

Application	2
--------------------	---

Application reference number	2024/0668
-------------------------------------	-----------

Application Type	FULL Application
-------------------------	------------------

Proposal Description:	Change of use of existing unit to nursery use (Use Class E(f))
Location:	Plot 2, Carlton Industrial Estate, Industry Road, Carlton, Barnsley, S71 3PQ

Applicant	Mrs Amanda Goodier
------------------	--------------------

Number of Third Party Reps	One letter of support	Parish:	n/a
		Ward:	Monk Bretton

SUMMARY

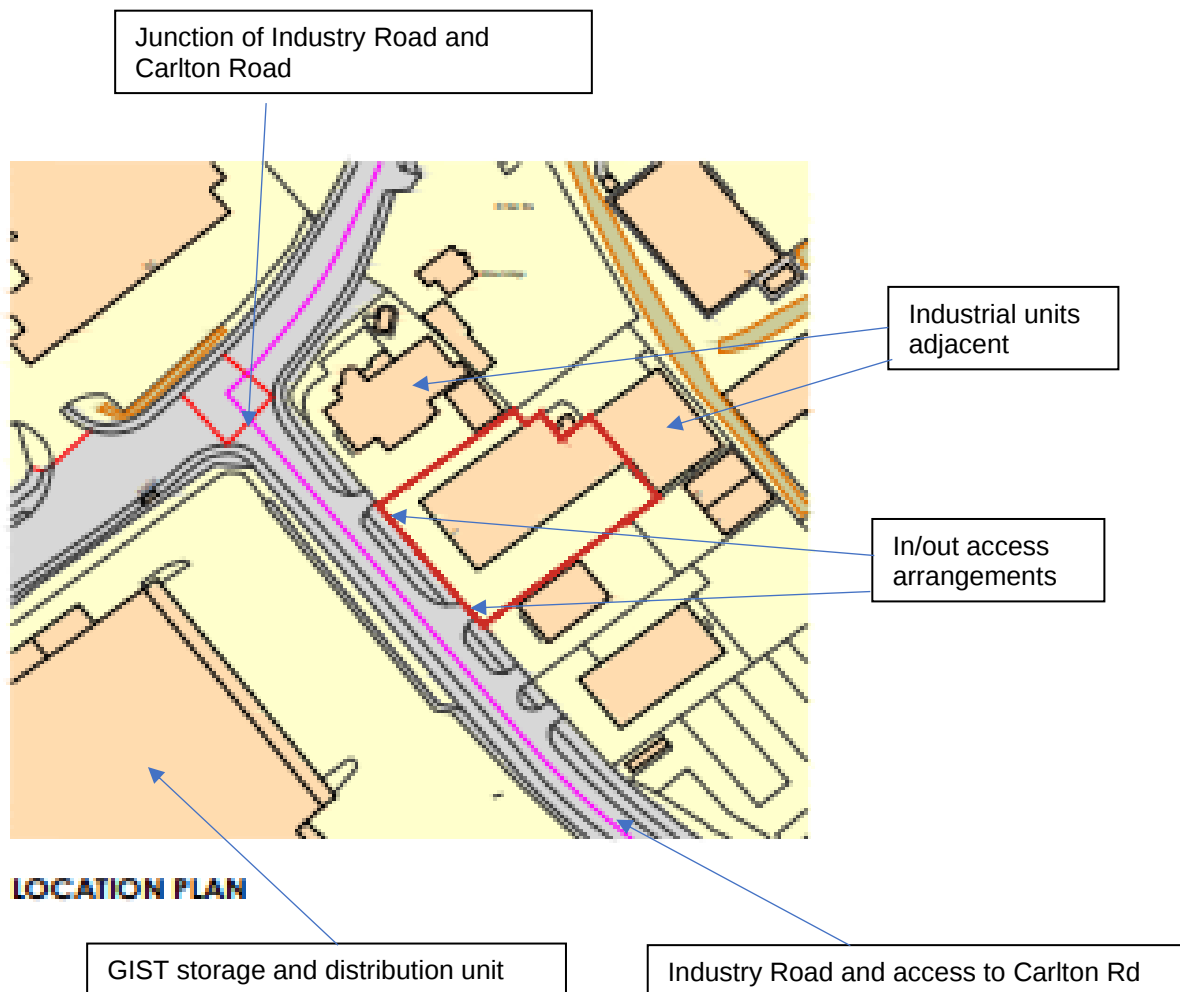
The proposal seeks planning permission to change the use of a general industrial unit to a nursery with capacity for 98 children. The proposal is not considered acceptable in policy terms, being on Carlton Industrial Estate, which is well established with characteristics particularly suited to general industry and storage and distribution uses. Local Plan policy states that other employment generating uses may be considered on their merits but there are concerns that the use is not suitable on this industrial estate where general industrial and storage and distribution uses dominate.

