building via application 22/00883/FUL and therefore that the development of the site has been established.
- 8.64 Firstly, Condition 3 of this previous planning permission restricted the use of the approved structure to an agricultural use. Whilst it is acknowledged that agricultural buildings can be appreciated in common views within the countryside, this proposal is not for an agricultural use. In addition, the absence of the proposed use of the previously approved scheme from this submission suggests that the agricultural use of the site is unlikely to be more than a theoretical fallback position. As a result, the material consideration of the previously approved agricultural barn is offered limited weight in the planning balance.
- 8.65 In comparison to the approved barn via planning application 22/00883/FUL, the current proposal is 2.5m wider yet 14.4m shallower and subsequently has a 57.5sqm smaller footprint than what was previously approved.

- 8.66 Notwithstanding this, the current scheme accommodates an additional floor level and features a ridge height that is 3.3m higher and an eaves height that is 2.2m higher than what was previously approved. This almost doubles the height of what was previously approved within the site, which is considered to significantly increase the visual prominence of the scheme to the detriment of the character of the surrounding area, the countryside, the National Forest, and Charnwood Forest.
- 8.67 It is also noted that there are no other two-storey structures within the site and therefore the massing of the development contributes to the scheme's incongruous nature within the character of the site and the surrounding area. Furthermore, the previously approved scheme only accommodated four full-time members of staff and consequently the current proposal significantly intensifies the use of the site, which compounds the adverse impacts of the development.
- 8.68 The Applicants have suggested that there are limited views of the site from Merrylees Road, and the users of the existing Public Right of Way experience the site in light of the existing agricultural buildings and outbuildings, and therefore the development will not result in any significant adverse impacts to the character of the area.
- 8.69 Whilst the views of the site are limited to sights from Merrylees Road and the existing Public Right of Way, this does not diminish the significant and adverse visual impact of the development. Importantly, the development is still visually prominent from both of these locations.
- 8.70 In addition, it is acknowledged that the existing access is 3.3m in width and 4.6m at the highway boundary. However, to facilitate the development, the latest submitted plans demonstrate a proposed access that is 6m wide and has a 10m radii at the highway boundary, which almost doubles the width of the access at the entrance to the site and to the highway boundary.
- 8.71 These works shall require the removal of sections of the existing mature vegetation along the site boundary and shall increase the provision of hard surfacing within the site. These impacts are considered to increase the visual prominence of the development from the public highway and exacerbate the scheme's urbanising impacts on the character of the surrounding area, the designated open countryside, the National Forest and Charnwood Forest.
- 8.72 Furthermore, the Local Highway Authority have confirmed that the proposal does not provide an adequate level of off-street parking. Consequently, if approved, the development is likely to increase indiscriminate parking in the area, such as on the grass highway verges in the vicinity of the site, which would further erode the character of the surrounding area and the designated countryside. This impact is heightened due to the capacity of the development to accommodate 70 children and 14 full-time members of staff.

- 8.73 By virtue of these factors, the development is considered to result in significant adverse impacts to the character of the rural character of the site, Charnwood Forest, the National Forest, and the designated open countryside. This harm is exacerbated by the significant intensification of the use of the site and the visual prominence of the development from the public highway and Public Footpath R77, as well as the works required to provide an appropriate vehicular site access.
- 8.74 Therefore, the proposal is contrary to, and in conflict with, Policies DM4(i) and (v) and DM10 of the SADMP, Policies 21 and 22 of the adopted Core Strategy, Paragraph 89 and Chapters 12 and 15 of the NPPF, and the Good Design Guide.

