



Edwards & Edwards Consultancy Ltd

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Planning Appeal

**Part change of use of site to retail to
allow public access to nursery**

**Poplar Cottage, Little Shaw Lane,
Markfield**

Appellant Mr Proud

Highways Appeal Statement

DOCUMENT CONTROL

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1 Introduction

- 1.1 My name is Duncan Clarke. I have over 45 years of experience in both the public and private sectors. I worked for Leicestershire County Council for 38 years, starting as a Trainee Civil Engineering Technician in 1978. From 1988 to my departure in 2016, I was an Assistant Engineer in the Highway Development Control Team, dealing with consultation responses on planning applications, providing pre-application advice, providing statements for Appeals, as well as attending Public Inquiries representing the Local Highway Authority.
- 1.2 I joined Edwards and Edwards Consultancy Ltd in 2016, and in the last 8 years I have provided advice and supporting reports for a number of clients seeking approval for developments. During that time, I have been engaged by both Leicester City Council and Peterborough City Council to provide highway advice and consultation responses on behalf of their Highways Teams. As part of that role, I have attended a number of Planning Committee meetings to answer questions and give advice to members of the City Council's Planning Committee.
- 1.3 Edwards and Edwards Consultancy Ltd. are a 'Highway and Transportation Consultancy' specialising in giving advice to clients on highway development control matters. Our dedicated team have over 200 years' combined experience dealing with development control matters in both the public and private sectors.
- 1.4 We have been engaged by Mr Proud to provide representations to address the reason for refusal issued by Hinckley and Bosworth Borough Council following the refusal of his planning application for land at Poplar Cottage, Little Shaw Lane, Markfield (LPA ref 24/00021/FUL).
- 1.5 Mr Proud submitted the planning application to Hinckley and Bosworth Borough Council in January 2024, for the 'Part change of use of site to retail to allow public access to the nursery and the provision of a car park' at Poplar Cottage, Little Shaw Lane, Markfield. It was proposed to serve the development from the existing vehicular access from Little Shaw Lane that currently serves the existing nursery, albeit with some alterations/improvements to this access. The following photograph

shows the existing vehicular access serving the site:-



- 1.6 The proposed site layout plan has been attached as **Appendix A** for information. The proposal includes the provision of a customer car parking as well as improvements to the existing access.
- 1.7 Mr Proud had submitted an earlier planning application for the proposal in 2022, however this application was refused on highway safety grounds (LPA ref 22/01127/FUL). This latest application, the subject of this appeal was submitted in order to try and address the highway safety reason for refusal.
- 1.8 Prior to this latest planning application being submitted, the Applicant had commissioned a speed survey to be carried out at the point of the site access, as this had previously been requested by the Local Highway Authority. As Little Shaw Lane is a dual carriageway with a central island, only the speed of vehicles at the access on the application site side of the road were measured. The results of the speed survey which was carried out over a 7-day period in June 2023, which are attached as **Appendix B**, revealed that the 85th percentile speed of traffic passing the site access from the west was 50.3mph.
- 1.9 However, when considering access design and visibility splay requirements, it is normal practice to consider the speed of vehicles as they enter the 'visibility splay

envelope' for drivers emerging from the side road not the speed of vehicles as they pass the access point.

- 1.10 In this case, drivers of vehicles emerging from the site would see vehicles over 180 metres away, as they negotiate the signal controlled roundabout junction of Little Shaw Lane with Copt Oak Road and Stanton Lane. At the point of which vehicles would be entering the 'visibility splay envelope' the 85th percentile speed of vehicles would be far lower than at the point of the site access. Given the nature of the roundabout, I would expect that the 85th percentile speed of traffic on the roundabout to be well below 40mph.
- 1.11 A supporting Highway Report was submitted with the application, that considered all the highway issues raised by the development and demonstrated that the proposal would not lead to any unacceptable impact on highway safety. This supporting highway report is attached as **Appendix C** for information.
- 1.12 As part of the supporting information a Road Safety Audit Stage 1 was commissioned by the applicant. The Road Safety Audit raised 3 minor issues and provided 3 recommendations to address these issues. The Designer Response to the Audit accepted the issues raised and agreed to carry out the recommendations made by the Auditors to address those issues. The Road Safety Audit and Designer Response was included within the supporting highway report attached as **Appendix C**.
- 1.13 As part of the usual planning application process, the Local Planning Authority (LPA) consulted the Local Highway Authority (LHA), to seek their views on the proposal. The LHA response to the application advised refusal on transport/highway grounds. They stated 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 (December 2023).***' The LHA response is attached as **Appendix D** for information.
- 1.14 Following the LHA response, Edwards and Edwards Consultancy Ltd. were made aware of an Appeal decision for a development proposal in East Langton in the

Harborough District of Leicestershire. The Appeal following a refusal of planning permission for a Veterinary building with associated car park. The LHA had advised refusal of that application based on the same grounds as they had advised refusal of the application at Poplar Cottage, and that application was subsequently refused by the Local Planning Application, on highway grounds only, as advised by the LHA.

- 1.15 In consideration of the Appeal, the Planning Inspector stated: - *'However, whilst concluding that the proposal would increase the use of the existing access, contrary to Section IN5, neither the Council or the LHA, go on to provide any objective substantive evidence to demonstrate that it would generate any highway safety concerns or capacity issues for the road network.'*
- 1.16 The Planning Inspector concluded that *'the proposal would have an acceptable effect on highway safety. The proposal would accord with Policies GD8 and IN2, which amongst other matters, require new developments to ensure safe access and safe, efficient and convenient movement for all highway users. Further, the proposal would meet with the requirements of the NPPF which seeks to ensure safe and suitable access to the site for all users.'*
- 1.17 As a result of their consideration of the Appeal, the Planning Inspector upheld the Appeal and granted planning permission.
- 1.18 The Appellant had also applied for Costs against the Council on the grounds of unreasonable behaviour. In consideration of the Costs Appeal, the Planning Inspector found that the Council had acted unreasonably, as they had failed to provide substantive evidence demonstrating how an increased use of the access would prejudice highway safety.
- 1.19 The Planning Inspector stated that *'Whilst the development would generated extra traffic onto the adjoining road, this is insufficient to demonstrate the development would lead to highway safety issues. The LHA response to the planning application confirmed that the layout of the access meets the required standards of the LHDG, as do the achievable visibility splays and that no collision patterns would exacerbated. It is incumbent on the Council and LHA therefore, to clearly show how any increased use of the access would prejudice highway safety.'*

- 1.20 The Planning Inspector found that the highway reason for refusal was based upon rigid interpretation of highway guidance, and generalised assertions and unevidenced assumptions about the impact of traffic associated with the development.
- 1.21 The Planning Inspector stated that *'I understand that in reaching a decision on the application, the Council has relied on the advice of the LHA. However ultimately the Council is the decision-maker, and it must be satisfied that any recommendation for refusal by statutory consultees are based on evidence, sound reasoning and a correct understanding of the relative roles of the development plan, the NPPF, and highways guidance in the decision-making process. This has not been the case, and so the Council has acted unreasonably.'*
- 1.22 The Planning Inspector consequently awarded full costs against the Council. The Appeal Decision and the Costs Decision have been attached as **Appendix E** for information.
- 1.23 Having read through those decisions and circumstances of the development at East Langton, it was evident that all of the arguments made by the Inspector are relevant to this Appeal. The LHA response to this application was refusal was based upon rigid interpretation of highway guidance, and generalised assertions and unevidenced assumptions about the impact of traffic associated with the development.
- 1.24 The LHA did not provide any objective substantive evidence to demonstrate that it would generate any highway safety concerns or capacity issues for the road network. The proposed site access conforms with LHA guidance and the available visibility splay looking to see approaching vehicles far exceeds the minimum sight stopping distance, based on the speed of vehicles as they enter the visibility splay envelope.
- 1.25 The Appeal and Costs Decisions were then submitted to the LPA as supporting evidence, to demonstrate that to resist the application on highways grounds, as advised by the LHA would be unreasonable. Disappointingly, despite being provided with these very relevant Appeal and Costs Decisions, the application was subsequently refused by Hinckley and Bosworth B C with a single highway reason given as the reason for refusal. The Decision Notice issued by Hinckley and Bosworth BC on 9 May 2024 is attached as **Appendix F** for information.

- 1.26 It is noted that in the Officer Report for the application, that the Planning Officer did not make any mention of the Appeal and Costs Decisions on the East Langton proposal, which are considered to be very pertinent to this case. The Officer Report has been attached as **Appendix G** for information.
- 1.27 This Highway Appeal Statement seeks to demonstrate that the site will be served by a safe and suitable access and that there is no substantive evidence demonstrating how an increased use of the access would prejudice highway safety.

2 GROUND OF APPEAL

- 2.1 The site currently benefits from planning approval for a horticultural use on the site, following the approval of planning permission in August 2019. This proposal seeks the part change of use of the site to retail to allow public access on to the nursery and to provide a car park for customer use.
- 2.2 The access has therefore been in use for nursery purposes for the nearly 5 years, and there has been no recorded personal injury road traffic accident during that period. The evidence therefore demonstrates that the access is a safe access.
- 2.3 The existing access has suitable width to allow two vehicles to pass, however as part of this current proposal, it is proposed to provide an increased entry radius to allow vehicles to turn more easily into the access. Such an improvement should be seen as offering a potential highway safety benefit.
- 2.4 The access has excellent visibility splays, well above the minimum required for the speed of traffic as they enter the visibility envelope. In this instance, the vehicles would enter the visibility splay envelope as they are negotiating the roundabout at the 'Flying Horses' roundabout junction over 160 metres to the west of the site. The following photograph shows the available visibility splay from a drivers eye height at a set back of 2.4 metres: -



- 2.5 The LHA did not raise an issue with the available splays, which not only accord to the guidance contained in Manual for Streets 2, but also accord with the very strict desirable minimum standards applied to Motorways and All-Purpose Trunk Roads.
- 2.6 Therefore not only will drivers turning out of the site access have excellent visibility splays to see oncoming traffic, drivers approaching the site access would have excellent visibility to see vehicles turning into and out of the access.
- 2.7 The access to the site is directly off a dual carriageway and therefore vehicles can only turn left in or left out of the access, as such there will be no conflicting traffic movements and no vehicles turning right in or right out of the access.
- 2.8 As Little Shaw Lane is a two-lane dual carriageway, if there were vehicles turning left in or left out of the site access, vehicle travelling on Little Shaw Lane would have the opportunity to pull out into the outside lane and safely overtake.
- 2.9 Previously in responding to a planning application for a very large industrial estate on the A511 located to the west of the site, where the speed of passing traffic exceeded 40mph, the LHA did not advise refusal of that application. The Instead they recommended that in order to overcome an objection on Policy IN5 that the developer install a central island. In their response to that planning application the

LHA stated that *'the criteria set out in Policy IN5 was not formed as a conduit to resist development, rather as a context to ensure that the appropriate levels of care and attention to maintain traffic flow and safety'*. The Local Planning Authority (North West Leicestershire D C) reference for that application was: 18/01890/OUT)

- 2.10 The LHA recommended that a central island with only one lane in each direction, was an acceptable solution to overcome their Policy IN5. In this instance, where there is already a central island and there are two lanes that would allow for the free flow and safe passage of vehicles, the LHA have advised refusal on highway safety grounds.
- 2.11 Similarly for an application for a small development in Kegworth, to be served from the A6 where the speed of passing traffic was above 40mph, the LHA again stated that if the developer were to pay for the installation of a central island, they would remove their objection which was based on Policy IN5. The Local Planning Authority (North West Leicestershire D C) reference for that application was 23/00129/FULM.
- 2.12 The details of both of these applications were provided in the Accompanying Highway Report that was submitted with Mr Proud's application and attached to this Appeal statement as **Appendix C**.
- 2.13 I am firmly of the opinion that the LHA are not being consistent in their decision making, as Little Shaw Lane already has a central island that prevents vehicles turning right into our right out of the site access.
- 2.14 It is the case, that the site access is located within the existing 40mph, speed limit, and therefore if the LHA are concerned about speeding vehicles, they have powers to install street furniture such as additional signing, speed camera's; to address the speeding issue.
- 2.15 As previously stated, the LHA have not provided any objective substantive evidence to demonstrate that an increased use of the access would generate any highway safety concerns or capacity issues for the road network. This was a key consideration for the Planning Inspector dealing the Appeal and Costs Decision for the development at East Langton, previously referred to.
- 2.16 As stated in the supporting Highway Report that accompanied the planning application, there are a number of access points on the A511 close to the Poplar

Cottage, with 2 petrol filling stations, access to a Public House/restaurant, large industrial unit, motorway service area, residential estate and even a road junction with a gap in the central reservation that allows right turning traffic, yet there is no evidence that the traffic generated by vehicles turning into and out of these accesses has resulted in any highway safety issue.

- 2.17 I am of the firm opinion that the LHA have based their refusal upon rigid interpretation of highway guidance, and generalised assertions and unevidenced assumptions about the impact of traffic associated with the development.
- 2.18 Furthermore, the likely traffic generated by the proposed use of the site for direct retails sales to the public, will mainly take place out of the normal peak hours. Mr Proud was willing to accept a condition being imposed that would restrict the hours that the public could visit the site, to avoid the morning peak hour.
- 2.19 The proposed development is also likely to be seasonal, with fewer movements during the winter months and most traffic occurring during the hours of daylight, which would help make the use of the access safer.
- 2.20 In their response on the planning application, the LHA had advised that the development was not in the interests of highway safety. However, the test for whether a planning application should be permitted is not whether it would be in the interests of highway safety.
- 2.21 The NPPF does not say that applications should be refused if they are not in the interests of highway safety. Paragraph 115 of the National Planning Policy Framework (2023), makes it clear that *'Development should only be prevented or refused on highway grounds of there would be an unacceptable impact of highway safety, or the residual cumulative impacts on the road network would be severe.'*
- 2.22 I consider that the existing access has adequate width to allow two vehicles to pass and has excellent visibility splays. Vehicles can only turn left in or left out of the access. Furthermore since Little Shaw Lane is a two lane dual carriageway, drivers of vehicles approaching the site access would have sufficient time to safely pull out into the outside lane to pass any turning traffic. I am therefore of the opinion that there are no technical issues that would make the access unsafe.
- 2.23 Whilst the Road Safety Audit commissioned by the Applicant did raise some minor issues, the Designer Response addressed all of those issues.

- 2.24 In 2023 the Government published a new document entitled '*Unleashing rural opportunity*' in which they set out their initiatives to unleash rural opportunity so that those living and working in rural communities can thrive. They want to support rural areas so that they can prosper including by boosting opportunity through jobs and skills.
- 2.25 The proposal by Mr Proud would support the rural economy and provide jobs and skills and is therefore consistent with Government aims to unleash rural opportunities.
- 2.26 I am of the opinion that the proposal will **not** result in an unacceptable impact on highway safety, and therefore the proposal fully complies with the guidance contained in the NPPF (2023) and on that basis the application should not have been refused on highway grounds. I am of the view that the proposal also complies with the aims contained in the Government guidance contained '*Unleashing rural opportunities*'.
- 2.27 I would therefore respectfully request that the Inspector allow the appeal and grant planning approval, subject to the imposition of appropriate conditions.

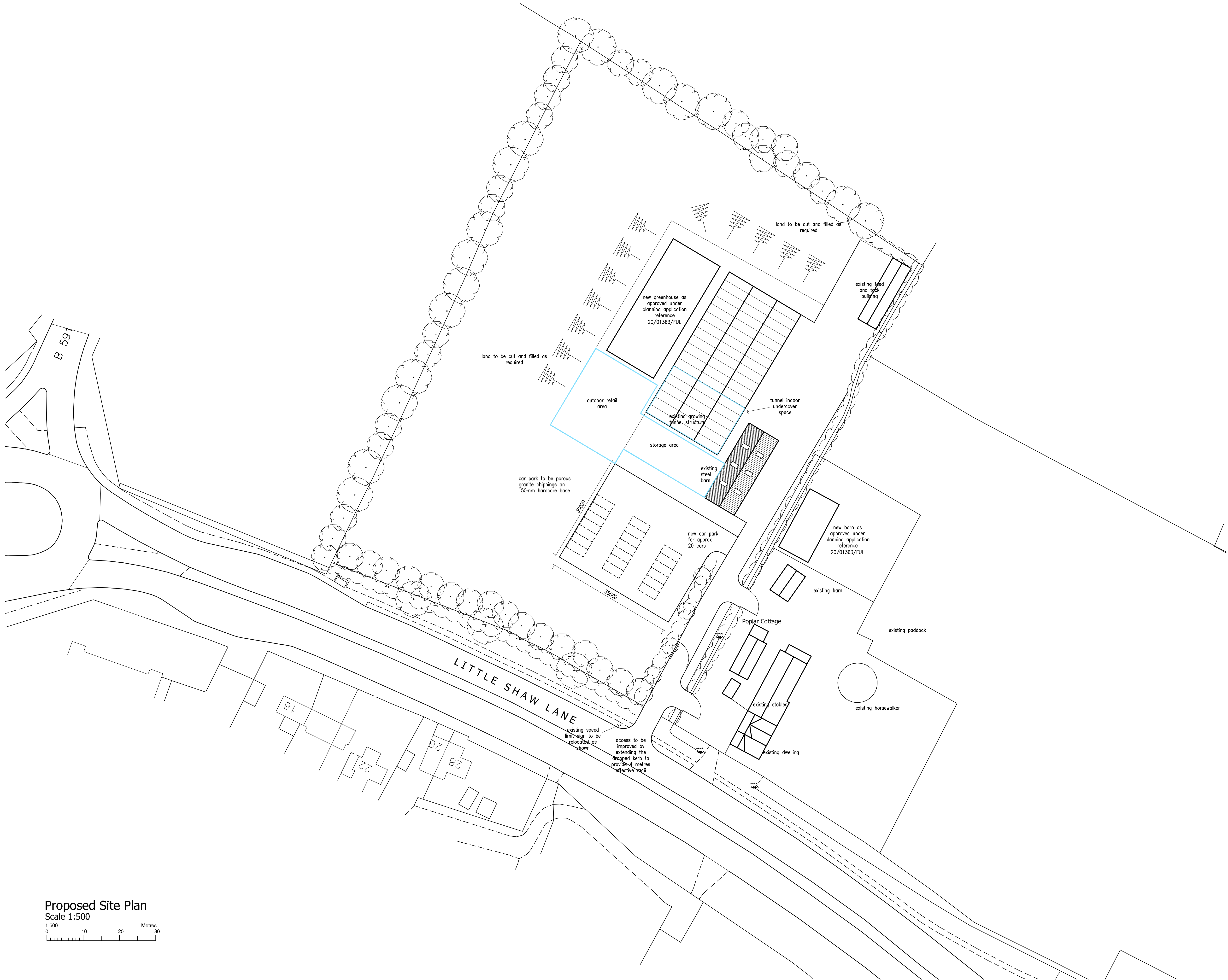
Duncan Clarke

Edwards & Edwards Consultancy Ltd

Project no. 12220

Date June 2024

Appendix A. Proposed site layout plan



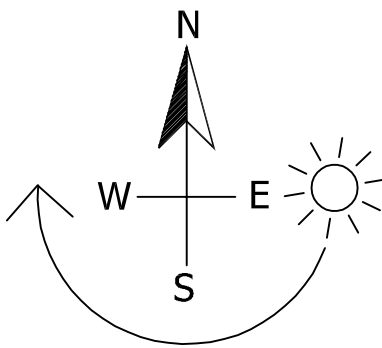
Proposed Site Plan
Scale 1:500



PLANNING DRAWING

PROPOSED CAR PARKING - POPLAR COTTAGE - LITTLE SHAW LANE - MARKFIELD - LEICESTERSHIRE

This drawing is based off Ordnance Survey Information and is subject to Topographical Survey