Users of the nursery would be likely to be vulnerable to harm from noise, dust and other pollution from nearby uses, now and in the future. In addition, the proposed use raises highway safety concerns arising from inadequate parking and drop off/pick up arrangements and the potential for conflict between existing vehicles using the estate and staff, parents and carers obliged to park on and cross estate roads or queue up on the highway to enter the site close to a main junction.

The proposal is therefore considered to be in conflict with Local Plan policies E3, GD1, Poll 1, T3 and T4. The report demonstrates that the harm generated by the proposal is not outweighed by the benefits and/or any other material planning considerations.

Recommendation: REFUSE Planning Permission

Site location plan with the application site outlined in red



Introduction

The report is being presented to Planning Regulatory Board due to potential media interest after the applicant was advised that the application was unlikely to be favourably recommended, and to give the applicant an opportunity if they so wish to speak to Members in favour of the application.

The application is for the change of use of an industrial unit to use as a nursery. The layout plan indicates that 98 children can be accommodated in the building. An amended plan showing the layout of the space around the building including parking, drop off zones and play area has since been submitted.

The site is designated as Urban Fabric in the Local Plan, reflecting its existing built-up character.

The applicant currently operates a nursery from a building in the grounds of a primary school in Monk Bretton but has been given notice because the school wishes to establish a SEND provision in the rented nursery building.

Information has been submitted in support of the application in an attempt to demonstrate that the proposed change of use is lawful (and does not need planning permission), to clarify the nature of the proposed use, and to respond to comments from the Council's Highway Engineer.

No pre application advice was sought.

Site Description

The application site relates to part of an existing industrial building on Industry Road near to the entrance to this part of the industrial estate off Carlton Road. The building is single storey, brick built with metal roofing. The site has two means of access and exterior parking/servicing areas to the front and both sides. The two means of access are shared with the adjoining industrial unit to the rear of the application site, occupied by Italian Granite, which is to remain in use, together with the parking/servicing areas either side of the application building.

Immediately adjacent to the application site to the north, are Royston Windows which manufacture double glazing, and to south is an accountancy practice with Wentworth Engineering specialist engineering toolmaker beyond. On the opposite side of Industry Road is GIST, a large- scale food distribution business.

Industry Road is a heavily trafficked road serving the industrial estate and carries numerous HGV's, vans and other commercial vehicles as well as cars. The application site on Industry Road lies close (less than 50m) to the junction with Carlton Road.

Relevant Site History

Historic applications between 1981 and 1993 relating to previous uses of the building, most recently in relation to use as a meat packing business.

Proposed Development

The applicant is seeking approval for the change of use to a nursery. Notice has been given on their current nursery location in Monk Bretton and a new location is required. The submitted drawings show minimal changes to the external appearance and indicate that the building would have a capacity for 98 children and be laid out with a main room with the capacity of 80no. children aged 2-4 and additional baby room with capacity for a further 18no. under 2's. The application form states that there are 13 existing parking spaces on site; that the proposal will require 5 full time and 8 full time employees and that working hours are intended to be 7am to 6pm Monday to Friday. An outdoor play space would be located to the west of the building fronting Industry Road.