Impact upon Residential Amenity

- 8.75 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.76 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 8.77 The closest neighbouring residential properties are Buskey Farm, which is over 235m to the north of the site, Church Farm, which is over 170m south of the site, and Linton Farm, which is over 195m northwest of the application site. Whilst there is a dwelling within the wider Barnhills Farm site, this is occupied by the Applicants.
- 8.78 The Applicants have confirmed that the daycare facility will operate between 07:00 and 18:30. This was clarified by the Applicants and these hours shall be secured via planning condition.
- 8.79 Following advice from the Council's Pollution Officer, it is not considered that the development results in any significant adverse impacts to neighbouring residential amenity.
- 8.80 In light of the above and the material consideration of the agricultural use of the site that is supported by planning permission 22/00883/FUL, the development is not considered to result in any significant adverse impacts to neighbouring residential amenity. Therefore, the proposal is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.81 Paragraph 115(b) of the NPPF states that planning decisions should ensure that developments provide safe and suitable access to the site for all users. In accordance with Paragraph 115(d) of the NPPF, any proposal should ensure that any significant impacts from the development on the transport network (in terms of

capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach.

- 8.82 Ultimately, 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, following mitigation, would be severe, taking into account all reasonable future scenarios in accordance with Paragraph 116 of the NPPF.
- 8.83 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.84 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)) (2024).
- 8.85 Highway Development Management (HDM) Policy 2 of the LHDG highlights that the Local Highway Authority (LHA) shall apply a risk-based assessment of proposals for new accesses onto the existing highway network and alterations to, or intensification of, existing accesses so that they do not result in unacceptable road safety and operation concerns. As a result, HDM Policy 3 of the LHDG states that the LHA shall ensure that development proposals do not raise unacceptable safety concerns, and the Road Safety Audit process has been satisfactorily undertaken. Notably, HDM Policy 4 of the LHDG confirms that significant operational and road safety impacts of development on the transport network must be mitigated to an acceptable degree.
- 8.86 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. The LHDG confirms that the Local Highway Authority (LHA) would consider the tests of advising for refusal as set out in Paragraph 116 of the NPPF where a planning application does not meet the required parking standards and where insufficient justification is provided by the Applicant.

Public Rights of Way

- 8.87 Paragraph 105 of the NPPF confirms that planning decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users.
- 8.88 Public Footpath R77 is located beside the application site entrance that is accessed via a grass verge and an old timber pedestrian gate.
- 8.89 The LHA have highlighted that the Public Footpath has been altered from its legally recorded position and needs to be reinstated as such, or a legal order is required to

legally relocate the Public Footpath. Neither option has been undertaken by the Applicant.

- 8.90 Whilst the replacement of the existing gate with a kissing gate is annotated within the submitted plans, the details of which have not been submitted to the Local Planning Authority. In addition, the grass verge and pedestrian entrance is narrow and very close to the vehicle entrance, which is considered to be a less-than-ideal arrangement for both pedestrians accessing the site and walkers seeing to enter or leave the footpath.
- 8.91 Although these concerns have not been addressed by the Applicants at this stage, the protection and enhancement of the Public Footpath can be secured via a pre-commencement condition.

Proposed Off-Street Parking, Site Access, and Visibility Splays

- 8.92 The proposal amends the existing access onto Merrylees Road and provides a 6m wide bell-mouth junction with a 10m radii. It is noted that the Proposed Access Alterations Plan shows that visibility splays of 2.4m by 87m can be achieved to the north of the access, and 2.4m by 120m can be achieved to the south of the proposed bell mouth junction.
- 8.93 The submitted Swept Path Analysis plans demonstrate that vehicles can access and egress the site in a forward gear.
- 8.94 However, the LHA are aware of historic speeds within the vicinity of the site, which indicate that speeds near the proposed access might be higher than the Applicant anticipates. Therefore, whilst the proposed visibility splays would be suitable for 85th percentile speeds of 40mph and 44mph, no evidence has been submitted to demonstrate that the proposed visibility splays are sufficient to cater for the recorded 85th percentile speeds in this location.
- 8.95 The access is located on a curved road and the visibility splay crosses the carriageway centreline. However, visibility has not been evidenced in accordance with Figure 3.9 of DMRB CD123. Consequently, the proposed visibility splays as shown could result in a significant blind spot within the visibility splays.
- 8.96 Despite the LHA requesting that a traffic count/ speed survey is undertaken within all their responses to the planning application, including the pre-application response, 24/10008/PREHMO on 19 March 2024, the Applicants declined to undertake these works on 15 January 2025.
- 8.97 In addition, the submitted Stage 1 Road Safety Audit (RSA1) identified that there was a lack of clear circulation for traffic within the site which may result in vehicles queuing or parking on Merrylees Road.
- 8.98 Therefore, the RSA confirmed that while the Swept Path Analysis showed that vehicles will be able to enter the site in a safe manner, it was noted that only six