D	Drawing updated	30.10.23
C	Drawing updated	16.03.23
B	Drawing updated	06.02.23
A	Drawing updated	16.11.22

Revisions :

Figured dimensions must be taken in preference to scaled dimensions and any discrepancies are to be referred to David Granger Architectural Design Limited. Contractors, subcontractors and suppliers must verify all dimensions on site before commencing any work or making any workshop drawings. All drawings are copyright of David Granger Architectural Design Limited. Ordnance Survey Data © Crown Copyright. All rights reserved. Licence No. AR100020449. Landmark Ref. LI68816



DAVID GRANGER
ARCHITECTURAL DESIGN LIMITED

Project
Proposed Car Parking
Poplar Cottage
Little Shaw Lane
Markfield

Drawing Title
Planning Proposals
Sheet 1 of 1

Client
Garden Creation Services Ltd
Drawing No.
18.3588.04D

Date
November 2022
Drawn by
MS
Scale (A1 Size)
As Shown
Checked by
DG

The Old Dairy, Mill St., Packington,
Ashby-de-la-Zouch, Leics. LE65 1WN
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Appendix B. Results of speed survey

Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

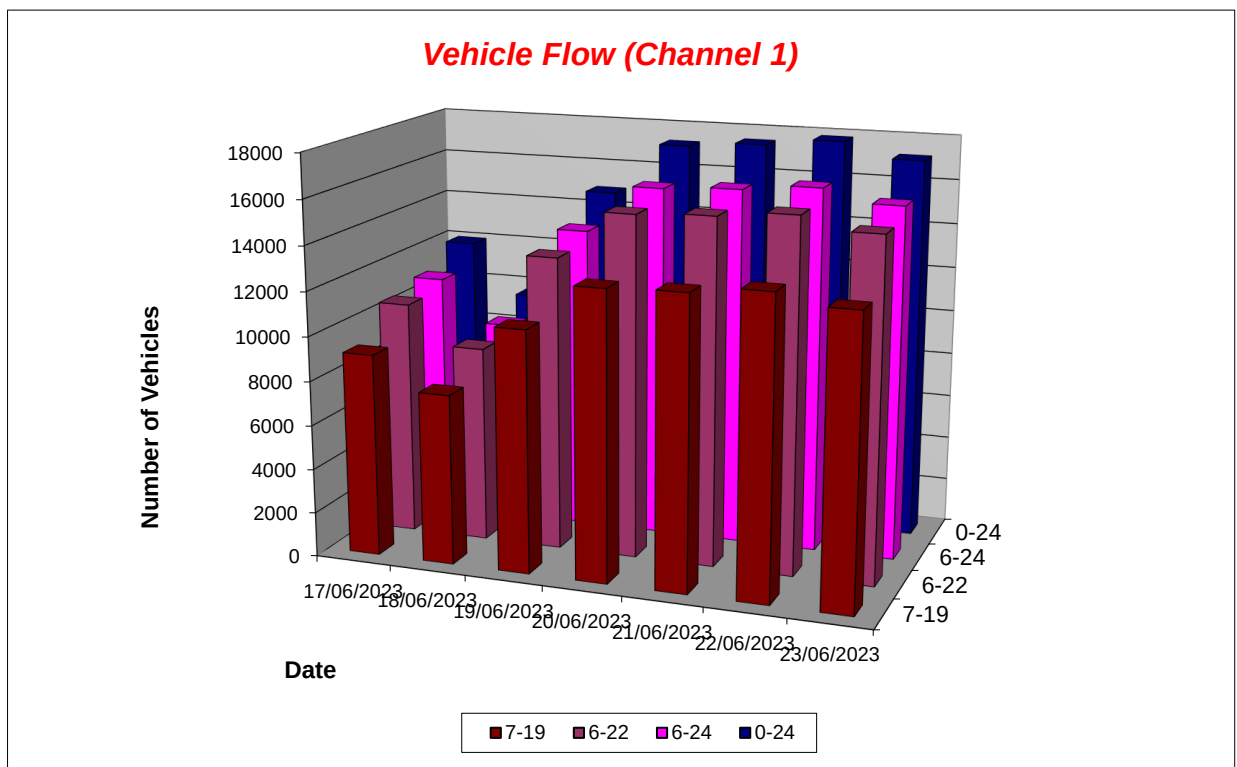
Channel 1 - Southeastbound

Vehicle Flow

Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday	Weekday Average	Average
1	147	113	76	119	121	131	119	113	118
2	129	97	54	83	131	115	108	98	102
3	108	74	70	107	122	116	108	105	101
4	143	58	95	142	144	156	167	141	129
5	161	94	236	273	285	301	282	275	233
6	311	158	602	625	623	659	589	620	510
7	363	211	1167	1176	1166	1186	1057	1150	904
8	472	250	1401	1391	1341	1465	1378	1395	1100
9	663	378	1158	1217	1184	1257	1141	1191	1000
10	740	586	1000	920	975	973	937	961	876
11	841	750	876	892	874	927	883	890	863
12	933	812	936	913	888	875	961	915	903
13	913	822	889	881	877	921	952	904	894
14	858	749	853	927	976	954	1018	946	905
15	773	723	1118	1111	1148	1109	1226	1142	1030
16	698	712	912	1077	1203	1195	1168	1111	995
17	706	676	306	1320	1287	1306	1160	1076	966
18	746	594	460	1252	1218	1324	1058	1062	950
19	791	620	969	1024	1061	1046	1014	1023	932
20	470	424	535	543	594	558	599	566	532
21	352	335	357	391	413	434	411	401	385
22	256	202	296	338	319	277	289	304	282
23	223	157	284	276	316	308	295	296	266
24	190	88	216	235	212	222	240	225	200

7-19	9134	7672	10878	12925	13032	13352	12896	12617	11413
6-22	10575	8844	13233	15373	15524	15807	15252	15038	13515
6-24	10988	9089	13733	15884	16052	16337	15787	15559	13981
0-24	11987	9683	14866	17233	17478	17815	17160	16910	15175



Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 1 - Southeastbound

Average Speed

Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	42.6	43.1	39.7	41.2	39.5	43.1	43.3
2	41.2	43.3	41.8	41.7	40.3	41.4	41.4
3	41.7	41.3	40.2	41.7	40.8	41.0	39.9
4	42.1	40.5	41.1	40.1	40.8	40.9	41.1
5	42.4	41.9	42.9	42.2	41.0	41.8	42.4
6	44.9	44.2	42.5	42.9	43.1	44.2	43.3
7	45.0	45.5	42.0	41.5	42.3	42.8	43.4
8	44.4	45.3	42.8	40.2	42.1	42.0	43.1
9	44.6	45.9	42.6	40.5	43.2	42.7	42.7
10	44.4	45.7	42.3	41.2	43.0	41.3	42.4
11	44.5	45.2	41.5	40.5	41.6	42.0	42.4
12	44.4	45.4	41.5	40.8	42.2	41.4	42.6
13	44.6	45.5	42.1	41.1	42.6	42.3	43.4
14	44.6	45.1	42.8	42.3	43.2	43.0	43.8
15	45.1	44.7	43.2	43.2	43.4	43.2	43.6
16	45.6	44.6	42.7	43.2	44.0	43.5	44.0
17	45.0	44.3	40.4	44.2	45.2	43.9	44.6
18	44.9	42.7	42.4	44.9	44.9	44.1	45.3
19	45.5	44.1	42.3	44.9	44.8	44.4	45.3
20	46.2	43.6	42.3	44.4	45.1	44.8	45.4
21	44.2	43.6	43.1	45.0	44.5	44.2	43.9
22	44.0	41.3	41.9	42.9	44.1	44.0	44.7
23	43.1	40.6	43.1	43.8	43.3	43.3	43.6
24	42.6	42.2	42.5	41.7	43.7	42.3	43.2
10-12	44.4	45.3	41.5	40.7	41.9	41.7	42.5
14-16	45.3	44.7	43.0	43.2	43.7	43.3	43.8
0-24	44.6	44.5	42.3	42.4	43.3	43.0	43.6

Average (ALL)	43.3
Weekday Inter-Peak	42.7

Channel 1 - Southeastbound

85th Percentile

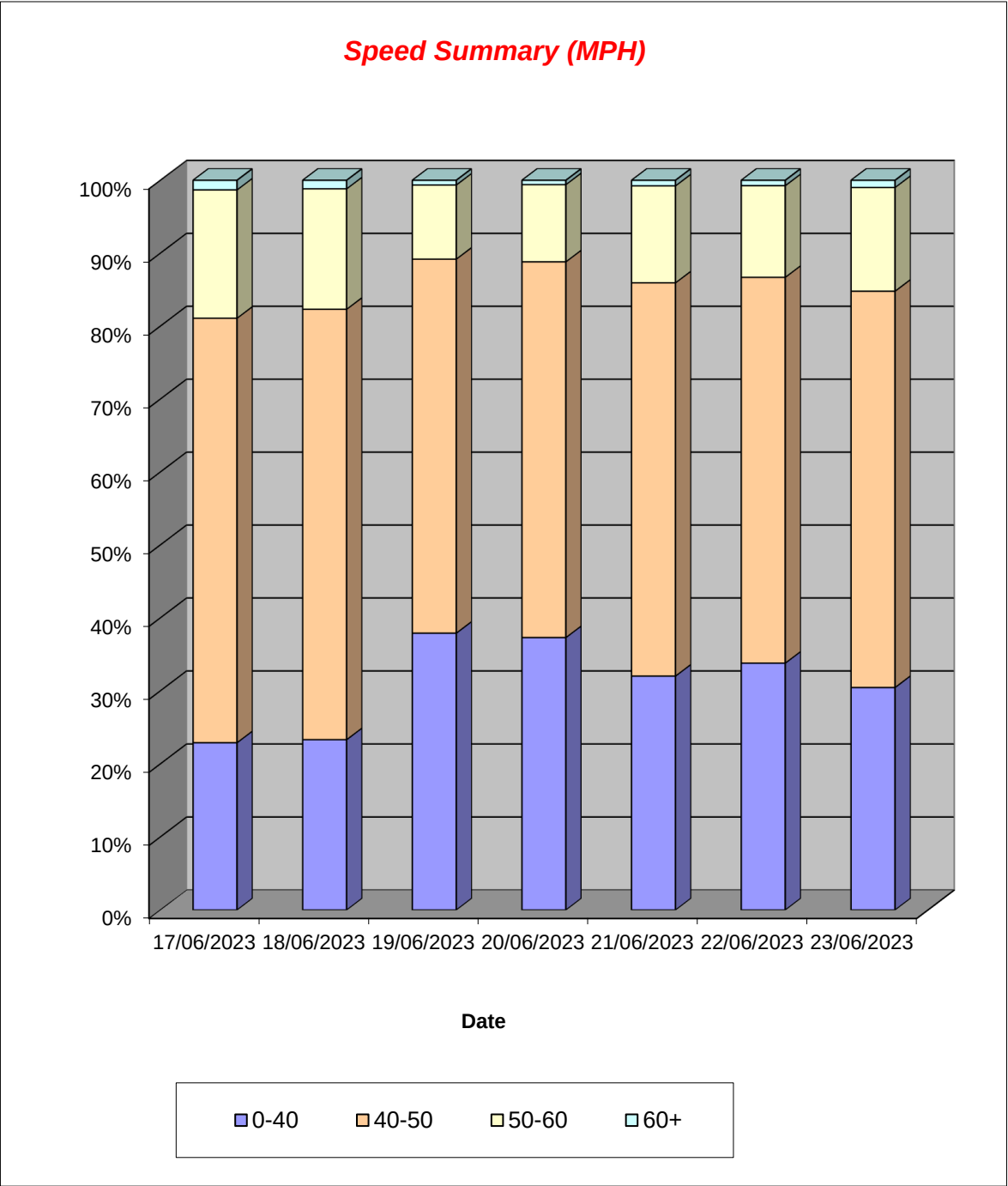
Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	50.2	49.6	46.8	47.5	46.3	50.9	50.8
2	49.8	50.4	48.4	48.5	47.1	49.8	48.6
3	48.3	48.7	48.7	48.7	46.9	48.4	47.5
4	49.5	45.9	47.9	47.4	47.8	47.4	48.6
5	49.7	49.5	49.7	49.5	48.2	49.6	49.3
6	52.1	50.8	49.4	49.9	50.3	51.3	51.0
7	52.8	53.2	49.0	49.1	48.9	50.1	50.7
8	52.1	52.1	49.0	46.3	48.7	48.3	49.6
9	51.2	52.4	49.2	46.9	49.7	49.1	49.6
10	50.5	52.3	49.1	47.6	49.5	48.3	48.8
11	51.3	51.5	47.9	46.7	48.5	48.6	48.9
12	50.8	51.8	48.0	47.1	48.5	48.3	49.4
13	51.5	52.1	48.8	47.2	49.7	48.7	50.1
14	51.5	51.7	49.4	48.6	49.6	50.0	50.3
15	51.5	51.6	49.4	49.5	49.8	49.7	50.1
16	52.3	50.8	49.8	49.8	50.3	50.0	50.8
17	51.5	51.3	49.2	50.7	52.3	51.0	51.6
18	51.4	50.0	49.7	51.6	52.0	50.9	52.1
19	52.4	50.6	48.6	51.3	52.4	50.9	52.1
20	53.2	49.7	49.6	51.2	51.8	52.2	52.7
21	51.8	50.2	50.4	53.1	51.7	51.7	51.9
22	51.6	48.0	50.4	50.5	52.4	52.6	53.5
23	50.6	47.5	50.7	51.0	50.8	50.5	51.0
24	50.7	48.6	50.6	49.1	51.3	49.9	50.4
10-12	51.0	51.6	48.0	46.9	48.5	48.4	49.2
14-16	51.9	51.2	49.6	49.7	50.1	49.8	50.5
0-24	51.5	51.3	49.1	49.2	50.2	49.9	50.6

85th %ile (ALL)	50.3
Weekday Inter-Peak	49.3

Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 1 - Southeastbound				Speed Summary			Week 1
Speed (MPH)	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
0-40	2745	2258	5635	6428	5597	6021	5227
40-50	6975	5713	7624	8879	9424	9424	9324
50-60	2109	1599	1511	1824	2324	2239	2440
60+	158	113	96	102	133	131	169
TOTAL	11987	9683	14866	17233	17478	17815	17160



Markfield ATC, A511 Little Shaw Lane

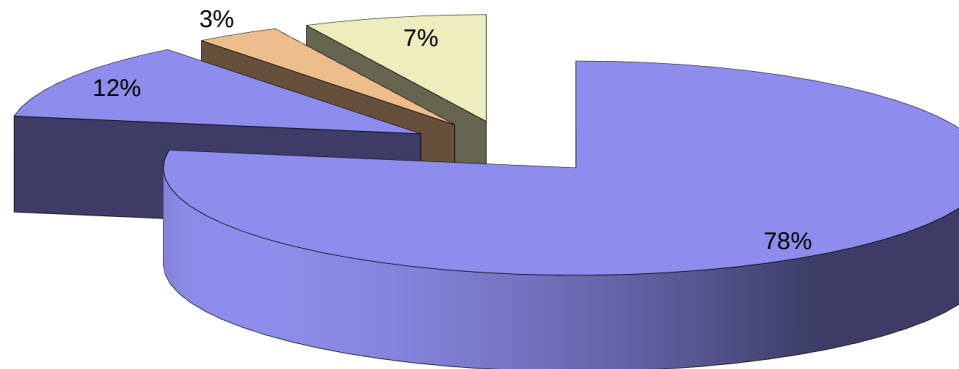
Produced by Road Data Services Ltd.