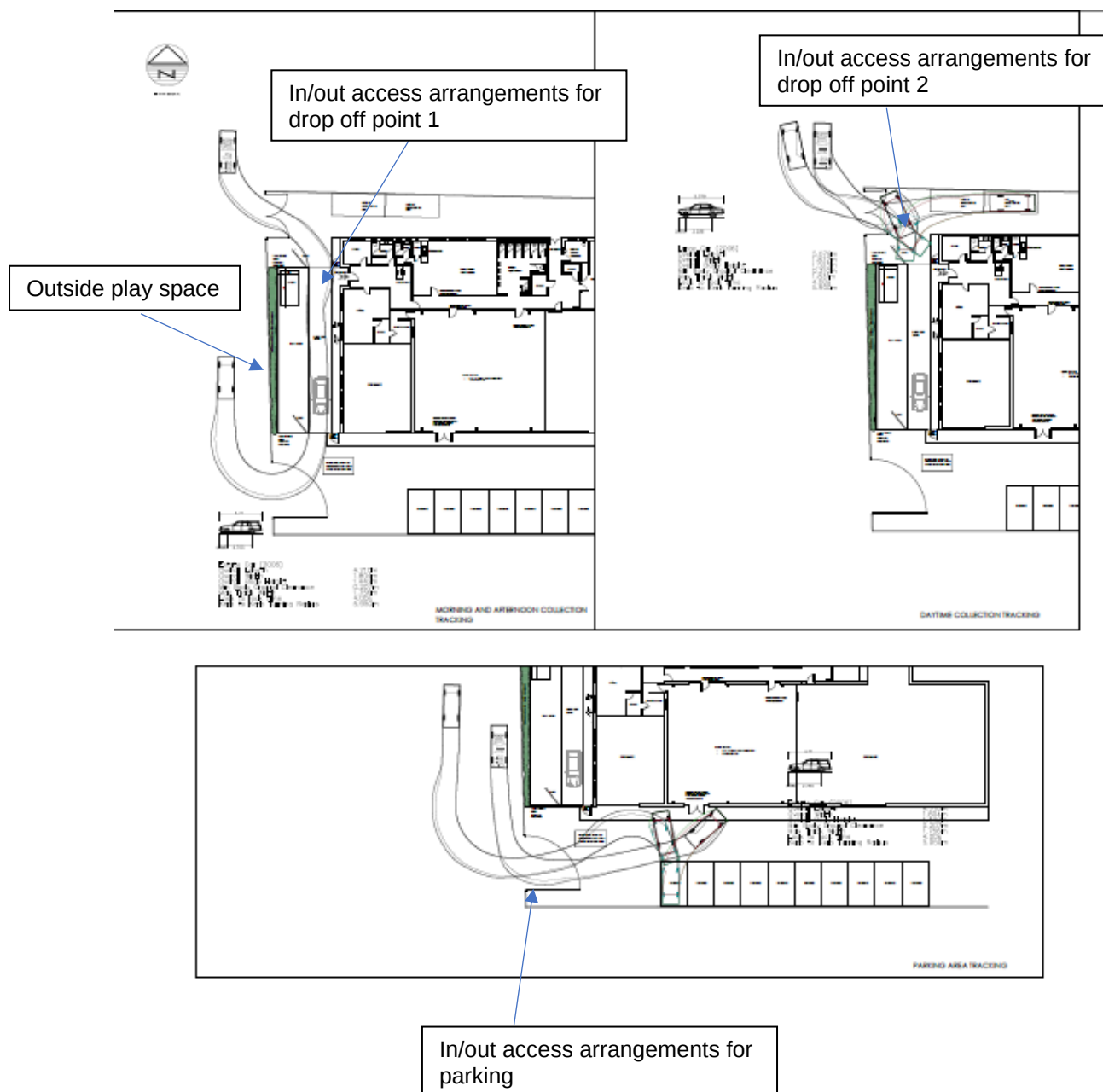
Parents would be expected to drop off their children within the site. The outdoor play space would be a shared space which would also function as a drop off space for 4 no. vehicles when not being used as a play space. Two further tandem drop off spaces would be located to the north of the building.