parent drop-off / collect bays are to be provided and that these are all to the north of the site access.

- 8.99 Given the number of places available to children, this was considered to impede the flow of vehicles into the site by the movements of vehicles into and out of the proposed pick up / collect bays in peak times, resulting in vehicles queuing back onto Merrylees Road. This in turn may lead to overtaking movements where visibility is limited, risking offside to offside collisions.
- 8.100 The Applicants have attempted to justify their development by comparing it to the parking provision for Markfield Day Nursey, which accommodates up to 68 children, and submitted a parking study that suggested 18 vehicles accessed the Markfield site in the morning peak hour and 12 accessed the Markfield site in the evening peak hour, with a maximum parking accumulation of nine parked vehicles.
- 8.101 The Local Highway Authority highlighted that the number of vehicles recorded within this parking study does not match the level of proposed trip generation previously provided by the Applicants, which predicted that the current development would generate 37 two-way trips in the morning peak hour and 41 two-way trips in the evening peak hour. In addition, the existing nursey is not comparable to the proposed development in terms of its location and accessibility because the existing nursey is in a built up, predominantly residential area within a Key Rural Centre that is supported by footways and street lighting, which can facilitate transport to and from the nursey by sustainable means. In addition, there is on-street parking located along Leicester Road within the vicinity of Markfield Day Nursery.
- 8.102 Whilst 12 parent drop-off / collection bays are now proposed in a tandem arrangement with the majority of the staff parking spaces, the LHA do not support the use of tandem parking for the user type being applied for. In addition, the LHA query how the Applicants intend to manage these spaces and highlighted that should the tandem spaces be used by staff, this could require multiple staff to leave the building to move cars, which may neither be appropriate or practical.
- 8.103 Given the above, it is not considered that the current proposals demonstrate that adequate parking provision has been provided to serve the proposed development. As a result of the proposed site layout, and the inadequate provision of proposed off-street parking provision, the proposal is considered to impede the flow of vehicles into the site due to the movements of vehicles into and out of the proposed pick up / collect bays in peak times, which shall result in vehicles queuing back onto Merrylees Road. This in turn may lead to overtaking movements where visibility is limited, risking offside to offside collisions. The Applicants have failed to submit any evidence to demonstrate the proposed visibility splays are sufficient to cater for the recorded 85th percentile speeds in this location, and due to the curved nature of the road, the LHA have highlighted that, as submitted, the proposed visibility splays could suffer from a significant blind spot. By virtue of these factors, the Applicants have failed to demonstrate that a safe and suitable access has been provided for all users to serve the development.

Summary

- 8.104 The Applicants have failed to demonstrate that adequate parking provision has been provided to serve the development, nor that a safe and suitable access has been provided for all users. The Applicants have been aware of these requirements since the Local Planning Authority's pre-application enquiry response was issued on 19 March 2024. By virtue of these factors, the development is contrary to, and in conflict with Policies DM17 and DM18 of the SADMP, Paragraphs 89, 115 and 116 of the NPPF, and the LHDG.