Channel 1 - Southeastbound

Vehicle Class

Classes Day / Time	Car / LGV / Caravan - 1	MGV - 2	OGV1 / Bus - 3,5,6,7,12	OGV2 - 4,8,9,10,11,13
17/06/2023				
7-19	7963	816	152	203
6-22	9144	957	202	272
6-24	9478	983	227	300
0-24	10087	1077	289	534
18/06/2023				
7-19	6731	688	107	146
6-22	7692	808	143	201
6-24	7879	821	164	225
0-24	8325	865	202	291
19/06/2023				
7-19	8163	1524	398	793
6-22	9971	1790	487	985
6-24	10332	1826	521	1054
0-24	11023	1952	608	1283
20/06/2023				
7-19	10024	1710	413	778
6-22	11907	1997	503	966
6-24	12297	2023	520	1044
0-24	13063	2162	605	1403
21/06/2023				
7-19	10157	1673	421	781
6-22	12086	1974	490	974
6-24	12498	1996	521	1037
0-24	13353	2126	607	1392
22/06/2023				
7-19	10356	1756	429	811
6-22	12244	2028	525	1010
6-24	12631	2055	563	1088
0-24	13547	2204	646	1418
23/06/2023				
7-19	10051	1692	411	742
6-22	11867	1996	488	901
6-24	12282	2020	520	965
0-24	13077	2155	609	1319
Average				
7-19	9064	1408	333	608
6-22	10702	1650	405	758
6-24	11057	1675	434	816
0-24	11782	1792	509	1091

Total Vehicle Class Distribution



Week 1

TOTAL
- 1-13
9134
10575
10988
11987
7672
8844
9089
9683
10878
13233
13733
14866
12925
15373
15884
17233
13032
15524
16052
17478
13352
15807
16337
17815
12896
15252
15787
17160
11413
13515
13981
15175

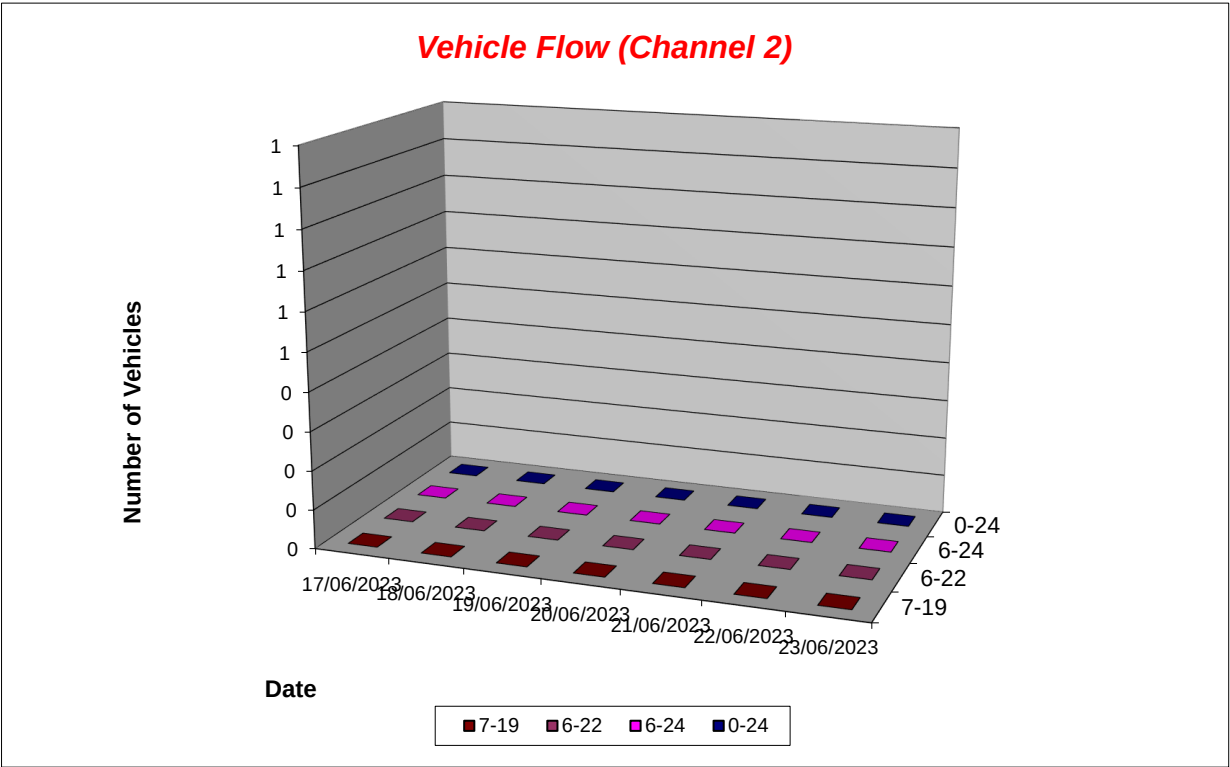


Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound Vehicle Flow Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday	Weekday Average	Average
1	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0
8	0	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0
11	0	0	0	0	0	0	0	0	0
12	0	0	0	0	0	0	0	0	0
13	0	0	0	0	0	0	0	0	0
14	0	0	0	0	0	0	0	0	0
15	0	0	0	0	0	0	0	0	0
16	0	0	0	0	0	0	0	0	0
17	0	0	0	0	0	0	0	0	0
18	0	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0	0
20	0	0	0	0	0	0	0	0	0
21	0	0	0	0	0	0	0	0	0
22	0	0	0	0	0	0	0	0	0
23	0	0	0	0	0	0	0	0	0
24	0	0	0	0	0	0	0	0	0
7-19	0	0	0	0	0	0	0	0	0
6-22	0	0	0	0	0	0	0	0	0
6-24	0	0	0	0	0	0	0	0	0
0-24	0	0	0	0	0	0	0	0	0



Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound

Average Speed

Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-
8	-	-	-	-	-	-	-
9	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-
17	-	-	-	-	-	-	-
18	-	-	-	-	-	-	-
19	-	-	-	-	-	-	-
20	-	-	-	-	-	-	-
21	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-
23	-	-	-	-	-	-	-
24	-	-	-	-	-	-	-
10-12	-	-	-	-	-	-	-
14-16	-	-	-	-	-	-	-
0-24	-	-	-	-	-	-	-

Average (ALL)	-
Weekday Inter-Peak	-

Channel 2 - Northwestbound

85th Percentile

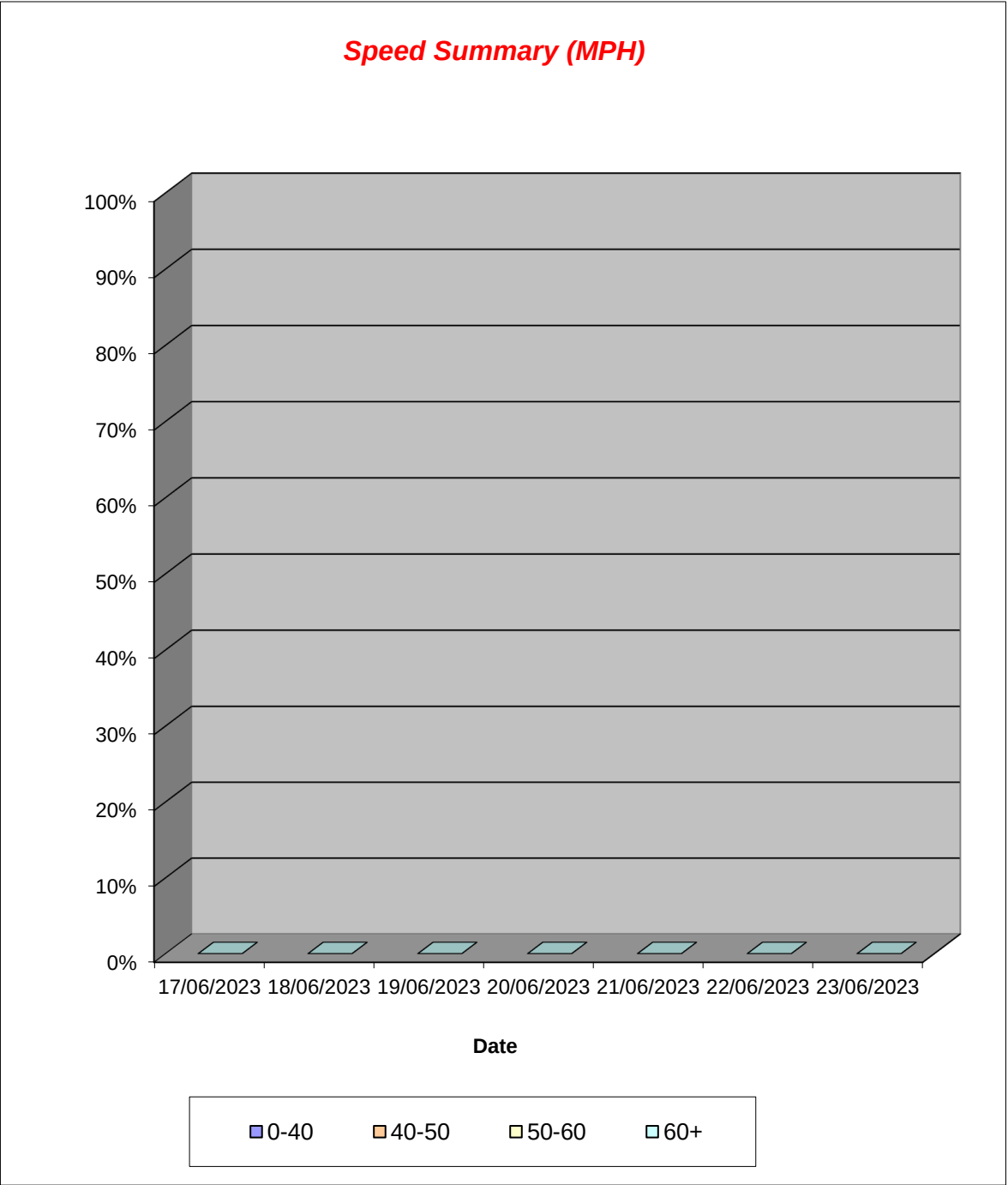
Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-
8	-	-	-	-	-	-	-
9	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-
17	-	-	-	-	-	-	-
18	-	-	-	-	-	-	-
19	-	-	-	-	-	-	-
20	-	-	-	-	-	-	-
21	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-
23	-	-	-	-	-	-	-
24	-	-	-	-	-	-	-
10-12	-	-	-	-	-	-	-
14-16	-	-	-	-	-	-	-
0-24	-	-	-	-	-	-	-

85th %ile (ALL)	-
Weekday Inter-Peak	-

Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound				Speed Summary			Week 1
Speed (MPH)	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
0-40	0	0	0	0	0	0	0
40-50	0	0	0	0	0	0	0
50-60	0	0	0	0	0	0	0
60+	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0



Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound

Vehicle Class

Classes Day / Time	Car / LGV / Caravan - 1	MGV - 2	OGV1 / Bus - 3,5,6,7,12	OGV2 - 4,8,9,10,11,13
17/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
18/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
19/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
20/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
21/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
22/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
23/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
Average				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0

Total Vehicle Class Distribution

0%

Week 1

TOTAL
- 1-13
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
0
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Appendix C. Supporting highway report submitted with the planning application



Edwards & Edwards Consultancy Ltd

4 Ascot Drive

Coalville

Leicestershire

LE67 4DF

**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**

**Poplar Cottage, Little Shaw Lane,
Markfield**

Applicant Mr Nathan Proud

Accompanying Highways Report

DOCUMENT CONTROL

Author	DEC	24 November 2023
Checked	MJE	26 November 2023
Revised	DEC	27 November 2023
Revised	DEC	11 December 2023
Checked	MJE	11 December 2023
Finalised	DEC	13 December 2023

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1 Background

- 1.1 Edwards and Edwards Consultancy Ltd. is a 'Highway and Transportation Consultancy' specialising in giving advice to clients on highway development control matters. Our dedicated team have over 200 years' combined experience dealing with development control matters in both the public and private sectors. We have been engaged by Mr Proud to provide a Highway Report to support his current planning application.
- 1.2 In 2019 Mr Proud submitted a planning application to Hinckley and Bosworth Borough Council (LPA ref: 19/00623/FUL) for the erection of a polytunnels and storage building for horticultural use and use of land for horticultural purposes at his property, Poplar Cottage on Little Shaw Lane, Markfield. The development would be served from the existing vehicular access directly off Little Shaw Lane. The following photograph shows the existing site access: -



- 1.3 At the time Mr Proud was operating a landscape contractors business from a base in Rothley and to satisfy demand, additional growing space was required to grow

plants and trees. As there was no room for expansion at the Rothley site, Mr Proud sought to use the land adjacent to his own dwelling, Poplar Cottage.

- 1.4 At that time there was no intention to allow public access into the site as the sale of any plant or trees grown at Poplar Cottage would take place at the Rothley site. Planning permission was granted for the proposal in June 2019, and included a number of conditions, one of which required the development to be carried out in accordance with the submitted application plans and another restricting the use of the site to horticulture and under no circumstances shall the site be open to the public unless otherwise agreed in writing.
- 1.5 Unfortunately for Mr Proud, the lease on his site at Rothley is being terminated as the site is being brought forward for redevelopment. In order for the business to continue but in a modified form, Mr Proud is seeking to accommodate some of the activities that take place at the Rothley site on his site at Poplar Cottage.
- 1.6 The proposal is to allow the sale of plants and trees grown at Poplar Cottage to be sold directly to the public. In addition it is proposed to sell seasonal bulbs, compost, pots, but not for the sale of non-horticultural goods and there would be no café. The proposed use would be a plant growing nursery and not a wider garden centre use.
- 1.7 To enable these changes to take place, Mr Proud submitted a planning application to Hinckley and Bosworth Borough Council (LPA ref: 22/01127/CONDIT) for the variation of conditions imposed on the 2019 application.
- 1.8 As part of the usual planning application process Hinckley and Bosworth Borough Council consulted Leicestershire County Council as Local Highway Authority (LHA) on the application. Their initial response dated 22 December 2022, is attached as **Appendix A** for information. In that response the LHA objected to the discharge of conditions. Their response stated that *'As part of the current application, the Applicant has failed to demonstrate the level and type of traffic which could be generated by opening part of the site to the public during both a weekday (such as a Friday) and at weekends. Furthermore, the applicant has failed to demonstrate that the existing access is safe and suitable in design to cater for the additional traffic which would be generated by public use. Due to the location of the site, such information would be required by the LHA.'*
- 1.9 The LHA response went on to outline the issues that they consider require further information and stated that if the LHA considers that the use of the site will be

intensified as a result of the proposed development, it would be likely to advise refusal of the planning application based on Policy IN5 of the LHDG.

- 1.10 Despite the submission of the further information that the LHA had requested, they still advised refusal of the application purely on the grounds that it was contrary to their Policy IN5. As a consequence the Local Planning Authority refused the application on a single highway ground, the decision notice has been attached as **Appendix B** for information.
- 1.11 Following the issue of the refusal notice, the applicant has since had discussions with representatives of Hinckley and Bosworth Borough Council who were apparently both surprised and disappointed that the application was refused.
- 1.12 The only minor issue that was raised during the discussions was the entry radius for vehicles turning into the access. Whilst this issue was not raised by the Local Highway Authority and did not form part of the reason for refusal, the applicant has agreed to resubmit the application with amendments to the site access to provide increased entry and exit radii. The amended site plan, showing the increased junction radii has been attached as **Appendix C** for information.
- 1.13 This highway report has been commissioned to support the resubmission and to seek to demonstrate that the proposal will not lead to any unacceptable harm to highway safety.

2 SITE CONSIDERATIONS

- 2.1 The site is situated on the northern side of Little Shaw Lane in Markfield. Little Shaw Lane is a Class A road (A511), running from junction 22 of the M1 in a westerly direction towards Coalville and beyond. The section of Little Shaw Lane fronting the majority of the site is subject to a 40mph speed restriction, the speed limit changes to 50mph immediately before the site access. The following photograph shows the change in speed limit with the site access directly behind the speed limit signs: -



- 2.2 At the point of the existing site access, Little Shaw Lane has a verge incorporating a footway, that is 9.6 metres deep. The existing site access is 5.7 metres wide at the highway boundary and has kerbed junction radii that provide a total crossing width

of 11.8 metres. The access is gated, however the gates are set back 30 metres from the edge of carriageway.

- 2.3 Given the very wide verge fronting the site, the available visibility out of the access to see vehicles approaching is excellent. From a 2.4 metres setback, vehicles approaching can be seen as they negotiate the roundabout over 160 metres from the site access. The following photograph shows the available visibility splays from a 2.4 metres setback looking to see approaching traffic: -



- 2.4 As part of the additional information requested by the Local Highway Authority for the previous planning application the applicant commissioned a speed survey to be carried out between 17 June to 23 June 2023. The survey was set up purely to record the speed of traffic at the access point. The LHA required this information to see if the speed of traffic at this access point exceeded 40mph.
- 2.5 The results of the speed survey showed that at the access point the 85th percentile speed of traffic was 50.3mph. The results of the speed survey, show that the visibility splay available for vehicles turning out of the access are more than

adequate. The results of the speed survey are attached as **Appendix D** for information.

- 2.6 An investigation into the accident record for Little Shaw Lane shows that there has not been a recorded accident at the site access within the latest 5 years of available data using CrashMap. Despite there being a number of private accesses, including very busy private accesses off the A511 within the vicinity of the site, they do not appear to have resulted in any collision accidents, the only accidents that have occurred appear to have been in connection with the two nearby roundabout junctions. The accident record would therefore suggest that private accesses on to the A511 operate safely and there is no evidence to suggest that direct accesses result in any unacceptable harm to highway safety.
- 2.7 CrashMap uses data collected by the police about road traffic accidents on British roads, and the data is approved by the National Statistics Authority and reported on by the Department of Transport each year. Their data currently includes accidents up to the end of 2022.
- 2.8 In the last consultation response to the previous planning application, the Local Highway Authority accepted that there had not been an accident on this section of the A511 that involved turning manoeuvres. They referred to 4 accidents which would mainly appear to have occurred at or close to the roundabout junctions.

3 CONSIDERATION OF LHA RESPONSE

- 3.1 The basis of the Local Highway Authority (LHA) response to the application, is that the proposed development may lead to an intensification in use of the site access on to Little Shaw Lane, and any intensification in use of the site access would be contrary to Policy IN5 of the 'Leicestershire Highway Design Guide' (LHDG).
- 3.2 Whilst it is accepted that the proposal will result in an increase in use of the site access, there is no evidence that an increase in use of the access would lead to an unacceptable impact on highway safety. Within approximately 500 metres of the site access, there are a number of very busy private accesses including 2 petrol filling stations, a very large industrial unit, a restaurant, a motorist service area and there is also a layby that contains a café in a portacabin. There are also a number of private accesses and two uncontrolled road junctions.
- 3.3 Most of these accesses generate a far larger number of traffic movements than would ever be generated by the proposed development, yet according to the latest accident information available in CrashMap, there has not been a recorded injury accident at these accesses.
- 3.4 Therefore the evidence does not support the view that an increased use of the site proposed site access would lead to a highway safety issue.
- 3.5 The National Planning Policy Framework (2021) makes it clear that '*Local planning authorities should approach decisions on proposed development in a positive and creative way*' It goes on to say that they should '*work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area.*'
- 3.6 Having a blanket policy that simply seeks to resist any application that would result in a new or intensification of an existing access does not comply with the requirements contained in the NPPF. In fact such a policy stifles development and stifles the expansion of existing businesses such as the applicants business.
- 3.7 The Policy applies to sites where the speed of traffic exceeds 40mph, in this instance, the 85th percentile speed of traffic as they approach the site upon leaving the roundabout and would first see vehicles at the site access, would be well below 40mph. In terms of the suitability of accesses, then an important consideration is

visibility and whether the available visibility is appropriate for the speed of approaching vehicles. Therefore in judging the safety of a site access, I consider that it is the approaching speed of traffic that is most important. In this case, as the approaching speed of vehicles entering the visibility splay envelope is likely to be well below 40mph, then there is an argument that in the case of this application, Policy IN5 should not apply.

- 3.8 It should be noted that recently a new vehicular access has been constructed directly off the A511 that will serve a large industrial development. The location of the site access is on to a section of the A511 that is subject to a 50mph speed limit. The site is located within the adjacent Authority of North West Leicestershire and is approximately 2.5km from the application site.
- 3.9 The predicted traffic flows for that development were 100 vehicles within the peak hours, far higher than would be generated by the applicants development.
- 3.10 Yet in their response to the outline application (NWLDC ref: 18/01890/OUT) for that proposal, the LHA did not seek to resist the development on the grounds that it was contrary to their Policy IN5. In fact in their response the LHA stated that *'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.'* The LHA response to that application is attached as for information.
- 3.11 In the interests of highway safety, the access design for the industrial estate, included the provision of a central island that prevented vehicles turning right into and out of the access. The provision of this central island was deemed to address highway safety issues and overcome the fact that the development was contrary to Policy IN5. It should be noted that the access has visibility splay far below that available at Poplar Cottage, with less than 120 metres available, whereas at Poplar Cottage over 160 metres is available. The following photograph shows the available splay from a 2.4 metres set back out of the access to the industrial estate:-



- 3.12 It is relevant to note the LHA response to an application at Kegworth also in North-West Leicestershire District Council area (NWLDC ref: 23/00129/FULM) for a development that would result in the intensification in use of an access on to the A6. A speed survey carried out at that site, showed almost identical speeds to the recorded at Poplar Cottage and whilst the LHA stated that the application as submitted would be contrary to their Policy IN5, they did advise that if the applicant were to provide an improvement that physically prevented right turn movements, that would counter balance the LHA's road safety concerns.
- 3.13 In both their responses to the above 2 applications, the LHA have accepted that to overcome their concerns in relation to their Policy IN5, preventing vehicles turning right in and out of those access would overcome their safety concerns. When considering the site at Poplar Cottage, vehicles cannot turn right either into or out of the site access due to the central island. Therefore if the LHA were consistent in their approach to addressing concerns in relation to Policy IN5, they would not seek to resist the development at Poplar Cottage.
- 3.14 I am of the opinion that the LHA have not given the same consideration to Mr Proud's application, which is for an expansion of an existing business, as opposed

to a far more intensive brand new Industrial estate development with a completely new access on to the A511 located a relatively short distance away.