The applicant has submitted a tracking layout plan to show how vehicles would manoeuvre in and out of the drop off zone and parking areas, which also indicates that the parking provision has been reduced to 10 spaces and two drop off zones with capacity for 6 cars in total, and a highways technical note responding to comments from Highways Development Control. A letter has also been provided from a neighbouring business on the industrial estate advising of an informal agreement for the nursery to use their car park.

The applicant has also submitted a letter from one of the neighbouring businesses advising that their business does not create any outdoor noise or dust but noting that they are a working factory.

Enterprising Barnsley have suggested a number of alternative locations in the local area, however, the applicant has rejected them all as unsuitable.

Parking provision and drop off areas are shown below.



Policy Context

Planning decisions should be made in accordance with the current development plan policies unless material considerations indicate otherwise; the National Planning Policy Framework (NPPF) does not change the statutory status of the development plan as the starting point for decision making.

The Local Plan was adopted in January 2019 and is accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment, and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies which are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately

delivering its objectives. This means, no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027, or earlier, if circumstances require it.

Local Plan

The site is identified as urban fabric within the Local Plan and as such the following policies are considered to be relevant to this application:

SD1 Presumption in favour of Sustainable Development – SD1: Presumption in favour of Sustainable Development – When considering development proposals, we will take a positive approach that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. We will work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.

GD1 General Development – sets a range of criteria to be applied to all proposals for development including the requirement that the development is compatible with neighbouring land and will not significantly prejudice the current or future use of the neighbouring land.

E3 Uses on employment land – indicates we will allow research and development, light and general industry and storage or distribution on allocated Employment Sites or land currently/last used for employment uses; also appropriate scale ancillary uses and other employment generating uses will be considered on their merits.

T3 New development and Sustainable Travel – expects new development to be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cycles. Also sets criteria in relation to minimum levels of parking; provision of transport statements and of travel plans.

T4 New Development and Transport Safety – New development will be expected to be designed and built to provide all transport users within and surrounding the development with safe, secure and convenient access and movement.

Policy Poll1 Pollution Control and Protection – sets criteria to ensure that new development does not unacceptably affect or cause nuisance to the natural and built environment or to people; or suffer from unacceptable levels of pollution.

Adopted Supplementary Planning Documents relevant to this application:

Parking

NPPF 2024

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. NPPF policy of relevance to this application includes:

Para 85. Planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth taking into account local business needs.

Para 115. In assessing specific applications for development, it should be ensured that safe and suitable access can be achieved for all users.

Para 116. 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.

Para 198 – Planning decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment.

Relevant Consultations:

Highways DC – express concerns that the proposed site layout fails to provide safe and functional arrangements for access, parking and drop-off collection. These shortcomings present risks to both traffic flow on the highway network and the safety of site-users, particularly children. In responding to the proposed tracking layout and highways technical note, highways officers express concerns that the tracking information shows that the manoeuvre through the main access gate to the drop off zone cannot be undertaken in a single manoeuvre; that parking in the two drop off spaces would require repeated shunting thereby impacting on the safe and free flow of vehicles at the main site access; that the parking provision to the South of the building would require manoeuvres into a pedestrian zone; that the drop off zone parking provision would not be sufficient to accommodate demand associated with in the region of 100 children; and that restrictions to access to the building to the east of the application site cannot be controlled or regulated.

Pollution control – No objections, the development has a low potential to have an adverse impact on health and the quality of life of those living and/or working in the locality.

Ward Councillors – no comments received

Representations

Neighbour notification letters were sent to eight surrounding properties, and a site notice was placed nearby.

One representation was received. The representation raised the following non-material points:

- the nursery is crucial for their children's education and development and that the feedback from parents and local businesses has been overwhelmingly positive.
- It is disheartening to learn additional evidence is needed regarding the use of the building and car parking facilities.
- Our agent is working tirelessly to address these concerns, but we need the council's support to move forward.
- Fellow parents and community members are encouraged to support the application through letters, emails or personal discussions with council members.

Whilst the above non-material points are noted, they cannot be taken into account in the determination of the application.