Planning Balance

- 8.105 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.
- 8.106 Paragraph 11(d)(ii) of the NPPF requires planning permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.107 It is acknowledged that there are social benefits of the scheme including providing an additional daycare facility within the area, and economic benefits associated with the construction of the development, the employment of 14 full-time members of staff, and the expansion of an existing business. Due to the scale of the scheme, the social benefit of the development and the economic benefit of the scheme are considered to attract modest weight in the planning balance.
- 8.108 However, given the distance between the application site and the existing business in Markfield, it is not considered the Applicants have sufficiently demonstrated that the provision of a childcare facility in this location shall directly enable and support the expansion of the existing facility within Markfield.
- 8.109 This is reinforced by the fact that whilst Paragraph 89 of the NPPF confirms that local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, the Applicants have failed to demonstrate how the current proposal's location outside of existing settlement boundaries in an area of poor transport sustainability meets local business and community needs in rural areas. This is emphasised by the distance of the application site from the existing business, and the existing business' location within a Key Rural Centre.

- 8.110 In light of the above, and the scale of the proposal, the benefit to supporting the growth and expansion of the Applicants' existing business is considered to attract limited weight in the planning balance.
- 8.111 The Applicants have also suggested that the site makes use of an area of site that is currently unused and occupied by dilapidated agricultural buildings.
- 8.112 It is noted that the NPPF does not include land that is occupied by agricultural buildings within its definition of previously developed land. Given the Applicants have received planning permissions 19/00263/FUL and 22/00883/FUL, it is considered that the application site could be redeveloped for an agricultural use.
- 8.113 Therefore, the benefit of redeveloping the unused buildings within the site is considered to attract very little weight in the planning balance.
- 8.114 As highlighted by Paragraph 89 of the NPPF, proposals supporting local business and community needs beyond existing settlements should ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope of access on foot, by cycling, or by public transport.)
- 8.115 Although a Travel Plan was submitted, the Applicants have failed to exploit any opportunities to make the application site more sustainable. Ultimately, the proposal is in an unsustainable location, which is not accessible by convenient or safe walking, cycling, or public transport routes, and therefore users of the site are highly likely to be dependent on private motorised transport, which results in significant environmental harm. This is contrary to Policy DM17 of the SADMP, HDM Policy 1 of the LHDG, and the NPPF's overarching ambitions of sustainable development, including Paragraphs 89 and 115(a) and (b), and Chapter 9. It is noted that Footnote 9 of the NPPF highlights Paragraph 115 of the NPPF as a key policy in determining an application within the 'tilted' balance. This is considered to attract significant weight in the planning balance.
- 8.116 Furthermore, the development results in significant adverse impacts to the character of the rural character of the site, Charnwood Forest, the National Forest, and the designated open countryside. This harm is exacerbated by the significant intensification of the use of the site and the visual prominence of the development from the public highway and Public Footpath R77, as well as the works required to provide an appropriate vehicular site access. Therefore, the proposal is contrary to, and in conflict with, Policies DM4(i) and (v) and DM10 of the SADMP, Policies 21 and 22 of the adopted Core Strategy, Paragraphs 89 and 135 and Chapters 12 (and 15 of the NPPF, and the Good Design Guide. It is noted that Footnote 9 of the NPPF highlights Paragraph 135 of the NPPF as a key policy in determining an application within the 'tilted' balance. These adverse impacts are considered to attract significant weight in the planning balance.

- 8.117 In addition, the Applicants have failed to demonstrate that adequate parking provision has been provided to serve the development, nor that a safe and suitable access has been provided for all users. By virtue of these factors, the development is contrary to, and in conflict with Policies DM17 and DM18 of the SADMP, Paragraphs 115 and 116 of the NPPF, and the LHDG. These adverse impacts are also considered to attract significant weight in the planning balance.
- 8.118 In conclusion, the proposal conflicts with two of the applicable key policies highlighted within Footnote 9 of the NPPF for determining applications within the 'tilted' balance. As a result, it is considered that the adverse impacts of the scheme significantly and demonstrably outweigh the benefits of the development in these site-specific circumstances. Therefore, the proposal is contrary to, and in conflict with, Policies DM4(i) and (v), DM10, and DM17 of the SADMP, Policies 21 and 22 of the adopted Core Strategy, Chapters 2, 12, and 15 of the NPPF, and the Good Design Guide. In accordance with Paragraph 139 of the NPPF, the application is refused.

9. Equality Implications

- 9.1 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.
- 9.2 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.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 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

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

11. Recommendation

- 11.1 **Refuse planning permission** subject to:

- Planning reasons detailed below.

11.2 Reasons

1. The development results in significant adverse impacts to the rural character of the site, Charnwood Forest, the National Forest, and the designated open countryside. This harm is exacerbated by the significant intensification of the use of the site and the visual prominence of the development from the public highway and Public Footpath R77, as well as the works required to provide an appropriate vehicular site access.

Therefore, the proposal is contrary to, and in conflict with, Policies DM4(i) and (v) and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policies 21 and 22 of the adopted Core Strategy (2009), Chapters 2, 12, and 15 (including Paragraphs 89 and 135) of the National Planning Policy Framework (2024), and the Good Design Guide (2020). These adverse impacts significantly and demonstrably outweigh the benefits of the development in these site-specific circumstances.

2. The development is in an unsustainable location, which is not accessible by convenient or safe walking, cycling, or public transport routes, and therefore users of the site are highly likely to be dependent on private motorised transport, which results in significant environmental harm.

This is contrary to, and in conflict with, Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), HDM Policy 1 of the Leicestershire Highway Design Guide (2024), as well as Paragraphs 89, 115 and 161, Chapter 9, and the overarching ambitions of sustainable development defined at Paragraph 8 of the National Planning Policy Framework (2024).

3. The Applicants have failed to demonstrate that adequate parking provision has been provided to serve the development, nor that a safe and suitable access has been provided for all users.

By virtue of these factors, the development is contrary to, and in conflict with Policies DM17 and DM18 of the of the adopted Site Allocations and Development Management Policies Development Plan Document (2016),

Paragraphs 115 and 116 of the National Planning Policy Framework (2024), and the Leicestershire Highway Design Guide (2024).

a. **Notes to Applicants**

1. The application has been determined in accordance with the following submitted details:

- Badger Report (submitted: 04.07.2024)
- BNG Statutory Metric Calculation V3 (submitted: 02.12.2024)
- BNG Summary (submitted: 02.12.2024)
- Design and Access Statement (submitted: 04.07.2024)
- Desk Study and Geotechnical Investigations (submitted: 04.07.2024)
- Drainage Strategy P03 (submitted: 23.09.2024)
- Flood Risk Assessment RP-C-0001 P03 (submitted: 23.09.2024)
- Location Plan (001 E) (submitted: 02.12.2024)
- Planning Statement (submitted: 04.07.2024)
- Proposed Access Alterations (submitted: 16.12.2024)
- Proposed Elevations 5681 07 B (submitted: 05.09.2024)
- Proposed Front Visual 5681-005 (submitted: 04.07.2024)
- Proposed Internal Layouts 5861-003-B (submitted: 04.07.2024)
- Proposed Site Plan (004 K) (submitted: 02.12.2024)
- Proposed Site Sections 5681-006-A (submitted: 04.07.2024)
- Road Safety Audit (Stage 1) (24-1795-RSA1) (submitted: 23.10.2024)
- RSA Designers Response (submitted: 23.10.2024)
- Swept Path Analysis (Farm Vehicle) (submitted: 16.12.2024)
(155 04C)
- Swept Path Analysis (Layout) (155 03C) (submitted: 16.12.2024)
- Topographical Plan (002 E) (submitted: 02.12.2024)
- Transport Note (RHC-24-155-TN) (submitted: 20.11.2024)
- Transport Statement (Rev 3) (submitted: 16.12.2024)
- Travel Plan (Rev 03) (submitted: 16.12.2024)