- 3.15 The LHA say that the Policy is required in the interests of highway safety, however there is no evidence that turning traffic on to this section of the A511 leads to any highway safety issue, even at accesses which are far busier and have far poorer visibility splays.
- 3.16 Notwithstanding that the LHA did not raise any technical issues in relation to the existing site access, following discussions with representatives of the Borough Council, this resubmitted application now includes improved junction radii. It is proposed that the junction control radii will be increased to 4 metres on each side, which will make easier for customer vehicles to turn into and out of the site access..
- 3.17 A Road Safety Audit Stage 1 was commissioned to consider any highway safety issues arising from the proposed highway works. The Road Safety Audit and Designer Response has been attached as **Appendix E** for information. The issues raised in the response have all been considered and a Designer Response has been provided that should satisfy all the issues raised and ensure that a safe and suitable access will be provided.
- 3.18 Should the planning application be approved, then it is anticipated that the customers would arrive in cars to purchase the plants, shrubs and trees grown on site. I am of the opinion that the existing access at 5.7 metres with 4 metre control junction radii, will be more than suitable to safely cater for the additional traffic likely to be generated.
- 3.19 Furthermore, vehicles will only be turning left in and left out of the access and therefore there will be no vehicles in the 'middle' of the access waiting to turn right out, this will therefore maximise the width available for vehicles turning into the site access.
- 3.20 For vehicles turning out of the site access not only is the available visibility excellent, but due to the traffic signals at the 'Flying Horse roundabout' there are regular intervals when traffic is being held and there are no approaching vehicles, so vehicles will be able to turn out of the site access very safely. The applicant has measured the gaps in traffic and found that when the lights are on red for vehicles approaching along the A511 from Coalville, there are gaps of up to 20 seconds

where there is little or no traffic approaching the site access, that will allow vehicles to safely pull out of the site access.

- 3.21 As mentioned in the previous submission, the selling of plants, shrubs and trees will be very seasonal, so the number of customers visiting the site will vary throughout the year.
- 3.22 The applicant does not expect there to be a high number of vehicle movements as a result of the development. He has made an assessment of likely numbers based on his existing site at Rothley. Having looked at the till roll transactions for his site at Rothley, they would suggest that 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 are the busy months, there is an average of between 16 and 25 vehicles per hour. July through to September the site generates up to 14 vehicles per hour, reducing down to around 9 per hour from October to December.
- 3.23 However a direct comparison between the sites cannot be drawn. 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 to customers to that site and those customers can then also make purchases at the 'Garden Centre'.
- 3.24 Therefore it is expected that the number of visitors to the application site will be a lot lower than would arrive at Rothley. It is expected 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 vehicles an hour during the busier months.
- 3.25 Even in the busier month this works out a 1 vehicle arriving every 5 minutes or so. This level of traffic is unlikely to cause any unacceptable impact on highway safety. As mentioned previously there are a number of far busier accesses nearby that do not result in any unacceptable impact on highway safety.
- 3.26 It should also be noted that Nurseries and Garden Centres tend to be busiest during the middle of the day and do not generate much traffic in the normal peak hours. TRICS suggests that the busiest hours for Garden Centres are between 11am and 4pm.

- 3.27 At the applicant's site at Rothley, the busiest time is between 10.30am and 2.00pm. Nevertheless, to ensure that the proposal does not cause any issues in the morning peak hour the applicant would be happy to restrict the hours of opening to the public to be restricted to no earlier than 9.30am in the mornings.
- 3.28 The proposal still includes the provision of a car park for up to 20 parking spaces, which the LHA accepted with the previous application.
- 3.29 Although it is felt that a larger car park would be beneficial and would allow customers to find it easier to find a parking space thereby avoiding any potential for delay and queues forming within the access, this proposal retains the 20 space car park.
- 3.30 As stated in Chapter 1 of this report, the applicants lease on his site in Rothley is being terminated and to allow the business to continue albeit in a modified form, the applicant is seeking to accommodate some of the activities that take place at the Rothley site on his site at Poplar Cottage.
- 3.31 The proposed change is not expected to generate a large number of additional movements, and especially with the increased junction radii, the access will be of a good standard, and certainly suitable to cater for the likely increase in car borne traffic.
- 3.32 It is clearly stated in the NPPF, that applications should only be refused on highway grounds *'if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'* In the case of this development, and as evidenced by the safe operation of other far busier accesses close by, I consider that this proposal would not lead to any unacceptable highway safety issue.
- 3.33 As such I believe that the proposal meets the requirements laid out in paragraph 110 of the revised National Planning Policy Framework 2021, and there should be no reasonable grounds to refuse the application on the basis of paragraph 111 of the revised NPPF 2021.

4 CONCLUSIONS

- 4.1 The proposal seeks to vary conditions imposed on the site, in order to allow plants and trees grown at Poplar Cottage to be sold directly to the public. The proposal includes the provision of a car park for customer use. The existing vehicular access off A511 will be used by customers when visiting the site.
- 4.2 To address a concern raised during pre-application consultations with representatives of Hinckley and Bosworth Borough Council the proposal now includes the provision of increased junction radii to make it easier for vehicles to turn into and out of the site access.
- 4.3 The proposal is unlikely to generate a significant amount of traffic and the traffic that is generated will mainly take place outside the normal peak hours on the A511. However to ensure that the proposal would not generate any traffic in the Am peak hour, the applicant is willing to accept a condition that restricts the opening hour to no earlier than 9.30am.
- 4.4 Within 500 metres of the site, there are numerous vehicular accesses directly on to the A511, some of which are extremely busy, however there is no evidence that they have led to any collision accidents. I therefore consider that this demonstrates that the proposed increase in traffic generated by this proposal is unlikely to lead to any unacceptable impact on the highway.
- 4.5 Whilst the LHA advised refusal of the previous application on the grounds that it would be contrary to their Policy IN5, they do not consistently apply this Policy. Indeed they did not apply this Policy to a very large industrial development off the A511 on to a section of road subject to a 50mph speed limit. In their response to that application the LHA stated that the Policy *'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'*.
- 4.6 The access solution to that development involved the provision of a central island to prevent right turning traffic. In their response to an application in Kegworth the LHA

suggested that to overcome their safety concerns in relation to Policy IN5, they advised the applicant to provide a central island to prevent right turning traffic.

- 4.7 So it would appear from responses to both of those applications, the main concern in relation highway safety was right turning traffic. Yet in relation to this proposal at Poplar Cottage where there can be no right turning traffic, the LHA advised refusal of the application.
- 4.8 Given that Policy IN5 was not applied to a very large industrial development that would generate a significant volume of movements by HGV's, and would have been waived at a site on the A6 had right turning been prevented, I consider that it is unreasonable to apply that Policy to this much smaller development, that would result in far less traffic movements where right turning movements are prevented.
- 4.9 The available visibility splay out of the site access far exceeds the minimum standards required for the likely speed of vehicles as they enter the 'visibility splay envelope'. Therefore vehicles will be able to safely enter and leave the site access. It is also the case that due to the traffic light controls at the 'Flying Horse Roundabout' there are long gaps in traffic approaching the site, which will provide a very safe opportunity for vehicles to pull out of the site access.
- 4.10 A Road Safety Audit Stage 1 has been carried out on the proposed access alterations, and the issues raised in that Audit have been considered and where appropriate solutions have been identified that should ensure that the access is safe and suitable to cater for the increased use as a result of allowing members of the public visit the site.
- 4.11 On that basis, I consider that the proposal should be acceptable and will not lead to any unacceptable impact on the public highway and therefore does not conflict with the guidance contained in the NPPF 2021. I am of the opinion that there should be no reasonable grounds to refuse the application on the basis of paragraphs 110 or 111 of the revised NPPF 2021.

Duncan Clarke
Edwards & Edwards Consultancy Ltd

Project No 12220
Date December 2023

Appendix A. Initial LHA response to 22/01127/CONDIT

**Substantive response of the Local Highway
Authority to a planning consultation received
under The Development Management Order.**

Response provided under the delegated authority of the Director of Environment & Transport.

APPLICATION DETAILS:

Planning Application Number: 22/01127/CONDIT

Highway Reference Number: 2022/1127/04/H

Application Address: Poplar Cottage Little Shaw Lane Markfield Leicestershire LE67 9PP

Application Type: Variation of Condition (s73)

Description of Application:

Variation of condition 02 (approved drawings) and 06 (public access to site) for Planning Permission 19/00623/FUL Date of Decision: 23/09/2019. Variation to include revised block plan to allow public access to the site.

GENERAL DETAILS

Planning Case Officer: David Spring

Applicant: Mr Nathan Proud

County Councillor: Cllr Peter Bedford

Parish: Markfield

Road Classification: Class A

Substantive Response provided in accordance with article 22(5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015:

Objection

Objection to Discharge of Conditions 2 and 6

Advice to Local Planning Authority

Background

The Local Highway Authority (LHA) has been consulted on the variation of conditions 2 and 6 of application reference 19/00623/FUL. The Applicant has submitted a Planning Statement dated November 2020 in support of the proposals.

Condition 2

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

- *Detailed Planning Proposals Drg No: 18.3588.01B Sheet 1 of 3 (1:500 scale) received by the Local Planning Authority on 20 August 2019*

- *Sections A-A & B-B thro Site at Footpath Levels @1:50*
- *Proposed Sections thro Existing Site @ 1:50*
Both received by the Local Planning Authority on 12 August 2019
- *Detailed Planning Proposals Sheet 2 of 3 Drg No: 18.3588.02 (1:100 scale)*
- *Detailed Planning Proposals Sheet 3 of 3 Drg No: 18.3588.03A (1:100 scale)*
- *Site Location Plan Job Ref: 18.3588 (1:1250 scale)*
All received by the Local Planning Authority on 14 June 2019

Condition 6

The proposed new buildings hereby permitted shall only be for the purposes of horticulture; the storage building shall be ancillary to the polytunnel and under no circumstances shall the site be open to members of the public unless otherwise agreed in writing with the local planning authority.

Highways Comments:

The Applicant intends to vary condition 2 to include David Granger drawing number 18.3588.04 Rev A, which details a 35 space car park and condition 6 to allow for limited public access. It is stated that the public areas would be limited to the car park, the polytunnel and part of the storage barn.

It is understood that the application site serves an existing, established plant nursery at Rothley. The Planning and Design and Access Statement submitted as part of the 2019 application stated that *"....it is not the intention of the proposal to be open to the general public as a garden centre/nursery"*. The Planning Statement submitted as part of this application however details that *"...the [Rothley] site is leased and this lease will cease in September 2023 as the site is being brought forward for re-development. In order to maintain the business, albeit in a modified form, the Markfield site must evolve to accommodate some of the activities that currently take place at Rothley."*

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

The LHA is aware of a number 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.

As part of the current application, the Applicant has failed to demonstrate the level and type of traffic which could be generated by opening part of the site to the public during both a weekday (such as a Friday) and at weekends. Furthermore, the Applicant has failed to demonstrate that the existing access is safe and suitable in design to cater for the additional traffic which could be generated by public use. Due to the location of the site, such information would be required by the LHA.

Notwithstanding the above, Part 1, Section IN5, Paragraph 1.26 of the Interim Leicestershire

Highway Design Guide ([LHDG] available at <https://resources.leicestershire.gov.uk/lhdg>) 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 Applicant has stated that Section IN5 should not apply in this instance due to the location of the existing access given the available visibility and nearby roundabout reducing speeds to below 40mph. The LHA considers the A511 to be a highly trafficked part of the County highway network providing a key link between Coalville/ Ashby/ Leicester and Junction 22 of the M1. Given the existing level of traffic using the A511 and the 50mph speed limit and in the absence of any supporting evidence to the contrary, the LHA advises it currently objects to the variation of condition 6.

It should be noted that even if additional information was submitted by the Applicant, in the event an automatic speed survey demonstrated speeds in excess of 40 mph at the site access, the LHA may still seek to resist the proposals on the grounds of IN5. Concerns could also remain in respect of the number of additional turning manoeuvres generated by the proposals on a busy, key part of the County highway network.

In respect of condition 2, the Applicant has detailed 24 parking spaces, however stated on the drawing 'new car park for approximately 35 cars'. The Applicant has failed to provide justification for the scale of the car park and given its size, therefore the LHA is concerned that the proposals could generate a considerable number of additional turning manoeuvres to/ from the eastbound carriageway of the A511. The LHA considers the car park would not be necessary without the site being open to the public. As per the above, the Applicant has failed to demonstrate the level of trips the proposals to open the site to the public could generate and without any supporting evidence, the LHA advises it objects to the variation of condition 2.

The LHA note that the Applicant has suggested in Paragraph 4.8 of the Planning Statement that *"Suitably worded conditions to control the hours of opening and the goods to be sold on the site would be acceptable in order to ensure the use remains as a nursery."* . Notwithstanding the LHA's objection, given the nature of the application, it is unclear to the LHA how any new conditions could be advised or required as part of this application.

Date Received
2 December 2022

Case Officer
Ben Dutton

Reviewer
DH

Date issued
22 December 2022

Appendix B. Decision Notice 22/01127/CONDIT

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Mr Nathan Proud
Poplar Cottage
Little Shaw Lane
Markfield
Leicestershire
LE67 9PP

Name and Address of Agent (if any)

Mr Joe Mitson
GHM Planning Ltd
87 Park Road
Chilwell
NG9 4DE

Part I - Particulars of Application

Date of Application

24 November 2022

Application No.

22/01127/FUL

Particulars and location of development:

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

Poplar Cottage Little Shaw Lane Markfield Leicestershire LE67 9PP

Part II - Particulars of decision

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council refuses to permit the carrying out of the development referred to in Part I hereof for the following reason(s):-

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 110 and 111 of the National Planning Policy Framework (2021).



Christopher Brown MRTPI
Head of Planning

Date :15 September 2023

IMPORTANT - PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.
2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review
3. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. If your appeal is against a Minor Commercial Development, we would advise you to view the guidance on the Planning Portal website under Procedure Guidance, to confirm the time frame for appealing. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/appeal-planning-decision>). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within six months of the date of this notice. If you intend to submit an appeal that you would like examined by inquiry then you must notify your Local Planning Authority (planning@hinckley-bosworth.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found on [GOV.UK](https://www.gov.uk).
4. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then, you must do so in accordance with the guidance found using the following link <https://www.gov.uk/appeal-enforcement-notice/>.
5. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

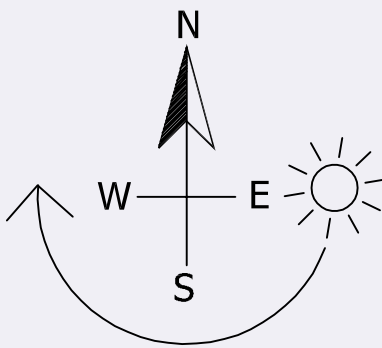
Appendix C. Revised plan showing increased radii



Proposed Site Plan
Scale 1:500

1:500
0 10 20 30 Metres

This drawing is based off Ordnance Survey Information and is subject to Topographical Survey



D	Drawing updated	30.10.23
C	Drawing updated	16.03.23
B	Drawing updated	06.02.23
A	Drawing updated	16.11.22

Revisions :

Figured dimensions must be taken in preference to scaled dimensions and any discrepancies are to be referred to David Granger Architectural Design Limited. Contractors, subcontractors and suppliers must verify all dimensions on site before commencing any work or making any workshop drawings. All drawings are copyright of David Granger Architectural Design Limited. Ordnance Survey Data © Crown Copyright. All rights reserved. Licence No. AR100020449. Landmark Ref. LI68816



Project
Proposed Car Parking
Poplar Cottage
Little Shaw Lane
Markfield

Drawing Title
Planning Proposals
Sheet 1 of 1

Client
Garden Creation Services Ltd
Drawing No.
18.3588.04D

Date
November 2022
Drawn by
MS

Scale (A1 Size)
As Shown
Checked by
DG

The Old Dairy, Mill St., Packington,
Ashby-de-la-Zouch, Leics. LE65 1WN
Tel: 01530 560939 Fax: 01530 560115
www.davidgrangerdesign.com
Company Reg. No. 550812

PLANNING DRAWING

PROPOSED CAR PARKING ~ POPLAR COTTAGE ~ LITTLE SHAW LANE ~ MARKFIELD ~ LEICESTERSHIRE

Appendix D. Results of speed survey

Markfield ATC, A511 Little Shaw Lane

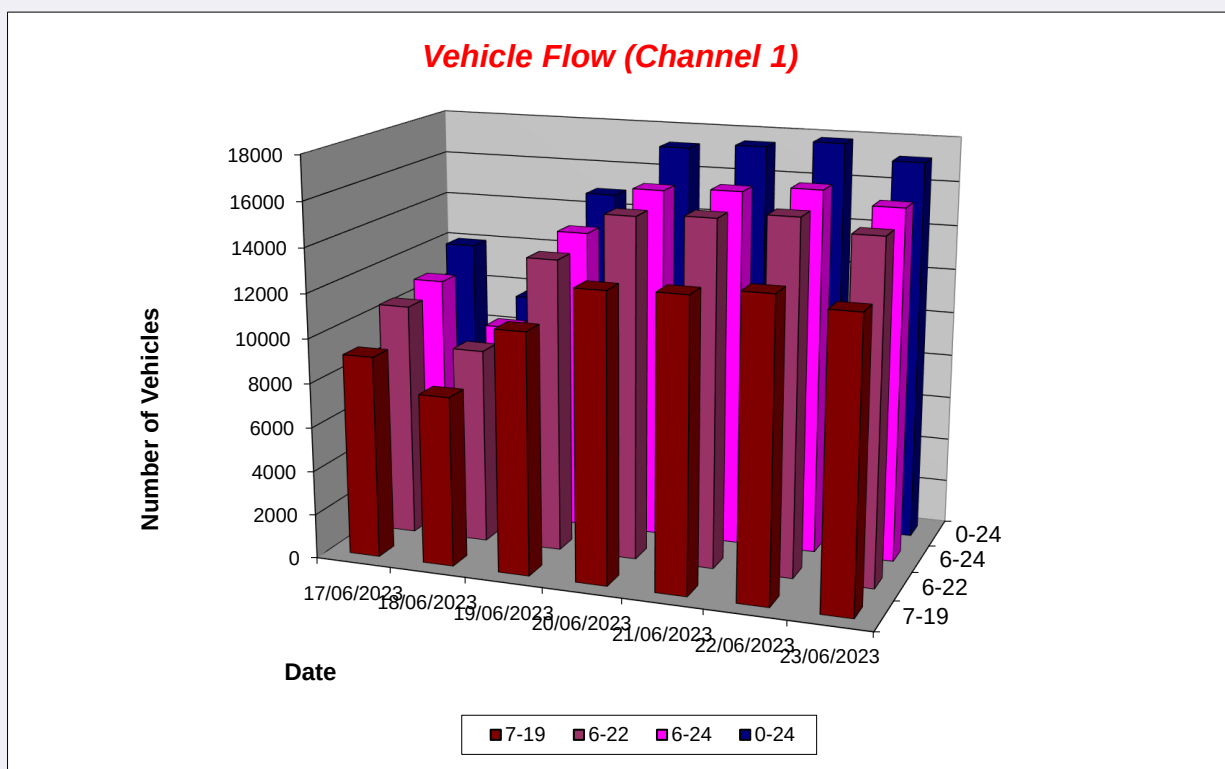
Produced by Road Data Services Ltd.