Assessment

The main issues for consideration are as follows:

- The acceptability of the development in principle
- The suitability of the proposal use in this industrial setting and the impact on neighbouring properties
- The impact on the highway network, highways standards and risks to potential patrons.

For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale:

- Substantial
- Considerable
- Significant
- Moderate
- Modest
- Limited
- Little or no

Principle of development

The site is located in a long standing well established industrial estate where Local Plan policy E3 indicates that we will allow research and development, light industry, general industry and storage and distribution uses. The particular characteristics of Carlton Industrial Estate are most suited to general industry and storage and distribution uses.

The policy also states that proposals for other employment generating uses may be considered on their merits, particularly in terms of providing jobs, skills, and their contribution to the borough's GVA. The proposed nursery is an 'other employment generating use' which will secure existing jobs, allow for expansion which may secure additional jobs and provides a public benefit to children and their parents/carers. The proposal will also make a contribution to the borough's GVA both in terms of the jobs secured and created on the site but also in terms of enabling members of the local community to work by providing childcare.

Whether or not an 'other employment generating use' complies with Local Plan policy E3 depends heavily on the details of the use and its impacts. In this case, for reasons discussed later, the specifics of this proposal are such that there is conflict with the policy.

Suitability of the use on an industrial estate

It is considered that the characteristics of a nursery are unsuited to an industrial estate where general industrial and storage and distribution uses dominate.

Particular concerns include that the application building physically adjoins another unit and is in close proximity to a further industrial unit. Both of these units appear to be in use for general industry, a class that allows for uses that create noise, dust and other harms which would be inappropriate in a residential area. The nursery and its outdoor space and therefore its users, would be vulnerable to such harms. Even if it were the case that the particular operation of existing uses does not cause harm at the moment, the future occupation by a general industrial operation that did cause such harms would be consistent with local plan policy, the consent for the industrial estate and the Council's strategic approach to employment land.

The applicant has submitted amended plans indicating landscaping privacy shrubs on the front boundary and 1.8m fence with privacy meshing on front and side boundaries of the play area. It is not considered that the fencing would be sufficient mitigation for the potential harms from existing or future occupiers of the adjacent industrial units, nor is it clear that any such adequate mitigation could be put in place. It is concluded that the proposal conflicts with Local Plan policies GD1 which indicates that we will not approve development if it is not compatible with neighbouring land or would significantly prejudice the current or future use of neighbouring land and E3 which indicates that other employment uses will be considered on existing employment sites on their merits. Significant weight against the proposal is attached to this material consideration.

Residential Amenity

The application site is located on an industrial estate, with industrial uses as immediate neighbours. The site is within 35 metres of a dwelling on Carlton Road, although it is separated from the application site by a range of garages to the dwelling, and otherwise the nearest dwellings on Carlton Road are over 150 metres away. The proposed use is not likely to cause any problems of noise and disturbance to nearby residents given the general industrial uses allowed on the industrial estate, the distance to nearby dwellings and the proposed opening hours of 7am to 6pm Mon to Fri. While the proposed opening time is relatively early, colleagues in pollution control have been consulted and not objected and it is the case that early morning, and indeed 24 hour working on the industrial estate is common.

It is concluded that the proposal is in compliance with Local Plan Policy GD1: General Development on this point and it is acceptable in terms of residential amenity. Limited weight in favour of the proposal is attached to this material consideration.

Highway Safety

The adopted Parking SPD sets a standard of 1 space per full time member of staff.

The proposed parking provision on is for 10 cars plus the two drop off zones. Parking would be required to meet the parking drop off/pick up requirements of parents/carers of up to 98 children plus the staff. Whilst the application form states there are 12 no. staff, the capacity of the building for up to 98 children could result in an estimated 16-19 staff at any one time (reflecting national standards in the Department For Education Early Years Foundation Stage Statutory Framework, October 2024) plus management/ office/ catering staff.

The particular characteristics of the location and the significant number of children and staff proposed to be accommodated mean that the parking provision is not considered to be adequate and clearly do not meet the requirements of the SPD.

Colleagues in Highways DC were consulted on the original proposal; amended plans; and tracking layout plans and a highways technical note. While some of the concerns have been addressed, concerns relating to highway safety and public safety remain in relation to the proposal.

The Highway Engineer has advised in response to the most recent submission, the tracking layout and highways technical note, that the proposed site layout fails to provide safe and functional arrangements for access, parking, and drop-off/collection. These shortcomings present risks to both traffic flow on the highway network and the safety of site users, particularly children. In particular, concerns have been expressed that:

- the submitted tracking layout demonstrates that the manoeuvre through the main access gate and into the drop off zone 1 cannot be undertaken in a single

manoeuvre as it shows vehicle overhang which clashes with the pedestrian gate, resulting in repeated shunting and impacting on the safe and free flow of vehicles at the main site access.

- tracking data has been provided for only one of the spaces in drop off 2 and would require repeated shunting thereby impacting on the safe and free flow of vehicles at the main site access. It has not been demonstrated parking in this space could be achieved if there were a vehicle in the other space. No tracking data has been provided for the second space. Overall there are concerns that this is potentially a road safety issue and may impact on highway network capacity should vehicles arrive and depart simultaneously which is likely given the capacity for the nursery of 98 children.
- the parking layout tracking shows vehicles encroaching into what appears to be a pedestrian zone in order to undertake the manoeuvre.
- the capacity of the proposed access and drop off area appears insufficient to accommodate the number of vehicles potentially expected during peak drop-off and pick up times.
- The submission states that the existing access through the application site to the adjacent unit to the east is only used for weekend deliveries and access would not required during the weekday operation of the nursery. However no further details on how this would be regulated or enforced have been presented.
- While the technical note asserts that the pickup and drop off provision for six to seven vehicles is adequate and will be managed and monitored, no details has been presented regarding mitigation should these areas prove inadequate for the demand expected.
- one of the parking areas is already used for parking and storage (eg container units) and cannot be solely relied upon as parking for the nursery.
- the lack of adequate parking space for staff, parents/carers and other visitors will result in overspill parking and vehicles queuing to access the site which will adversely impact on use of Industry Road by other cars and commercial vehicles including HGVs.

The applicant has referred to an informal agreement with a neighbouring business indicating agreement to use by nursery staff/parents/carers of their car park. However, there is no mechanism to secure this – if the owner/occupier changed their mind, it would not be possible to enforce continued availability of the parking provision. Nor could parents be required to use this parking area. It would also result in young children being walked from one industrial unit to another along Industry Road.

The applicant has also proposed staggered drop off and collection times, however there is no mechanism for enforcing it as parents or carers arriving outside their allocated time are likely to wait on the highway in the vicinity of the site, adding to highway safety issues.

As the site lies on an industrial estate and is fairly remote from residential areas, and the existing nursery premises is some 1.4 miles away, it is likely that the majority of the children would be brought by private vehicle. Taking all of the above into account, the proposal is likely to lead to vehicles queuing to access the site, conflicting manoeuvres at the site entrance, with vehicles parking on the industrial estate road, pedestrian conflict with vehicles

both on and off the site as parents and children accessing the site across Industry Road which has a heavy traffic load with significant numbers of commercial vehicles.

It is concluded that the parking and highway safety concerns relating to the proposed development cannot be overcome and therefore conflicts with Local Plan Policies T3 and T4 and NPPF policy at paragraph 115 in that it cannot be demonstrated that a safe and suitable access can be provided for all users, and is also contrary to paragraph 116 and would result in an unacceptable impact on highway safety. Substantial weight against the proposal is attached to this material consideration.

Any Other Material Planning Considerations

The applicants' agent has explored the possibility that the change of use (nursery is class E use) might not need planning permission as the site has previously been used for class E uses. This would be the case if the premises had previously been used for a light industrial use either with planning permission or for such a period that the use was immune from enforcement action. However, the planning history for the premises indicates that the lawful use of the premises is for a general industrial use. There are no planning records of any other uses that might fall within Class E and it appears that the agents' evidence is that such uses were short lived and do not mean that the lawful use of the premises changed from general industrial. In any event, the agent was aware that it was open to him to make an application for a certificate of lawful use and has not done so.