Channel 1 - Southeastbound

Vehicle Flow

Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday	Weekday Average	Average
1	147	113	76	119	121	131	119	113	118
2	129	97	54	83	131	115	108	98	102
3	108	74	70	107	122	116	108	105	101
4	143	58	95	142	144	156	167	141	129
5	161	94	236	273	285	301	282	275	233
6	311	158	602	625	623	659	589	620	510
7	363	211	1167	1176	1166	1186	1057	1150	904
8	472	250	1401	1391	1341	1465	1378	1395	1100
9	663	378	1158	1217	1184	1257	1141	1191	1000
10	740	586	1000	920	975	973	937	961	876
11	841	750	876	892	874	927	883	890	863
12	933	812	936	913	888	875	961	915	903
13	913	822	889	881	877	921	952	904	894
14	858	749	853	927	976	954	1018	946	905
15	773	723	1118	1111	1148	1109	1226	1142	1030
16	698	712	912	1077	1203	1195	1168	1111	995
17	706	676	306	1320	1287	1306	1160	1076	966
18	746	594	460	1252	1218	1324	1058	1062	950
19	791	620	969	1024	1061	1046	1014	1023	932
20	470	424	535	543	594	558	599	566	532
21	352	335	357	391	413	434	411	401	385
22	256	202	296	338	319	277	289	304	282
23	223	157	284	276	316	308	295	296	266
24	190	88	216	235	212	222	240	225	200
7-19	9134	7672	10878	12925	13032	13352	12896	12617	11413
6-22	10575	8844	13233	15373	15524	15807	15252	15038	13515
6-24	10988	9089	13733	15884	16052	16337	15787	15559	13981
0-24	11987	9683	14866	17233	17478	17815	17160	16910	15175



Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 1 - Southeastbound

Average Speed

Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	42.6	43.1	39.7	41.2	39.5	43.1	43.3
2	41.2	43.3	41.8	41.7	40.3	41.4	41.4
3	41.7	41.3	40.2	41.7	40.8	41.0	39.9
4	42.1	40.5	41.1	40.1	40.8	40.9	41.1
5	42.4	41.9	42.9	42.2	41.0	41.8	42.4
6	44.9	44.2	42.5	42.9	43.1	44.2	43.3
7	45.0	45.5	42.0	41.5	42.3	42.8	43.4
8	44.4	45.3	42.8	40.2	42.1	42.0	43.1
9	44.6	45.9	42.6	40.5	43.2	42.7	42.7
10	44.4	45.7	42.3	41.2	43.0	41.3	42.4
11	44.5	45.2	41.5	40.5	41.6	42.0	42.4
12	44.4	45.4	41.5	40.8	42.2	41.4	42.6
13	44.6	45.5	42.1	41.1	42.6	42.3	43.4
14	44.6	45.1	42.8	42.3	43.2	43.0	43.8
15	45.1	44.7	43.2	43.2	43.4	43.2	43.6
16	45.6	44.6	42.7	43.2	44.0	43.5	44.0
17	45.0	44.3	40.4	44.2	45.2	43.9	44.6
18	44.9	42.7	42.4	44.9	44.9	44.1	45.3
19	45.5	44.1	42.3	44.9	44.8	44.4	45.3
20	46.2	43.6	42.3	44.4	45.1	44.8	45.4
21	44.2	43.6	43.1	45.0	44.5	44.2	43.9
22	44.0	41.3	41.9	42.9	44.1	44.0	44.7
23	43.1	40.6	43.1	43.8	43.3	43.3	43.6
24	42.6	42.2	42.5	41.7	43.7	42.3	43.2
10-12	44.4	45.3	41.5	40.7	41.9	41.7	42.5
14-16	45.3	44.7	43.0	43.2	43.7	43.3	43.8
0-24	44.6	44.5	42.3	42.4	43.3	43.0	43.6

Average (ALL)	43.3
Weekday Inter-Peak	42.7

Channel 1 - Southeastbound

85th Percentile

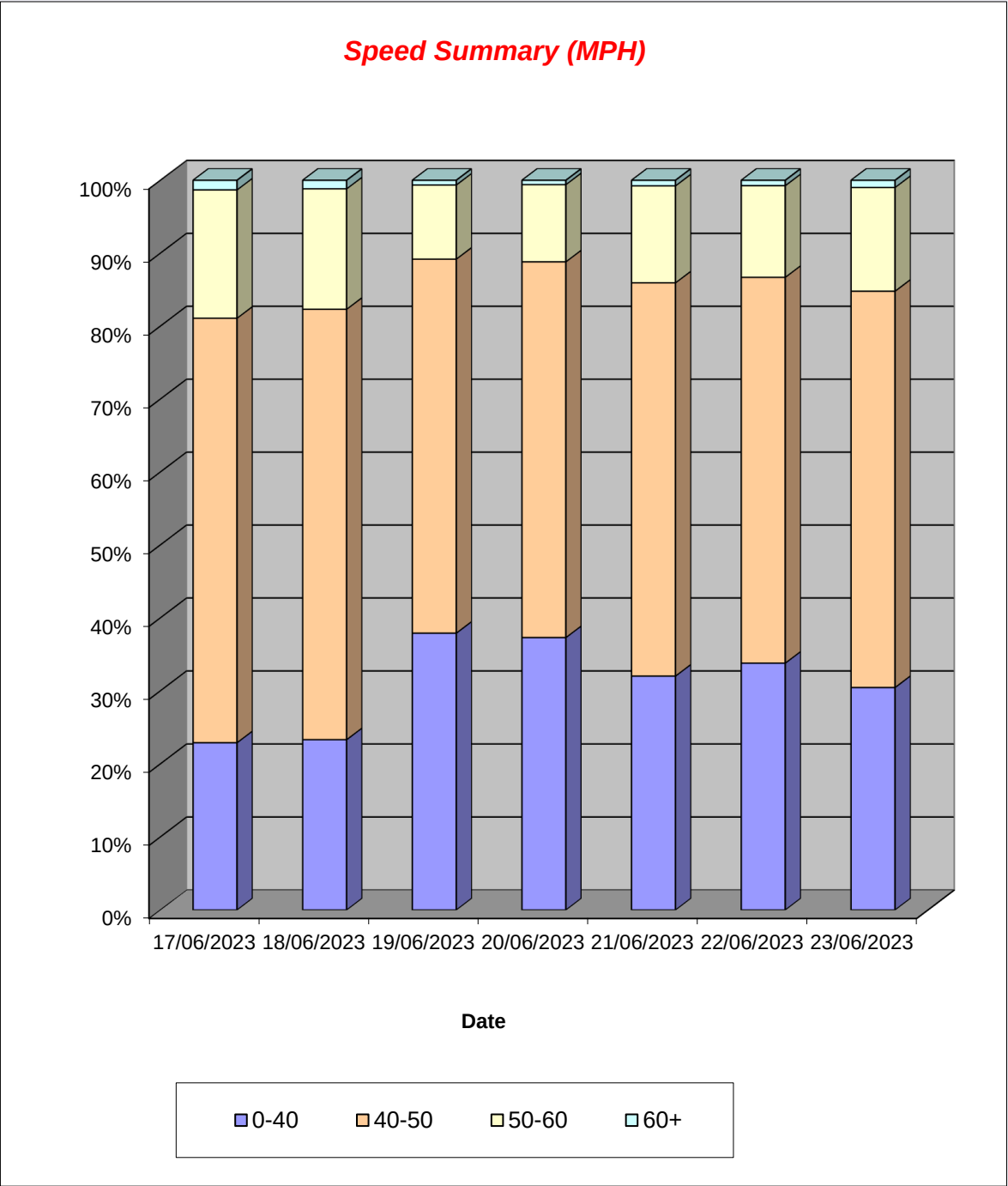
Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	50.2	49.6	46.8	47.5	46.3	50.9	50.8
2	49.8	50.4	48.4	48.5	47.1	49.8	48.6
3	48.3	48.7	48.7	48.7	46.9	48.4	47.5
4	49.5	45.9	47.9	47.4	47.8	47.4	48.6
5	49.7	49.5	49.7	49.5	48.2	49.6	49.3
6	52.1	50.8	49.4	49.9	50.3	51.3	51.0
7	52.8	53.2	49.0	49.1	48.9	50.1	50.7
8	52.1	52.1	49.0	46.3	48.7	48.3	49.6
9	51.2	52.4	49.2	46.9	49.7	49.1	49.6
10	50.5	52.3	49.1	47.6	49.5	48.3	48.8
11	51.3	51.5	47.9	46.7	48.5	48.6	48.9
12	50.8	51.8	48.0	47.1	48.5	48.3	49.4
13	51.5	52.1	48.8	47.2	49.7	48.7	50.1
14	51.5	51.7	49.4	48.6	49.6	50.0	50.3
15	51.5	51.6	49.4	49.5	49.8	49.7	50.1
16	52.3	50.8	49.8	49.8	50.3	50.0	50.8
17	51.5	51.3	49.2	50.7	52.3	51.0	51.6
18	51.4	50.0	49.7	51.6	52.0	50.9	52.1
19	52.4	50.6	48.6	51.3	52.4	50.9	52.1
20	53.2	49.7	49.6	51.2	51.8	52.2	52.7
21	51.8	50.2	50.4	53.1	51.7	51.7	51.9
22	51.6	48.0	50.4	50.5	52.4	52.6	53.5
23	50.6	47.5	50.7	51.0	50.8	50.5	51.0
24	50.7	48.6	50.6	49.1	51.3	49.9	50.4
10-12	51.0	51.6	48.0	46.9	48.5	48.4	49.2
14-16	51.9	51.2	49.6	49.7	50.1	49.8	50.5
0-24	51.5	51.3	49.1	49.2	50.2	49.9	50.6

85th %ile (ALL)	50.3
Weekday Inter-Peak	49.3

Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 1 - Southeastbound				Speed Summary			Week 1
Speed (MPH)	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
0-40	2745	2258	5635	6428	5597	6021	5227
40-50	6975	5713	7624	8879	9424	9424	9324
50-60	2109	1599	1511	1824	2324	2239	2440
60+	158	113	96	102	133	131	169
TOTAL	11987	9683	14866	17233	17478	17815	17160



Markfield ATC, A511 Little Shaw Lane

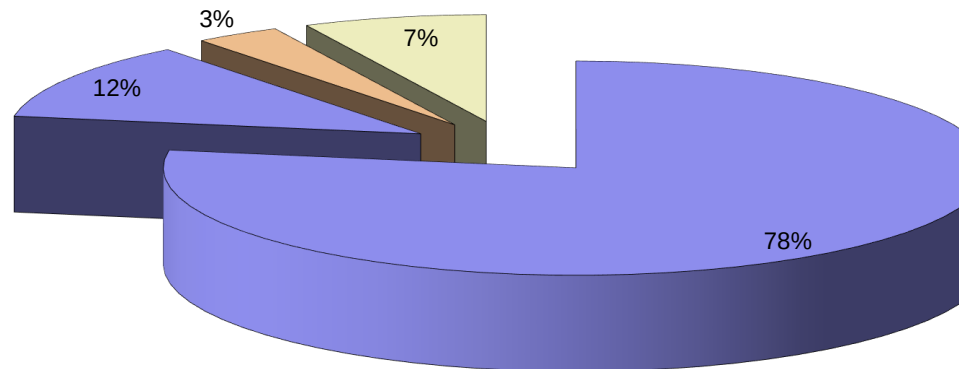
Produced by Road Data Services Ltd.

Channel 1 - Southeastbound

Vehicle Class

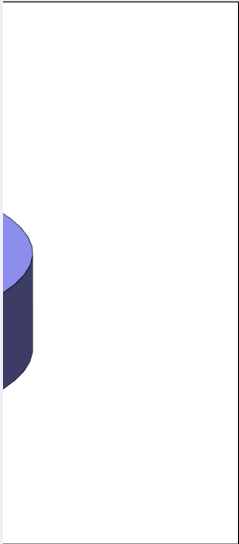
Classes Day / Time	Car / LGV / Caravan - 1	MGV - 2	OGV1 / Bus - 3,5,6,7,12	OGV2 - 4,8,9,10,11,13
17/06/2023				
7-19	7963	816	152	203
6-22	9144	957	202	272
6-24	9478	983	227	300
0-24	10087	1077	289	534
18/06/2023				
7-19	6731	688	107	146
6-22	7692	808	143	201
6-24	7879	821	164	225
0-24	8325	865	202	291
19/06/2023				
7-19	8163	1524	398	793
6-22	9971	1790	487	985
6-24	10332	1826	521	1054
0-24	11023	1952	608	1283
20/06/2023				
7-19	10024	1710	413	778
6-22	11907	1997	503	966
6-24	12297	2023	520	1044
0-24	13063	2162	605	1403
21/06/2023				
7-19	10157	1673	421	781
6-22	12086	1974	490	974
6-24	12498	1996	521	1037
0-24	13353	2126	607	1392
22/06/2023				
7-19	10356	1756	429	811
6-22	12244	2028	525	1010
6-24	12631	2055	563	1088
0-24	13547	2204	646	1418
23/06/2023				
7-19	10051	1692	411	742
6-22	11867	1996	488	901
6-24	12282	2020	520	965
0-24	13077	2155	609	1319
Average				
7-19	9064	1408	333	608
6-22	10702	1650	405	758
6-24	11057	1675	434	816
0-24	11782	1792	509	1091

Total Vehicle Class Distribution



Week 1

TOTAL
- 1-13
9134
10575
10988
11987
7672
8844
9089
9683
10878
13233
13733
14866
12925
15373
15884
17233
13032
15524
16052
17478
13352
15807
16337
17815
12896
15252
15787
17160
11413
13515
13981
15175

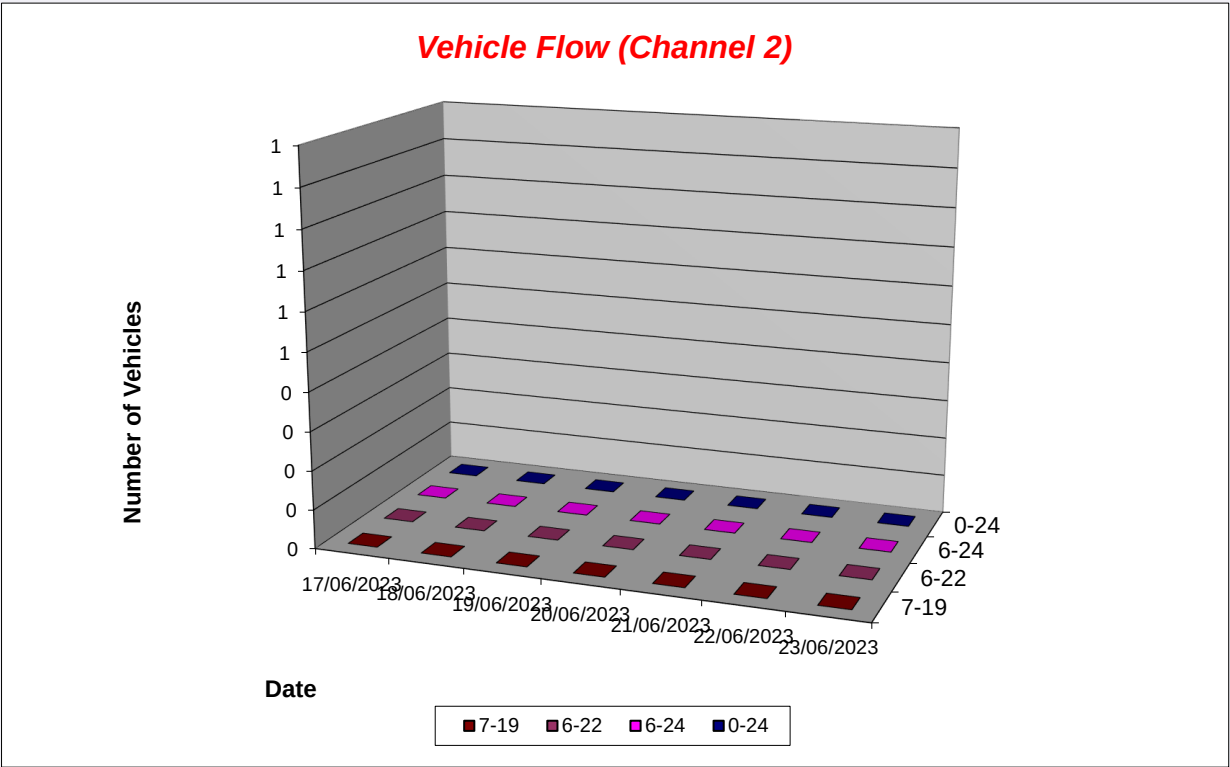


Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound Vehicle Flow Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday	Weekday Average	Average
1	0	0	0	0	0	0	0	0	0
2	0	0	0	0	0	0	0	0	0
3	0	0	0	0	0	0	0	0	0
4	0	0	0	0	0	0	0	0	0
5	0	0	0	0	0	0	0	0	0
6	0	0	0	0	0	0	0	0	0
7	0	0	0	0	0	0	0	0	0
8	0	0	0	0	0	0	0	0	0
9	0	0	0	0	0	0	0	0	0
10	0	0	0	0	0	0	0	0	0
11	0	0	0	0	0	0	0	0	0
12	0	0	0	0	0	0	0	0	0
13	0	0	0	0	0	0	0	0	0
14	0	0	0	0	0	0	0	0	0
15	0	0	0	0	0	0	0	0	0
16	0	0	0	0	0	0	0	0	0
17	0	0	0	0	0	0	0	0	0
18	0	0	0	0	0	0	0	0	0
19	0	0	0	0	0	0	0	0	0
20	0	0	0	0	0	0	0	0	0
21	0	0	0	0	0	0	0	0	0
22	0	0	0	0	0	0	0	0	0
23	0	0	0	0	0	0	0	0	0
24	0	0	0	0	0	0	0	0	0
7-19	0	0	0	0	0	0	0	0	0
6-22	0	0	0	0	0	0	0	0	0
6-24	0	0	0	0	0	0	0	0	0
0-24	0	0	0	0	0	0	0	0	0



Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound

Average Speed

Week 1

Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-
8	-	-	-	-	-	-	-
9	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-
17	-	-	-	-	-	-	-
18	-	-	-	-	-	-	-
19	-	-	-	-	-	-	-
20	-	-	-	-	-	-	-
21	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-
23	-	-	-	-	-	-	-
24	-	-	-	-	-	-	-
10-12	-	-	-	-	-	-	-
14-16	-	-	-	-	-	-	-
0-24	-	-	-	-	-	-	-

Average (ALL)	-
Weekday Inter-Peak	-

Channel 2 - Northwestbound

85th Percentile

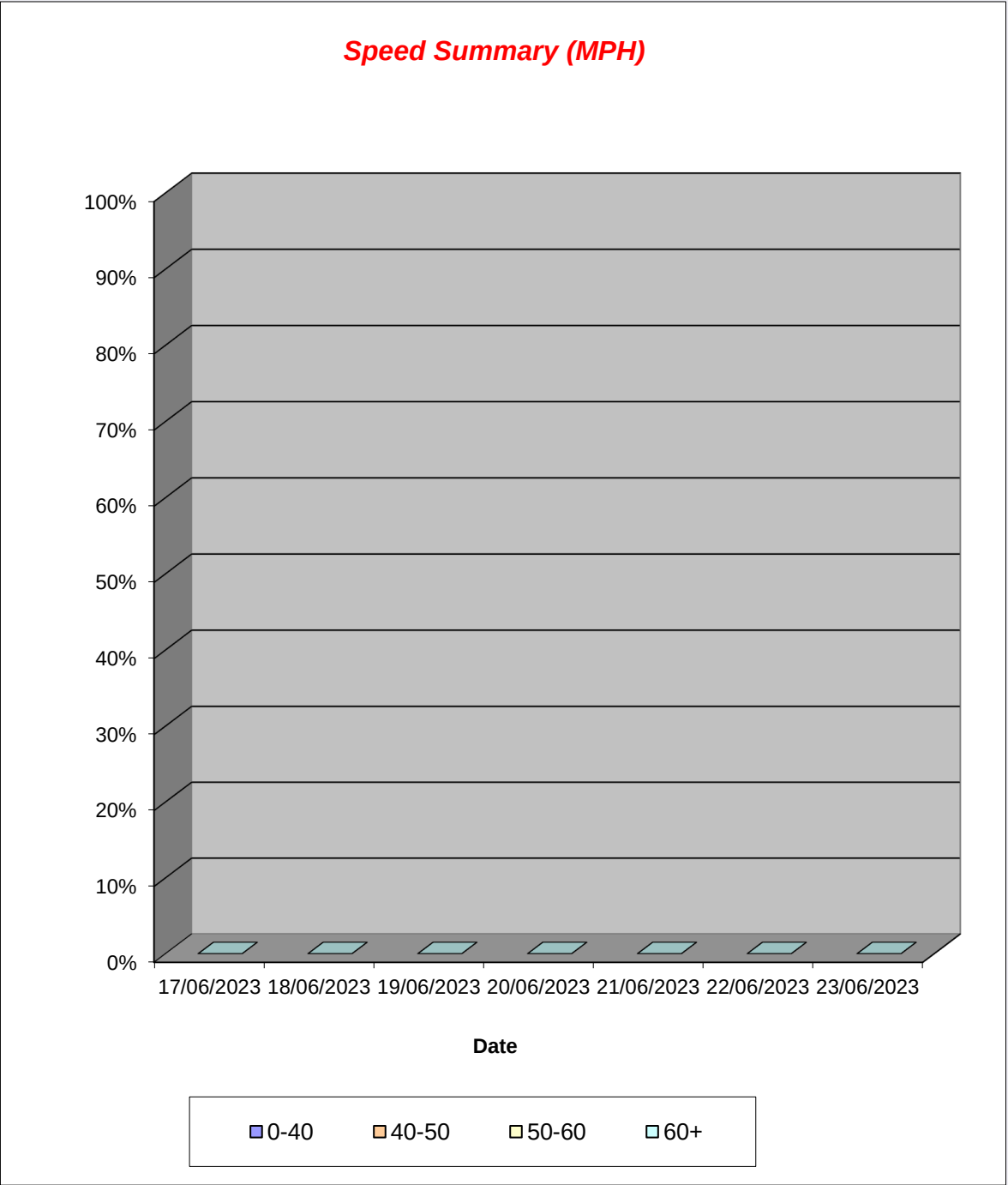
Hr Ending	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
1	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-
8	-	-	-	-	-	-	-
9	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-
12	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-
14	-	-	-	-	-	-	-
15	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-
17	-	-	-	-	-	-	-
18	-	-	-	-	-	-	-
19	-	-	-	-	-	-	-
20	-	-	-	-	-	-	-
21	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-
23	-	-	-	-	-	-	-
24	-	-	-	-	-	-	-
10-12	-	-	-	-	-	-	-
14-16	-	-	-	-	-	-	-
0-24	-	-	-	-	-	-	-

85th %ile (ALL)	-
Weekday Inter-Peak	-

Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound				Speed Summary			Week 1
Speed (MPH)	17/06/2023 Saturday	18/06/2023 Sunday	19/06/2023 Monday	20/06/2023 Tuesday	21/06/2023 Wednesday	22/06/2023 Thursday	23/06/2023 Friday
0-40	0	0	0	0	0	0	0
40-50	0	0	0	0	0	0	0
50-60	0	0	0	0	0	0	0
60+	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0



Markfield ATC, A511 Little Shaw Lane

Produced by Road Data Services Ltd.

Channel 2 - Northwestbound

Vehicle Class

Classes Day / Time	Car / LGV / Caravan - 1	MGV - 2	OGV1 / Bus - 3,5,6,7,12	OGV2 - 4,8,9,10,11,13
17/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
18/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
19/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
20/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
21/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
22/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
23/06/2023				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0
Average				
7-19	0	0	0	0
6-22	0	0	0	0
6-24	0	0	0	0
0-24	0	0	0	0

Total Vehicle Class Distribution

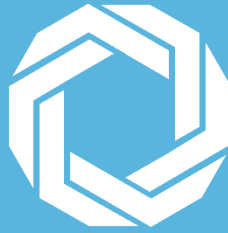
0%

Week 1

[illegible]

	0
	0
	0
	0

Appendix E. Road Safety Audit and Designer Response



Midlands Road Safety Ltd

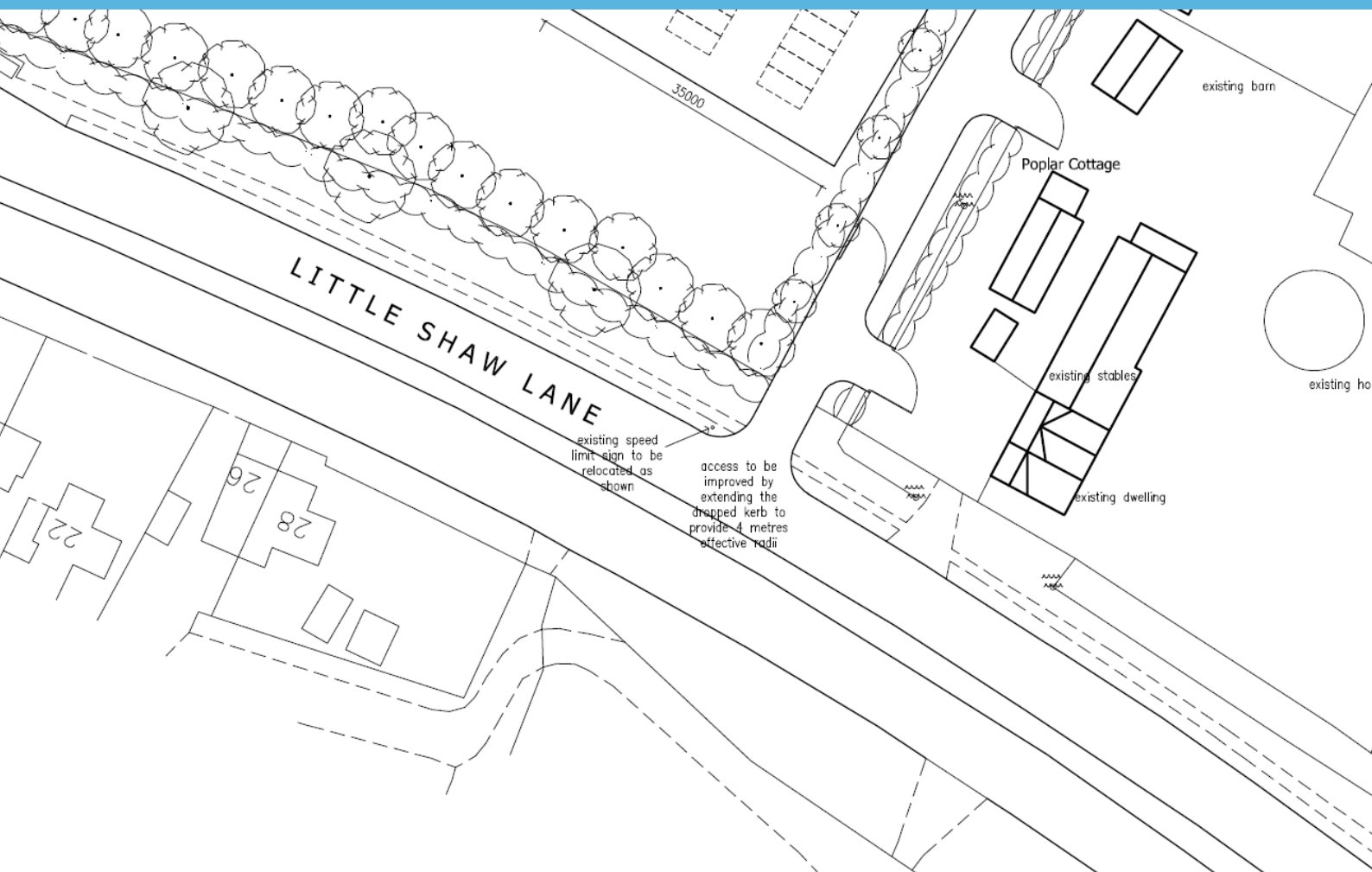
PROPOSED ACCESS AMENDMENTS

A50 LITTLE SHAW LANE, MARKFIELD

STAGE 1 – ROAD SAFETY AUDIT

NOVEMBER 2023

REPORT REF: 23-1586-RSA1



PROPOSED ACCESS AMENDMENTS

A50 LITTLE SHAW LANE, MARKFIELD

STAGE 1 ROAD SAFETY AUDIT

NOVEMBER 2023

REPORT REF: 23-1586-RSA1

CLIENT: Edwards & Edwards Consultancy Ltd

ENGINEER: Midlands Road Safety Ltd

TEL: 0779 112 1104

EMAIL: chris.berry@midlandsroadsafety.co.uk

Revision	Date of Issue	Author	Checked
First Issue	30.11.2023	CB	SC
Draft (Internal)	28.11.2023	CB	SC

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2.	SAFETY PROBLEMS RAISED IN PREVIOUS ROAD SAFETY AUDITS	3
3.	SAFETY PROBLEMS RAISED IN THIS ROAD SAFETY AUDIT	4
4.	ADDITIONAL CONSIDERATIONS	5
5.	AUDIT STATEMENT	6

APPENDICES

- A. DRAWINGS AND DOCUMENTS REVIEWED
- B. SITE LOCATION AND PROBLEM IDENTIFICATION PLANS

1. INTRODUCTION

- 1.1 This report comprises a Stage 1 Road Safety Audit (RSA) on the proposed amendments to the existing access to Poplar Nursery, to the north of the A50 Little Shaw Lane in Markfield, Leicestershire. The works include extending the existing dropped kerb for the access to provide a 4.0m wide effective radii to each side, with the existing 50mph terminal speed limit sign being relocated as a result of the amendments to the western side. The works are arising from a proposed change to the existing plant nursery site, allowing for public access which is currently not available. According to the information provided, it is anticipated that this will arise in an additional five vehicle trips per hour in the low season and 13 vehicles per hour in the high season.
- 1.2 The report was requested by Edwards & Edwards Consultancy Ltd on behalf of Garden Creation Services Ltd. The Overseeing Organisation is Leicestershire County Council.
- 1.3 The Audit Team Membership was as follows:
- Audit Team Leader
Chris Berry, MSc Transport Planning, MSoRSA, NH RSA Certificate of Competency
- Audit Team Member
Sarah Cooke, BA (Hons)
- 1.4 A site inspection was carried out by the Audit Team together on Monday 27th November 2023 between the hours of 12:45 and 13:15. During the site visit the weather conditions were raining and the road surface was wet. Traffic flows were observed as being moderate to light, with no pedestrians and no cycle movements being observed.
- 1.5 The audit also comprised of a desk-top study where all documents and plans provided by the Design Team were reviewed. A list of these can be found in Appendix A. The auditors have not been made aware of any departures from design standards.
- 1.6 The audit has been carried out in accordance with the principals of the National Highways document GG 119 'Road Safety Audit'. A formal Road Safety Audit Brief was not provided to the Audit Team. However, information regarding the site was provided via email alongside the relevant scheme documents and drawings. This was considered by the Audit Team to provide sufficient detail to undertake the appropriate stage of audit.

- 1.7 The Audit Team have examined and reported solely on the road safety implications of the scheme as presented and not examined or verified the compliance to any alternate criteria.
- 1.8 All comments and recommendations in this report are referenced to the Audit Brief where provided, and detailed drawings supplied. Where appropriate a list of “Additional Considerations” will follow from any safety problems raised. These are not identified safety problems but generalised comments to assist in the design and safety audit process.
- 1.9 Midlands Road Safety Ltd has ensured that this report has been carried out independently with no member of the Audit Team membership directly linked to the scheme design.

2. SAFETY PROBLEMS RAISED IN PREVIOUS ROAD SAFETY AUDITS

- 2.1. It is understood that no previous Road Safety Audits have been undertaken for the proposals subject to this report.

3. SAFETY PROBLEMS RAISED IN THIS ROAD SAFETY AUDIT

3.1. The Audit Team has identified two safety problems to be addressed.

3.2. **Problem 1**

Location: Little Shaw Lane – at the site access.

Summary: Accelerating eastbound vehicles risk collisions with emerging traffic.

Whilst on site it was observed that vehicles exiting the roundabout to the west accelerate quickly towards the site access, which is located on the increase from a 40mph speed limit at the junction to a 50mph limit. As such, gaps in traffic, whilst frequent, can be difficult to judge, especially due to a lack of conspicuity of the access (see Problem 2). There is a concern that this will result in collisions between eastbound traffic and emerging vehicles.



Recommendation:

It is recommended that the start of the 50mph speed limit is relocated to the east of the access.

3.3. Problem 2

Location: Little Shaw Lane – at the site access.

Summary: Lack of site awareness may lead to hesitancy and shunt type collisions.

The site access is currently inconspicuous. The change to allow public access will result in some drivers who are unfamiliar with the site visiting. The lack of awareness of the site may result in hesitation and / or late braking, risking shunt type collisions on Little Shaw Lane.

Recommendation:

It is recommended that additional measures are provided to alert drivers to the site location. This could be either within the highway or at the site frontage / access.

End of the 'Safety Problems' in this Section of the Report

4. ADDITIONAL CONSIDERATIONS

4.1. Additional Consideration 1

Due to the likelihood of drivers who are unfamiliar with the area visiting the site, it is recommended that, as part of the detailed design, signage directing traffic to exit eastbound (left) from the site should be considered.



5. AUDIT STATEMENT

- 5.1. We certify that the terms of reference of the audit are as described in GG 119 and that no member of the Audit Team was directly linked to the scheme design.

5.2. **AUDIT TEAM LEADER:**

Chris Berry – MSc, MSoRSA, NH RSA Certificate of Competency

Director

Midlands Road Safety Ltd



Signed: _____

Date: 30.11.2023

5.3. **AUDIT TEAM MEMBER:**

Sarah Cooke, BA (Hons)

Road Safety Consultant working on behalf of Midlands Road Safety Ltd



Signed: _____

Date: 30.11.2023

APPENDIX A

The following documents and drawings were provided for the purposes of this road safety audit.

Drawings

Number	Title	Rev
18.3588.04	Planning Proposals	D

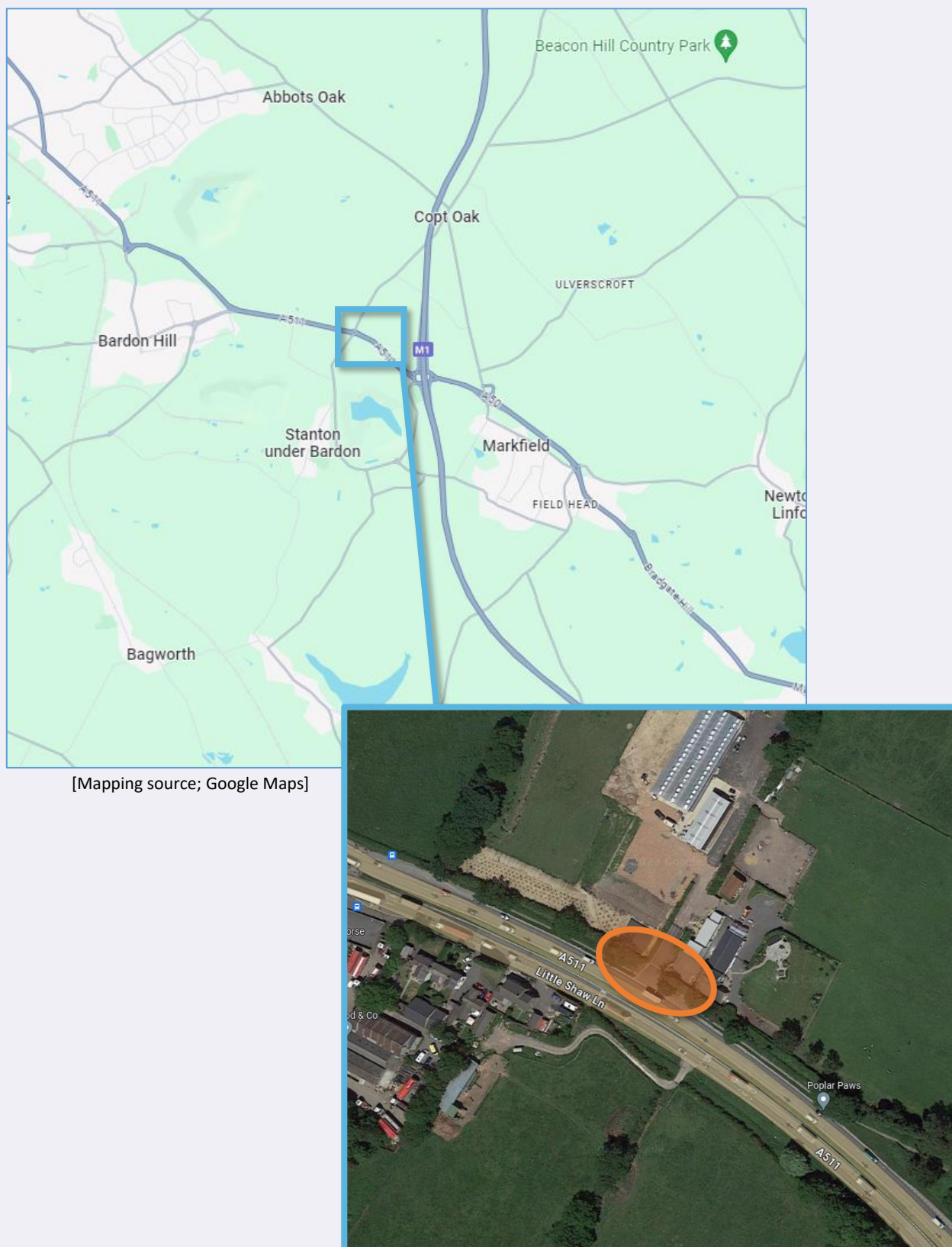
Documents

Author	Title	Rev	Date
Edwards & Edwards	Road Safety Audit Brief (by email)	-	21.11.2023
Road Data Services Ltd	ATC Survey Results	-	17-23.06.2023

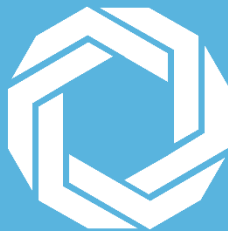
APPENDIX B

The location of any problems/observations that have been identified in Section 3 of this report can be seen on the extracts of the drawings supplied to the Audit Team, as listed in Appendix A.

Figure 1 – Site Location



[Mapping source; Google Maps]



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Edwards & Edwards Consultancy Ltd

4 Ascot Drive

Coalville

Leicestershire

LE67 4DF

**Variation of condition to include
revised block plan and allow public
access to the site**

**Poplar Cottage, Little Shaw Lane,
Markfield**

**Designer Response to
Stage 1 Road Safety Audit**

For Mr Proud

December 2023

DOCUMENT CONTROL

Author	DEC	8 December 2023
Checked	MJE	8 December 2023
Revised	DEC	11 December 2023
Checked	MJE	11 December 2023
Finalised	DEC	11 December 2023

CONTENTS

1	INTRODUCTION	3
2	DESIGNER RESPONSE TO MATTERS ARISING FROM STAGE 1 ROAD SAFETY AUDIT.....	4
3	ADDITIONAL CONSIDERATIONS.....	9
4	SUMMARY	10
	APPENDIX A. STAGE 1 ROAD SAFETY AUDIT.....	11

1 Introduction

- 1.1 This report provides the Designer Response to the problem and recommendation provided in the Stage 1 Road Safety Audit conducted by Midlands Road Safety Ltd dated November 2023. The Audit Report, Midland Road Safety Ltd, reference 23-1586-RSA1 and this Designer Response has been discussed with the client. A copy of the Road Safety Audit has been attached as **Appendix A** for information.
- 1.2 The Stage 1 Road Safety Audit raised 2 potential road safety problems and also raised an additional consideration with the proposed access arrangement and this Designer Response considers those issues and whether any action is required to overcome these potential problems.
- 1.3 This report is set out in the same format as the Road Safety Audit Stage 1 report, the Road Safety Problem and Recommendation followed by the Designer Response.

2 Designer Response to Matters Arising from Stage 1 Road Safety Audit

2.1 Problem 1

Location: Little Shaw Lane – at the site access.

Summary: Accelerating eastbound vehicles risk collisions with emerging traffic.

Whilst on site it was observed that vehicles exiting the roundabout to the west accelerate quickly towards the site access, which is located on the increase from a 40mph speed limit at the junction to a 50mph limit. As such, gaps in traffic, whilst frequent, can be difficult to judge, especially due to a lack of conspicuity of the access (see Problem 2). There is a concern that this will result in collisions between eastbound traffic and emerging vehicles.



Recommendation:

It is recommended that the start of the 50mph speed limit is relocated to the east of the access.

Designer Response

The site access has visibility splays well in excess of those required, not only will drivers of vehicles exiting the site be able to see approaching traffic as they negotiate the roundabout, drivers of the vehicles approaching on the A511 will be able to see vehicles leaving the access as they leave the roundabout approximately 160 metres away. The following photograph shows the excellent visibility out of the access to see vehicles approaching the access:-



As a result of the traffic lights at the roundabout, it is considered that the traffic tends to approach in 'convoys' lasting around 30 seconds, followed by little or no traffic for around 20 seconds. So within the cycle of traffic light changes, there will be plenty of opportunity for vehicles leaving the access to do so safely when little or no traffic is approaching.

The site was given permission in 2019 for use of the land for horticultural purposes, and therefore the access has been in regular use by vehicles associated with the horticultural traffic for a number of years and has not resulted in any highway safety problem. Leicestershire CC's own accident records show that there has not been a recorded personal injury accident at the access in the latest 5 years of data. It is

therefore considered that this demonstrates that the excellent 'inter-visibility' between drivers approaching and leaving the access, means that vehicles can turn out of the access safely.

Little Shaw Lane is a dual carriageway, and so should a vehicle pull out of the access, an approaching vehicle would be able to pull out into the outside lane to pass safely.

It is therefore felt that as a result of the excellent visibility splays well in excess of normal standards and given the frequent large gaps in traffic flow that relocating the speed limit signs to the eastern side of the access is not necessary. However if this is considered an issue by the Local Highway Authority, then the applicant would be prepared to pay to have the speed limit signs relocated to the eastern side of this access.

In terms of making the access more conspicuous for vehicles approaching the applicant is prepared to make the access more conspicuous, and this is covered in relation to problem 2.

2.2 Problem 2

Location: Little Shaw Lane – at the site access.

Summary: Lack of site awareness may lead to hesitancy and shunt type collisions.

The site access is currently inconspicuous. The change to allow public access will result in some drivers who are unfamiliar with the site visiting. The lack of awareness of the site may result in hesitation and / or late braking, risking shunt type collisions on Little Shaw Lane.

Recommendation:

It is recommended that additional measures are provided to alert drivers to the site location. This could be either within the highway or at the site frontage / access.

Designer Response

Problem accepted.

Recommendation accepted. The applicant would be happy to cut back the vegetation on the site frontage, and to relocate his existing sign to the western side of the access.

This will make the access more conspicuous for drivers as they leave the roundabout. The following photograph shows the existing sign which is currently located on the eastern side of the roundabout, which will be relocated to the western side of the access, which will mean that the access will become more visible to vehicles approaching the access as they leave the roundabout:-



The reason why a Road Safety Audit is necessary in relation to this application is because the applicant is proposing to carry out alterations to the access to increase the entry and exit radii at the access. By improving the radii, this will mean that vehicles will be able to turn into and out of the access more easily and safely. The increased radii will mean that vehicles will not have to slow down quite as much as they would if the entry radius was not improved and will therefore help reduce the risk of shunt type collisions.

3 Additional Considerations

3.1 Additional Consideration 1

Due to the likelihood of drivers who are unfamiliar with the area visiting the site, it is recommended that, as part of the detailed design, signage directing traffic to exit eastbound (left) from the site should be considered.



Designer Response

Additional Consideration accepted. The applicant would be happy to either provide signage within his site to advise vehicles to turn left out of the access, or if deemed appropriate pay for a road sign to be placed in the central reserve advising traffic to turn left out of the site access.

4 SUMMARY

- 4.1 The recommendations made within the Road Safety Audit Stage 1 Report have been reviewed.
- 4.2 For the reasons given in Chapter 2 above, it is considered that whilst relocating the speed limit is not necessary, the applicant is prepared to pay the costs of relocating the speed limits signs to the eastern side of his access.
- 4.3 The proposal which will result in increased entry and exit radii, will make it easier and safer for vehicles to turn into and out of the access, which will help reduce the risk of shunt type collisions.
- 4.4 The applicant is prepared to carry out works to make the access more conspicuous and to provide signage to ensure drivers leaving the site turn left on to Little Shaw Lane.
- 4.5 It is therefore considered that the potential highway safety issues raised in the Road Safety Audit Stage 1 have been considered. Suitable solutions are proposed to address the issues around conspicuity of the access and the concern regarding ensuring vehicles turn left out of the access.
- 4.6 It is considered that the provision of the increased junction radii will result in a safe and suitable access that is capable of catering for the increased traffic likely as a result of allowing public access to the site.

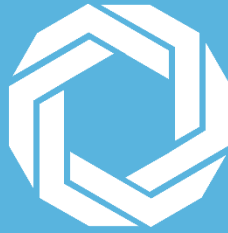
Duncan Clarke

Edwards & Edwards Consultancy Ltd

Project No. 12220

Date December 2023

Appendix A. Stage 1 Road Safety Audit



Midlands Road Safety Ltd

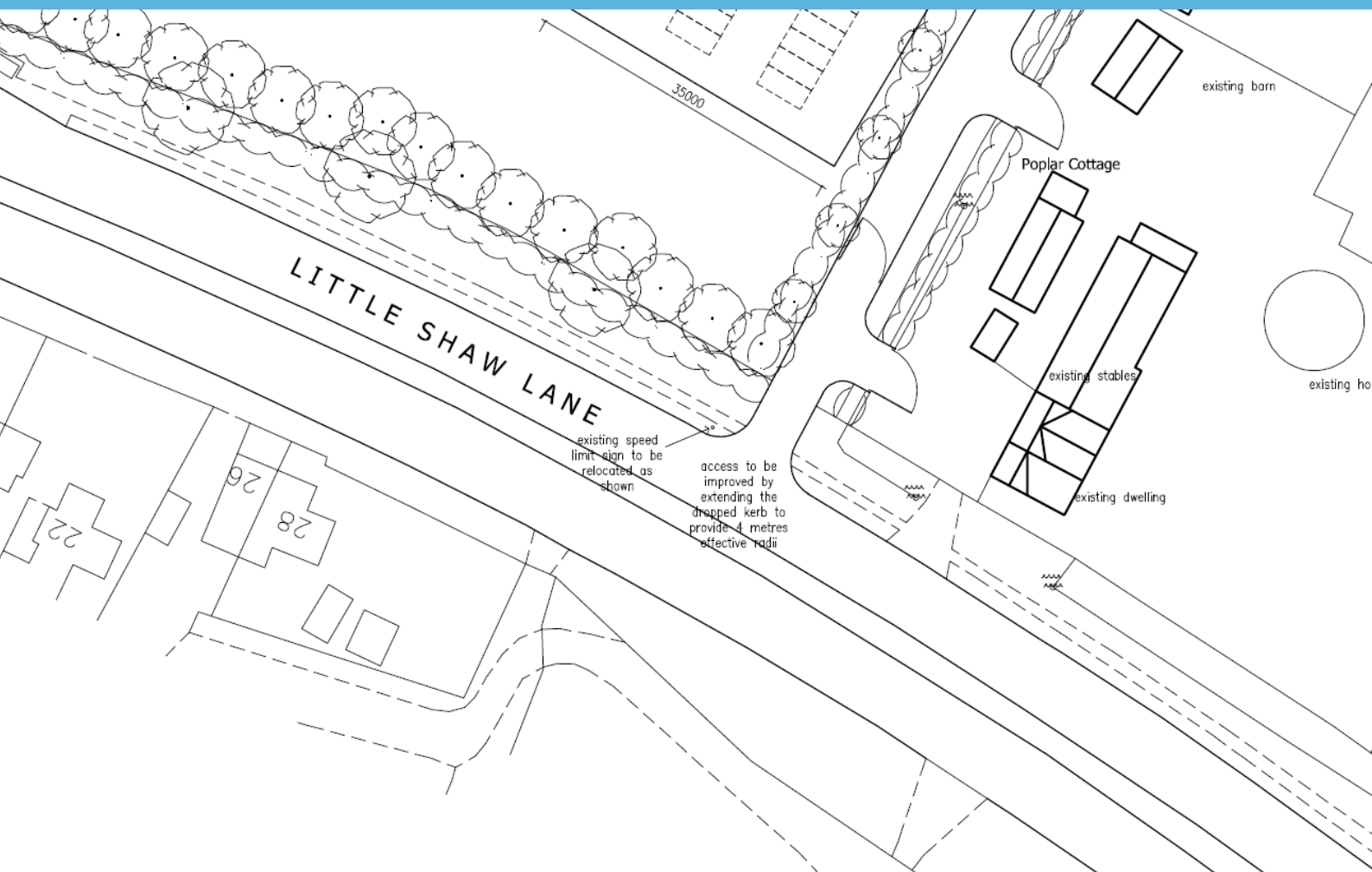
PROPOSED ACCESS AMENDMENTS

A50 LITTLE SHAW LANE, MARKFIELD

STAGE 1 – ROAD SAFETY AUDIT

NOVEMBER 2023

REPORT REF: 23-1586-RSA1



PROPOSED ACCESS AMENDMENTS

A50 LITTLE SHAW LANE, MARKFIELD

STAGE 1 ROAD SAFETY AUDIT

NOVEMBER 2023

REPORT REF: 23-1586-RSA1

CLIENT: Edwards & Edwards Consultancy Ltd

ENGINEER: Midlands Road Safety Ltd

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Revision	Date of Issue	Author	Checked
First Issue	30.11.2023	CB	SC
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- A. DRAWINGS AND DOCUMENTS REVIEWED
- B. SITE LOCATION AND PROBLEM IDENTIFICATION PLANS

1. INTRODUCTION

- 1.1 This report comprises a Stage 1 Road Safety Audit (RSA) on the proposed amendments to the existing access to Poplar Nursery, to the north of the A50 Little Shaw Lane in Markfield, Leicestershire. The works include extending the existing dropped kerb for the access to provide a 4.0m wide effective radii to each side, with the existing 50mph terminal speed limit sign being relocated as a result of the amendments to the western side. The works are arising from a proposed change to the existing plant nursery site, allowing for public access which is currently not available. According to the information provided, it is anticipated that this will arise in an additional five vehicle trips per hour in the low season and 13 vehicles per hour in the high season.
- 1.2 The report was requested by Edwards & Edwards Consultancy Ltd on behalf of Garden Creation Services Ltd. The Overseeing Organisation is Leicestershire County Council.
- 1.3 The Audit Team Membership was as follows:
- Audit Team Leader
Chris Berry, MSc Transport Planning, MSoRSA, NH RSA Certificate of Competency
- Audit Team Member
Sarah Cooke, BA (Hons)
- 1.4 A site inspection was carried out by the Audit Team together on Monday 27th November 2023 between the hours of 12:45 and 13:15. During the site visit the weather conditions were raining and the road surface was wet. Traffic flows were observed as being moderate to light, with no pedestrians and no cycle movements being observed.
- 1.5 The audit also comprised of a desk-top study where all documents and plans provided by the Design Team were reviewed. A list of these can be found in Appendix A. The auditors have not been made aware of any departures from design standards.
- 1.6 The audit has been carried out in accordance with the principals of the National Highways document GG 119 'Road Safety Audit'. A formal Road Safety Audit Brief was not provided to the Audit Team. However, information regarding the site was provided via email alongside the relevant scheme documents and drawings. This was considered by the Audit Team to provide sufficient detail to undertake the appropriate stage of audit.

- 1.7 The Audit Team have examined and reported solely on the road safety implications of the scheme as presented and not examined or verified the compliance to any alternate criteria.
- 1.8 All comments and recommendations in this report are referenced to the Audit Brief where provided, and detailed drawings supplied. Where appropriate a list of “Additional Considerations” will follow from any safety problems raised. These are not identified safety problems but generalised comments to assist in the design and safety audit process.
- 1.9 Midlands Road Safety Ltd has ensured that this report has been carried out independently with no member of the Audit Team membership directly linked to the scheme design.

2. SAFETY PROBLEMS RAISED IN PREVIOUS ROAD SAFETY AUDITS

- 2.1. It is understood that no previous Road Safety Audits have been undertaken for the proposals subject to this report.

3. SAFETY PROBLEMS RAISED IN THIS ROAD SAFETY AUDIT

3.1. The Audit Team has identified two safety problems to be addressed.

3.2. **Problem 1**

Location: Little Shaw Lane – at the site access.

Summary: Accelerating eastbound vehicles risk collisions with emerging traffic.

Whilst on site it was observed that vehicles exiting the roundabout to the west accelerate quickly towards the site access, which is located on the increase from a 40mph speed limit at the junction to a 50mph limit. As such, gaps in traffic, whilst frequent, can be difficult to judge, especially due to a lack of conspicuity of the access (see Problem 2). There is a concern that this will result in collisions between eastbound traffic and emerging vehicles.



Recommendation:

It is recommended that the start of the 50mph speed limit is relocated to the east of the access.

3.3. Problem 2

Location: Little Shaw Lane – at the site access.

Summary: Lack of site awareness may lead to hesitancy and shunt type collisions.

The site access is currently inconspicuous. The change to allow public access will result in some drivers who are unfamiliar with the site visiting. The lack of awareness of the site may result in hesitation and / or late braking, risking shunt type collisions on Little Shaw Lane.

Recommendation:

It is recommended that additional measures are provided to alert drivers to the site location. This could be either within the highway or at the site frontage / access.

End of the 'Safety Problems' in this Section of the Report

4. ADDITIONAL CONSIDERATIONS

4.1. Additional Consideration 1

Due to the likelihood of drivers who are unfamiliar with the area visiting the site, it is recommended that, as part of the detailed design, signage directing traffic to exit eastbound (left) from the site should be considered.



5. AUDIT STATEMENT

- 5.1. We certify that the terms of reference of the audit are as described in GG 119 and that no member of the Audit Team was directly linked to the scheme design.

5.2. **AUDIT TEAM LEADER:**

Chris Berry – MSc, MSoRSA, NH RSA Certificate of Competency

Director

Midlands Road Safety Ltd



Signed: _____

Date: 30.11.2023

5.3. **AUDIT TEAM MEMBER:**

Sarah Cooke, BA (Hons)

Road Safety Consultant working on behalf of Midlands Road Safety Ltd



Signed: _____

Date: 30.11.2023

APPENDIX A

The following documents and drawings were provided for the purposes of this road safety audit.

Drawings

Number	Title	Rev
18.3588.04	Planning Proposals	D

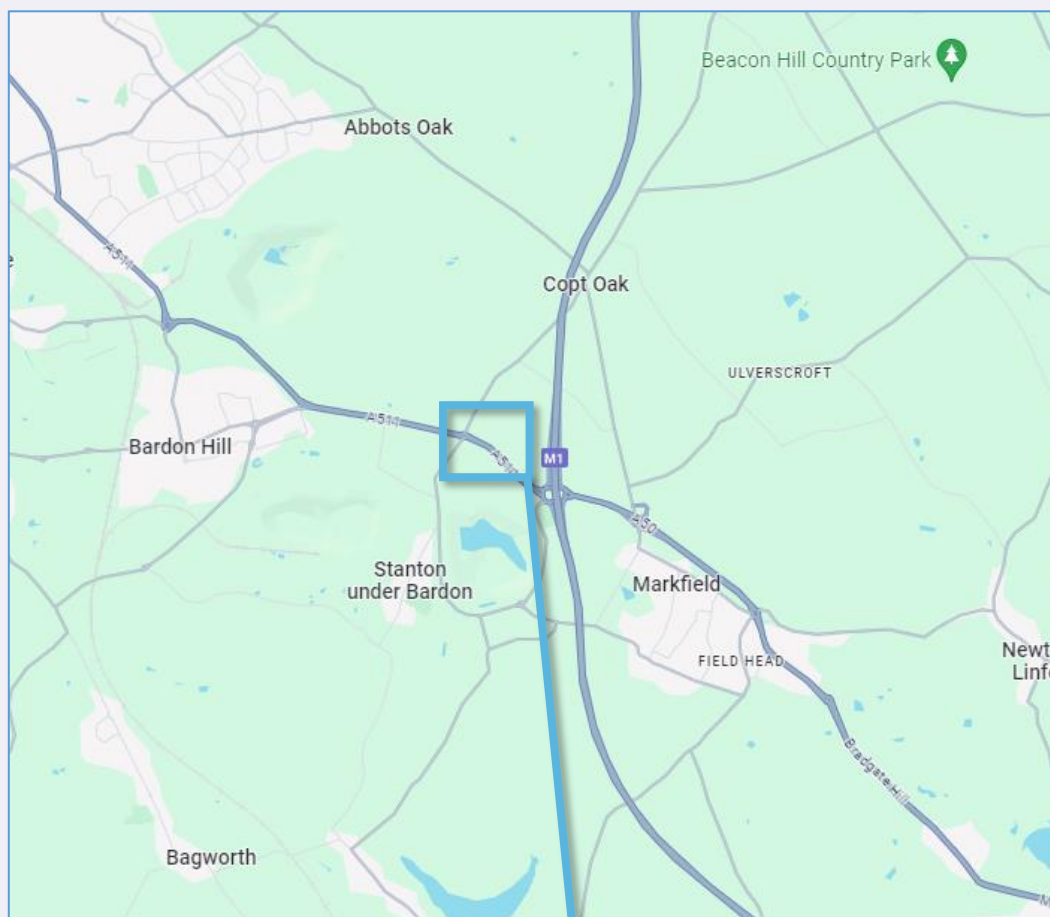
Documents

Author	Title	Rev	Date
Edwards & Edwards	Road Safety Audit Brief (by email)	-	21.11.2023
Road Data Services Ltd	ATC Survey Results	-	17-23.06.2023

APPENDIX B

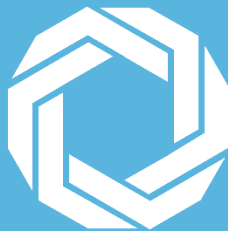
The location of any problems/observations that have been identified in Section 3 of this report can be seen on the extracts of the drawings supplied to the Audit Team, as listed in Appendix A.

Figure 1 – Site Location



[Mapping source; Google Maps]





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Appendix D. LHA response dated 27 February 2024

Substantive response of the Local Highway Authority to a planning consultation received under The Development Management Order.



Response provided under the delegated authority of the Director of Environment & Transport.

APPLICATION DETAILS:

Planning Application Number: 24/00021/FUL

Highway Reference Number: 2024/0021/04/H

Application Address: Poplar Cottage Little Shaw Lane Markfield Leicestershire LE67 9PP

Application Type: Full

Description of Application:

Part change of use of site to retail to allow public access to the nursery and the provision of a car park

GENERAL DETAILS

Planning Case Officer: David Spring

Applicant: Mr Nathan Proud

County Councillor: Cllr Peter Bedford

Parish: Markfield

Road Classification: Class A

Substantive Response provided in accordance with article 22(5) of The Town and Country Planning (Development Management Procedure) (England) Order 2015:

The Local Highway Authority advice is that the residual cumulative impacts of the development are severe in accordance with the National Planning Policy Framework (December 2023) and the Local Planning Authority is advised to consider refusal on transport/highway grounds for the reasons outlined in this report.

- 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 and paragraphs 114 and 115 of the National Planning Policy Framework (December 2023).**

Advice to Local Planning Authority

Background

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.

Site Access

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.

Highway Safety

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.

Trip Generation

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.

Policy IN5

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.

Internal Layout

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.

Transport Sustainability

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.

Date Received
15 January 2024

Case Officer
Ben Dutton

Reviewer
AW

Date issued
27 February 2024

Appendix E. Appeal and Costs Decisions



Appeal Decision

Site visit made on 13 September 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Appeal Ref: APP/F2415/W/23/3319293

Land at Melton Road, East Langton LE16 7TG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant planning permission.
 - The appeal is made by Mr Malcolm Foulkes-Arnold of Corporate Architecture Ltd against the decision of Harborough District Council.
 - The application Ref 22/00681/FUL, dated 9 March 2022, was refused by notice dated 11 October 2022.
 - The development proposed is described as 'Creation of a veterinary building with associated car park works for Rutland Veterinary'.
-

Decision

1. The appeal is allowed and planning permission is granted for creation of a veterinary building with associated car park works, at Land at Melton Road, East Langton LE16 7TG in accordance with the terms of the application, Ref 22/00681/FUL, dated 9 March 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Application for costs

2. An application for a full award of costs was made by Mr Malcolm Foulkes-Arnold of Corporate Architecture Ltd against the decision of Harborough District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have amended the description of the development within my decision above, removing any wording that does not describe an act of development.

Main Issue

4. The main issue is the effect of the proposed development upon highway safety.

Reasons

5. The appeal site comprises part of a field used for grazing, with an existing access off Melton Road (the B6047), to the east. This road is single carriageway, with no footways or lighting. Traffic is subject to a 50mph speed limit.
6. The Council's refusal reasons include reference to Section IN5 of the Leicestershire Highway Design Guide (LHDG), as well as policies GD8 and IN2 of the Harborough Local Plan 2011 to 2031, Adopted 30 April 2019 (LP), and paragraphs 110 and 111 of the National Planning Policy Framework (NPPF). This LHDG states, amongst other things, that for A and B class roads, restrictions on new accesses and the increased use of accesses will be applied

on roads with a speed limit above 40mph, or where measured speeds are above 40mph.

7. Whilst a material consideration, which LP Policy IN2 requires decision makers to have regard to, the LHDG is guidance and not policy. LP Policies GD8 and IN2 ultimately require that schemes provide safe access. Paragraph 111 of the NPPF, confirms that development should only be 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. As such, an increased use of the access onto Melton Road would be insufficient in itself, to demonstrate that the appeal scheme would lead to unacceptable highway safety issues. The proposal requires consideration in its site-specific context.
8. The Local Highway Authority (LHA) confirmed as part of its consultation response to the planning application, that the existing site access width, junction radii, and achievable visibility of 2.4m x 160m would accord with the requirements of the LHDG for a 50mph road. The LHA has subsequently undertaken its own speed survey, demonstrating that 85th percentile speeds are below 50mph in both directions. Whilst the LHA raises in its appeal statement that no tracking drawings for larger vehicles have been submitted, no substantive evidence is then provided by the LHA to demonstrate that this would be problematic for an access that accords with the LHDG standards. As such, the evidence before me suggests that an appropriately designed access exists with a suitable level of visibility that could be secured by a condition.
9. In its appeal statement, the LHA states that the B6047 has been subject to measures to reduce collision rates, and that whilst there have been improvements, the road still experiences a higher rate of collisions than the national average. On this basis, it considers that the proposed development requires consideration in the context of Melton Road having existing road safety problems.
10. Melton Road is a lengthy route and I find the information provided by the LHA to be generalised in terms of identifying where concerns exist in relation to the safety of this road, what specific measures have been implemented to reduce the collision rate and whether they have any relevance to the appeal site and its surroundings. Having considered the PIC data provided by the LHA within 500m of the site, none of the three recorded incidents appear to relate to vehicles turning onto or off Melton Road. Whilst one incident was in relatively close proximity to the site, this incident involved only one vehicle leaving the carriageway. As such, the evidence before me does not demonstrate any specific or persistent problem with highway safety at, or close to the site, nor can I see any pattern of collisions that would be obviously exacerbated by the proposed development.
11. The extent of any increase in use of the access that would result from the proposed development, over and above the existing or lawful use of the site, is a matter of dispute. However, whilst concluding that the proposal would increase the use of the existing access, contrary to Section IN5, neither the Council, or the LHA, go on to provide any objective analysis of this increase, or any substantive evidence to demonstrate that it would generate any safety concerns or capacity issues for the road network. The trip generation figures in the AM and PM peak periods when Melton Road will be at its busiest, are minor. Whilst higher figures are anticipated during the course of the day, these would

fall outside peak times. Accordingly, even if I were to adopt the LHA's stance as to the likely number of additional trips that would be generated by the development, the evidence before me indicates that the proposed access would be safe.

12. Consequently, I conclude that the proposal would have an acceptable effect on highway safety. The proposal would accord with LP Policies GD8 and IN2, which amongst other matters, require new developments to ensure safe access, and safe, efficient and convenient movement for all highway users. Further, the proposal would meet with the requirements of the NPPF which seeks to ensure safe and suitable access to the site for all users.

Conditions

13. I have considered the conditions put forward by the Council and the LHA with reference to the NPPF and Planning Practice Guidance. The appellant has had the opportunity to comment and has confirmed acceptance of these conditions, subject to a number of suggested amendments which I have taken into account.
14. Further to the conditions discussed above, I have imposed a condition which concerns the statutory time limit. In the interests of certainty, I have also imposed a condition concerning the approved plans.
15. A condition is imposed requiring the submission of a Construction Traffic Management Plan (CMP), which is necessary and reasonable in this instance, to effectively manage traffic associated with the construction phase of the proposed development, given that parking on the highway would not be feasible. As it relates to the construction phase, this information would be required prior to development commencing and the appellant has accepted this, as required by Section 100ZA(5) of the Act.
16. Conditions requiring submission and approval of materials, lighting levels and landscaping details to be used in the development are necessary in the interests of the character and appearance of the area. Details of lighting levels are also necessary given the proximity of residential properties.
17. For the proper functioning of the proposed development, drainage details should be agreed, along with the provision of parking and turning as approved.
18. LP policy GD8 requires all proposals to be designed to minimise impact on the amenity of existing residents by not generating noise which cannot be mitigated to an appropriate standard. A Noise Impact Assessment has been submitted with the appeal, which includes a number of mitigation measures to minimise noise pollution for nearby residential receptors and a condition is imposed to secure these measures.

Conclusion

19. For the reasons set out above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

S Brook

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (ref: 5223/MT/21/001 Rev P0), Topographical Site Plan (ref: 5223/MT/21/002 Rev P0), Proposed Masterplan (ref: 5223/MT/21/003 Rev P1), Proposed Site Plan (ref: 5223/MT/21/004 Rev P1), Proposed Floor Plan and South Elevation Plan (ref: 5223/MT/21/005 Rev P1), Proposed Elevation Plans (ref: 5223/MT/21/006 Rev P1)
- 3) No development shall commence on the site until a construction traffic management plan, including as a minimum, details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities, and a timetable for their provision, has been submitted to and approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 4) No part of the development hereby permitted shall be built above damp-proof course level until details of all external materials to be used in the construction of the development hereby approved, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.
- 5) No external lighting shall be installed on the site until details (including luminance levels and measures to minimise light spillage) have been submitted to and approved in writing by the Local Planning Authority. External lighting shall only be installed in accordance with the approved details.
- 6) Before the development is brought into use, a landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include: (a) full details of proposed hard and soft landscape works, including access, driveway, parking, turning and all other surfacing materials; (b) boundary treatments (c) retained planting, hedges or trees, (d) new planting, (e) screened bin store area, and (f) a timetable for implementation. The landscape scheme shall be carried out in accordance with the approved timetable. Any trees, shrubs, hedges or plants which, within a period of five years from their date of planting, are removed, die or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 7) The development shall not be brought into use until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 8) No part of the development hereby permitted shall be brought into use until such time as vehicular visibility splays of 2.4 metres by 160 metres have been provided at the site access. These splays shall thereafter be permanently maintained, free from any obstruction higher than 0.6 metres above the level of the adjacent verge/highway.
- 9) The development hereby permitted shall not be brought into use until such time as all parking and turning provision has been provided, hard surfaced (and demarcated) in accordance with approved plan Proposed Masterplan (ref: 5223/MT/21/003 Rev P1). The approved onsite parking and turning provision shall be kept available for such uses in perpetuity.

- 10) In line with the recommendations of the Noise Impact Assessment dated 25.2.22, the following mitigation measures shall be implemented as per the approved plans before the building is brought into use, and shall be retained in perpetuity: (a) a bonded road surface, (b) an acoustic fence as shown on the proposed site plan 5223-004 P1; and (c) external fixed plant installations shall be screened, such that the rating level when all plant is running simultaneously should be greater than 5dB below the prevailing background sound level at the most exposed noise sensitive property to the south.

Costs Decision

Site visit made on 13 September 2023

by S Brook BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2023

Costs application in relation to Appeal Ref: APP/F2415/W/23/3319293 Land at Melton Road, East Langton LE16 7TG

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mr Malcolm Foulkes-Arnold for a full award of costs against Harborough District Council.
 - The appeal was against the refusal of planning permission for 'Creation of a veterinary building with associated car park works for Rutland Veterinary'.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG states that local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. Examples include preventing development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; failure to produce evidence to substantiate each reason for refusal; and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. The appellant states that the Council has acted unreasonably in relation to the two grounds for refusal, both of which relate to highway safety matters. The appellant contends that the Local Highway Authority (LHA) has inconsistently and incorrectly interpreted policy by resisting any new access, or intensification of use of an existing access, simply because it is located on a classified road, as set out in Section IN5 of the Leicestershire Highway Design Guide (LHDG), rather than considering whether a safe access can be provided. If this had been done, then the appellant contends that there would not have been any highway concerns identified and planning consent would have been forthcoming. As a result, the advice of the LHA has mis-directed the Council in its determination of the application.
5. There is no dispute between the main parties that the Council and the LHA engaged with the applicant at the planning application stage and responded in a timely and efficient manner to the issues surrounding highway safety.

Additionally, I note that in setting out its reasons for refusal, the Council's decision notice references Policies GD8 and IN2 of the Harborough Local Plan 2011 to 2031, Adopted 30 April 2019 (LP), as well as paragraphs 110 and 111 of the National Planning Policy Framework (NPPF), in addition to LHDG Section IN5.

6. However, having considered the Council's Officer Report (OR) and the consultation responses from the LHA on which this relies, the outstanding concern does appear to be that the proposed development would lead to an intensification of use of the existing access onto an unclassified road, which would be 'fundamentally contrary to Section IN5 of the LHDG'. Neither the final consultation response from LHA, nor the OR, go on to objectively analyse and explain in detail what the impact of this would be on highway safety and the surrounding road network, instead relying on vague assertions about its impact.
7. Whilst the development would generate extra traffic onto the adjoining road, this is insufficient to demonstrate the development would lead to highway safety issues. The LHA response to the planning application confirmed that the layout of the access meets the required standards of the LHDG, as do the achievable visibility splays, and that no collision patterns would be exacerbated. It is incumbent on the Council and the LHA therefore, to clearly show how any increased use of the access would prejudice highway safety.
8. Whilst I acknowledge that the LHA has prepared an appeal statement, for the reasons set out in the appeal decision, this also fails to provide substantive evidence demonstrating how an increased use of the access would prejudice highway safety. As such, I find the two highway refusal reasons to be based upon a rigid interpretation of highway guidance, and generalised assertions and un evidenced assumptions about the impact of traffic associated with the development.
9. I understand that in reaching a decision on the application, the Council has relied on the advice of the LHA. However, ultimately the Council is the decision-maker, and it must be satisfied that any recommendations for refusal by statutory consultees are based on evidence, sound reasoning and a correct understanding of the relative roles of the development plan, the NPPF, and highways guidance in the decision-making process. This has not been the case, and so the Council has acted unreasonably.
10. The appellant has had to prepare and submit evidence in response to the Council's refusal reasons and its associated appeal submissions. As such, the appellant has incurred unnecessary expense. As these are the only grounds for refusing the planning application, a full award of costs is justified to cover the appellant's expense in contesting the Council's case on the safety and suitability of the access to the development.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Harborough District Council shall pay to Mr Malcolm Foulkes-Arnold, the costs of the appeal proceedings described in the heading of this decision limited to

those costs incurred in the submission of this appeal; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to Harborough District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

S Brook

INSPECTOR

Appendix F. Decision Notice

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Mr Nathan Proud
Poplar Cottage
Little Shaw Lane
Markfield
Leicestershire
LE67 9PP

Name and Address of Agent (if any)

Mr Joe Mitson
GHM Planning Ltd
87 Park Road
Chilwell
NG9 4DE

Part I - Particulars of Application

Date of Application

9 January 2024

Application No.

24/00021/FUL

Particulars and location of development:

Part change of use of site to retail to allow public access to the nursery and the provision of a car park

Poplar Cottage Little Shaw Lane Markfield Leicestershire LE67 9PP

Part II - Particulars of decision

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council refuses to permit the carrying out of the development referred to in Part I hereof for the following reason(s):-

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).



Christopher Brown MRTPI
Head of Planning

Date :9 May 2024

IMPORTANT - PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.
2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review
3. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. If your appeal is against a Minor Commercial Development, we would advise you to view the guidance on the Planning Portal website under Procedure Guidance, to confirm the time frame for appealing. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/appeal-planning-decision>). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within six months of the date of this notice. If you intend to submit an appeal that you would like examined by inquiry then you must notify your Local Planning Authority (planning@hinckley-bosworth.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found on GOV.UK.
4. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then, you must do so in accordance with the guidance found using the following link <https://www.gov.uk/appeal-enforcement-notice/>.
5. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

Appendix G. Officer Report

Delegated Report

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



Hinckley & Bosworth
Borough Council

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

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 typography 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

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

6. Consultation

- 6.1. 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**

8.1. 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

- 8.2. 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.
- 8.3. 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.
- 8.4. 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).
- 8.5. 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.
- 8.6. 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.*

8.7. 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.

8.8. 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.*

8.9. 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.

8.10. 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.

8.11. 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

- 8.12. 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.
- 8.13. Policy 22 of the Core Strategy requires development to retain local character and the traditional working landscape of Charnwood Forest.
- 8.14. 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.
- 8.15. 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.
- 8.16. 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.
- 8.17. 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.
- 8.18. 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.
- 8.19. The existing buildings are typical of buildings serving a horticultural use.
- 8.20. 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.

- 8.21. 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

- 8.22. 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.

- 8.23. 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

- 8.24. Policy DM6 of the SADMP requires development proposals to demonstrate how features of ecological value on site will be conserved and enhanced.
- 8.25. Policy M10 of the Neighbourhood Plan requires development to 'take advantage of wildlife habitats'.
- 8.26. 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

- 8.27. 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.

- 8.28. 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.”
- 8.29. 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)).
- 8.30. Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.31. 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.
- 8.32. 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.
- 8.33. 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

- 8.34. Policy DM7 of the SADMP requires development proposals to demonstrate adequate flood prevention measures.
- 8.35. 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..
- 8.36. By virtue of these details, the proposed development would be in accordance with Policy DM7 of the SADMP.

Planning Balance

- 8.37. 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.
- 8.38. 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

- 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. 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.

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

11. Recommendation

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

- Planning reasons outlined at the end of this report.

11.2. 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