The one letter in support of the proposal notes that the nursery is crucial for children's education and development, and it is acknowledged that there would be public and economic benefits flowing from permission for this unit to be used as a nursery, particularly for the parents/carers and children who currently use the existing nursery. However, only limited weight in favour of the proposal attaches to these benefits.

PLANNING BALANCE & CONCLUSION

In accordance with Paragraph 11 of the NPPF (2024) the proposal is considered in the context of the presumption in favour of sustainable development. For decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay. Paragraph 12 of the NPPF (2024) confirms that the presumption does not change the statutory status of the development plan as the starting point for decision making.

The proposed development conflicts with policies of the Local Plan which seek to protect existing employment uses and to resist uses which would not be compatible with or might prejudice the future use of neighbouring land and property, including resisting uses which would be likely to be harmed by existing or future lawful uses which could create noise, dust and other harms to users of the nursery and its outdoor space. The proposed development conflicts with employment and general development policies of the Local Plan and this weighs significantly against the application.

In addition, the application fails to provide acceptable access and parking arrangements which would be likely to result in staff, parents, carers and visitors queuing to get onto the site or parking on the industrial estate road(s) in a manner which would hamper the free flow of traffic and risk conflict with commercial and other vehicles using the estate road. This weighs substantially against the application.

All other material planning considerations have been fully explored by the appropriate consultees who have raised no objections, and this attracts limited weight in favour of the application.

The proposal will secure existing and proposed jobs and would secure the continued operation of a valued community facility at these new premises. Limited weight in favour of the application has been afforded to the economic and community benefits generated by the proposal.

Having balanced all material planning considerations, despite the submission of further information and amendments to the scheme, the material planning objections set out above have not been addressed. As a consequence, the negative aspects of the proposal outlined above are not outweighed by any other material planning considerations.

It is concluded that the proposal conflicts with the development plan as a whole and the relevant paragraphs of the NPPF. Having balanced all material planning considerations, it is concluded that the positive aspects of the proposal outlined above are substantially outweighed by the conflict with the development plan as a whole.

The proposal is therefore, on balance, recommended for refusal.

RECOMMENDATION

MEMBERS RESOLVE TO REFUSE PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT FOR THE FOLLOWING REASONS:

1. The proposal is contrary to Local Plan policy E3 'Uses on Employment Land'. The policy states that on sites which were last used for employment uses permission will only be allowed for research and development, light and general industry and storage and distribution uses; and other employment generating uses will be considered on their merits. The particular merits of the proposed nursery use do not justify allowing this use because of the risk of harm to the wider industrial estate from allowing a sensitive use which lacks adequate parking provision.
2. The proposal is contrary to Local Plan policy GD1 'General Development'. The proposed use is incompatible with the location on a general industrial estate and because the adjoining unit and one of the neighbouring industrial buildings are in general industrial use, being a use which can cause noise, dust and other harms that would be detrimental to users of the nursery and its outdoor space.
3. The proposal is contrary to Local Plan policies T3 'New Development and Sustainable Travel; and T4 'New Development and Transport Safety' and government policy at paragraph 115 and paragraph 116 of the NPPF. The proposal fails to provide a safe and suitable access for all users or a parking layout which could accommodate the expected parking demand for the proposed nursery. The proposal is likely to result in vehicles queuing on the public highway to access the site at peak periods and conflicting manoeuvres at the site entrance which would adversely affect highway network capacity. The proposal is also likely to result in staff, parent, carer and visitors' vehicles parked on the industrial estate roads in a manner that would adversely impact on the use of Industry Road especially by commercial vehicles including HGVs. The proposed parking and servicing layout within the site is likely to result in conflict between vehicles and pedestrians both on and off site and between users of the application site and of the adjacent industrial unit which shares access and servicing space with the proposed nursery. Overall, the proposal will have an unacceptable impact on highway and public safety.

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

In dealing with the application referred to above, despite the Local Planning Authority wanting to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application, in this instance this has not been possible due to the reasons mentioned above.

The above objections, consideration and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Appendix 1 – Site Layout: