

<b>Application</b>	<b>5.</b>
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<b>Application Number:</b>	21/02966/FUL
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<b>Application Type:</b>	Planning FULL
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<b>Proposal Description:</b>	Running of child-minding business from residential property (retrospective)
<b>At:</b>	41 Lower Pasture Finningley Doncaster DN9 3RF

<b>For:</b>	Mrs V Aldridge
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<b>Third Party Reps:</b>	6 objectors, 27 supporters	<b>Parish:</b>	Blaxton Parish Council
		<b>Ward:</b>	Finningley

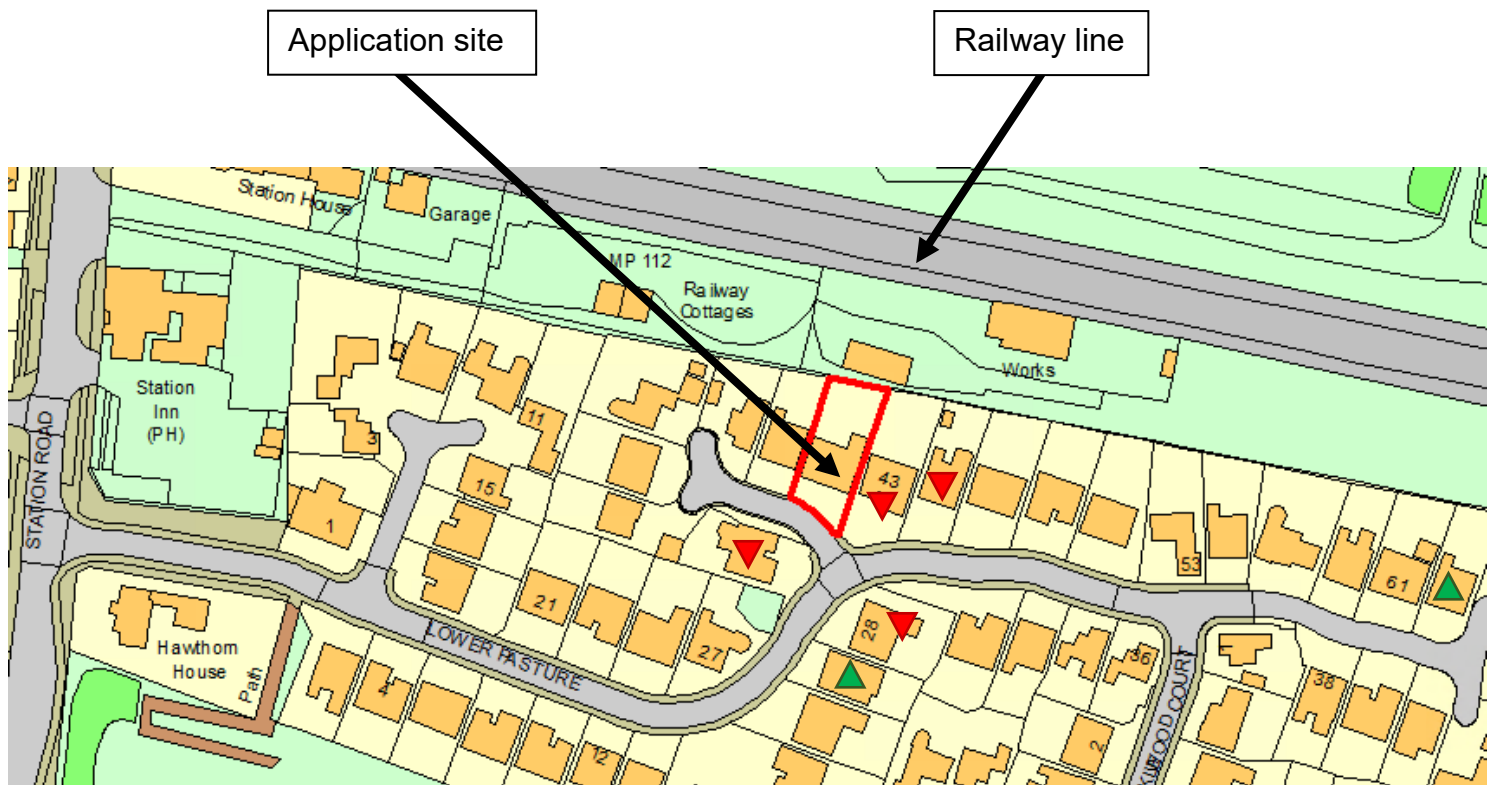
<b>Author of Report:</b>	Jacob George
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## SUMMARY

This application seeks retrospective planning permission for the running of a child-minding business from an existing detached residential dwellinghouse. At present, the child-minding business looks after in excess of 40 children, with up to 16 children present at any one time. The applicant has two part-time assistants, and the child-minding business operates between the hours of 07:15 to 18:00 on Mondays to Fridays. There are two off-street parking spaces for drop-offs and collections, in addition to the two spaces available for cars owned by the applicant's family.

The Council's Environmental Health and Highways teams consider that, without strict controls, the child-minding business has the potential to cause noise disturbance to residential neighbours, as well as highway safety issues through parking and traffic congestion. Whilst the applicant has expressed a willingness to implement mitigation measures, the extent of controls deemed necessary to minimise the impact of the child-minding business are not considered to be legally enforceable or to meet the tests for planning conditions in terms of reasonableness. On balance, it is therefore recommended that members resolve to refuse planning permission.

**RECOMMENDATION: REFUSE planning permission**



- ▼ - indicates addresses of objectors to the planning application
- ▲ - indicates addresses of supporters of the planning application (addresses of other supporters are located outside the area covered by this map)

## **1.0 Reason for Report**

- 1.1 This application is being presented to Planning Committee due to the level of interest expressed by neighbouring residents and other members of the public.

## **2.0 Proposal**

- 2.1 Planning permission is sought for the running of a child-minding business from the existing detached residential dwellinghouse at 41 Lower Pasture.
- 2.2 According to the information provided by the applicant, the child-minding business looks after in excess of 40 children at present, although not all children are present at any one time, with the busiest period involving 16 children being present at once. The applicant has two part-time child-minding assistants, and the child-minding business operates between the hours of 07:15 to 18:00 on Mondays to Fridays. The business operates during school holidays as well as term-time, but at a reduced capacity during holidays.
- 2.3 Time charts provided by the applicant show the busiest term-time periods to be between 07:15 and 08:40 (when children arrive to be taken to school by the child-minder, and there may be between 7-11 children present at once), and between 15:30 and 17:30 (when children are collected from school and sometimes given dinner, and there may be between 7-16 children present at once). In between the busy morning and afternoon periods, there are generally 2-5 children present for the rest of the day.
- 2.4 There are two off-street parking spaces for drop-offs and collections of children in addition to the two spaces available for cars owned by the applicant's family, as the entirety of the front garden has been hard surfaced under permitted development rights. According to an indicative time chart provided by the applicant, representing vehicular movements during the week beginning 8<sup>th</sup> November, the busiest period for vehicular movements was a Tuesday morning, when seven vehicular drop-offs occurred between 07:15 and 08:30.
- 2.5 Whilst the applicant has provided indicative time charts for information purposes, members are advised to acknowledge that, due to parents' childcare needs invariably fluctuating according to factors such as their shift patterns, the day-to-day operations of the business are dynamic according to families' requirements.
- 2.6 No physical alterations, extensions or other operational development are proposed in connection with the child-minding business. This planning application relates only to the change of use.

## **3.0 Site Description**

- 3.1 The application site is a detached two-storey four-bedroom house located on the north side of Lower Pasture, Finningley, accessed off a cul-de-sac section of the street. The neighbourhood is a modern late-20<sup>th</sup> century housing estate characterised by dwellings organised in an informal layout with traditional-style

architectural features. Most dwellings are detached, but with little physical separation between the buildings. Front boundaries are generally open, with few walls or fences.

- 3.2 Whilst the main section of Lower Pasture has tarmac pavements and on-street parking, the cul-de-sac section of the street is narrower, with front property boundaries abutting the highway separated only by a small section of block paving, and no formal pavements. The cul-de-sac is not wide enough to accommodate on-street parking.
- 3.3 No. 41 is a red brick building with timber features on the front-facing gables, decorative yellow brick courses, bay windows, and an integrated garage. The original block paved driveway in front of the garage is wide enough for two cars, and the remainder of the front garden has been gravelled in place of the original lawn, so as to create two additional parking spaces. A tiered garden of approximately 175 square metres is located to the rear of the house.

#### **4.0 Relevant Planning History**

<b>Application Reference</b>	<b>Proposal</b>	<b>Decision</b>
03/6719/P	Increase in roof height to provide second floor living accommodation, erection of first and second floor extension to side with pitched roof, erection of pitched roof conservatory to rear and erection of bay window to front elevation of detached house	Granted 10.02.2004
18/01563/PD	Expansion of child-minding business	Permission Required 25.06.2018

#### **5.0 Site Allocation and Relevant Planning Policies**

- 5.1 The site falls within a Residential Policy Area, as defined by the Policies Map of the Doncaster Local Plan (adopted 2021). The site is located in Flood Zone 1 and is not considered to be at high risk of flooding.
- 5.2 National Planning Policy Framework 2021 (NPPF)
- 5.3 The National Planning Policy Framework 2021 (NPPF) sets out the Government's planning policies for England and outlines how local planning authorities should apply these policies. Planning permission must be determined in accordance with the development plan unless material

considerations indicate otherwise. The NPPF is a material consideration in planning decisions and the relevant sections are outlined below:

- 5.4 Paragraphs 7-11 establish that all decisions should be based on the principle of a presumption in favour of sustainable development (considering the social, environmental and economic pillars of sustainability).
- 5.5 Paragraph 38 states that local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permissions in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
- 5.6 Paragraphs 55-57 state that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 5.7 Paragraph 92 states that planning policies and decisions should aim to achieve healthy, inclusive and safe places.
- 5.8 Paragraph 93 states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan for local services to enhance the sustainability of communities and residential environments. Planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Planning policies and decisions should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
- 5.9 Paragraph 104(a) states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that the potential impacts of development on transport networks can be addressed.
- 5.10 Paragraph 111 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or if the residual cumulative impacts on the road network would be severe.
- 5.11 Paragraph 112(c) states that applications for development should minimise the scope for conflicts between pedestrians, cyclists and vehicles.
- 5.12 Paragraph 119 promotes an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.

- 5.13 Paragraph 130(f) sets out that planning decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 5.14 Doncaster Local Plan (adopted 2021)
- 5.15 The Local Plan was adopted by Full Council on 23 September 2021, and now forms part of the development plan for Doncaster.
- 5.16 Policy 10 states that within Residential Policy Areas, the establishment or increase of non-residential uses of appropriate scale will be permitted provided they would not cause unacceptable loss of residential amenity through, for example, excessive traffic, noise, fumes, smells or unsightliness.
- 5.17 Policy 13 states that new development shall make appropriate provision for access by sustainable modes of transport to protect the highway network from residual vehicular impact. The Council will work with developers to ensure that appropriate levels of parking provision are made in accordance with the standards contained within Appendix 6 of the Local Plan. Development should not result in unacceptable impacts on highway safety, or the severe residual cumulative impacts on the road network. Developers must consider the impact of new development on the existing highway and transport infrastructure.
- 5.18 Criterion 2 of policy 46(A) states that non-residential proposals will be supported where they are designed to have no unacceptable negative effects upon the amenity of neighbouring land uses or the environment.
- 5.19 Policy 50 states that the Council will improve and promote strong, vibrant and healthy communities by ensuring a high quality environment is provided with local services to support health, social and cultural wellbeing.
- 5.20 Other material planning considerations
- Development Requirements and Guidance Supplementary Planning Document (SPD) (adopted 2015)
  - South Yorkshire Residential Design Guide 2011 SPD (adopted 2015)
  - National Planning Practice Guidance

## **6.0 Representations**

- 6.1 This application has been advertised in accordance with Article 15 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) as follows:
- Advertised on the Council website
  - Notification letters sent to all neighbouring properties with an adjoining boundary
- 6.2 Objections to the planning application were received from four neighbouring households. Two further objections were received from relations of the

residents of one of these neighbouring properties, but it is considered that these objections should be afforded less weight than the comments received from local residents themselves, given that the impacts of the development predominantly affect only the immediate neighbours on a day-to-day basis. The objections received can be summarised as follows:

- Customers of the child-minding business queue along the driveway, staring into the next-door property and impacting upon privacy
- Customers walk across neighbouring front gardens to access their cars
- Over the past six months, there has been a marked rise in traffic entering the cul-de-sac due to the business
- Increased traffic is impacting upon air quality, and customers leave vehicles running as they drop off their children
- Cars associated with the business park in an unsafe manner
- Visiting cars obstruct neighbours' private driveways
- Noise caused by slamming gates causes a nuisance
- Noise from the narrow pathway to the side of the house causes disturbance to the next-door property
- Gates have been secured to the property unlawfully
- The property is in breach of restrictive covenants
- The early opening times cause disruption to neighbours' sleep patterns
- The intensity of the operations represent a full-blown nursery, not just a child-minding business
- Visiting cars cause traffic and road obstructions
- When visiting a friend at a neighbouring property, it has been impossible to park outside due to the cars dropping off children at the child-minding business
- The noise coming from 41 Lower Pasture is unacceptable for a residential area
- Cars parking on the corner create a blind corner which is dangerous for residents entering or leaving the estate
- Parents and children create noise disturbance through slamming car doors
- Children are noisy in the garden and play ball games against the garden boundary wall
- The choice of location is not appropriate or suitable for child-minding
- There are alternative local childcare facilities available
- The business causes disturbance to everyday life
- The number of representations made by parents is an indication of the large scale of the childminding business
- The opening hours of the business are unsociable
- Over the last two years, there has been an increase in the number of parents dropping off and collecting children from the house
- Physical changes to the house do not have planning permission
- Parked cars on the pavement have increased in mornings and evenings
- Alternative premises are available outside the residential estate
- Children are being dropped off and collected on an unsafe bend

- 6.3 Matters relating to highway safety and residential amenity, including noise disturbance to residential neighbours, are discussed in the Assessment section of this report (section 9).
- 6.4 The presence or lack of alternative facilities and/or premises is not a material consideration, as the planning application must be assessed on its own merits based on the context of the application site. Any covenants on the property are a legal matter separate to the planning assessment, and are not taken into account. The behaviour of individual parents, such as those said to be leaving car engines running, cannot be controlled by the planning system. To the best knowledge of the local planning authority, no physical alterations or extensions to the property which might require planning permission have been undertaken without consent.
- 6.5 27 comments have been received in support of the planning application. With the exception of three supportive comments from local residents on the estate, and one supportive comment from a person that previously resided in the property next door to the application site, all supportive comments are from parents of children cared for by the applicant's business. It is considered appropriate to afford the most weight to comments from neighbouring residents, with that weight being greater or lesser depending on proximity to the application site. Comments from parents are taken into consideration, given that the planning system supports the availability of essential local facilities (such as childcare) to serve communities, but it must be acknowledged that parents are likely to have a personal interest in the continuation of the child-minding business, and that they may not be as acutely aware of the everyday impacts of the child-minding business for residents on the street. Comments from ex-neighbours hold limited weight, as the childminding business has grown in recent years (as acknowledged in the applicant's planning statement). Representations in support of the application are summarised as follows:

- The applicant goes above and beyond in her care for the children
- The child-minding service has been vital for key workers
- If the business were to close, children may need to move school as the school drop-off service would be lost
- The business is irreplaceable
- The applicant is incredible at her job and flexible in her childcare provision
- The idea of restricting a small business from a residential property is an archaic and outdated notion
- Covid-19 has forced workers to seek local childcare support
- The business offers huge support for working professionals in the area and boosts economic growth
- The business does cause any traffic problems
- The proposal does not give rise to any environmental issues (such as the storage of potentially hazardous chemicals or air pollution)
- The business gives prosperity and wealth to the area
- The loss of the service would cause erosion of community spirit and a strain on mental health



- There is only one other child-minder in Finningley, who is currently full
- Without the child-minding service, parents would be unable to work
- Parents rely heavily upon the service
- Children adore the child-minder
- The child-minding setting is welcoming and homely
- School does not provide sufficient wrap-around cover for working parents
- The applicant has years of experience in child-care
- The availability of the service helps with mental health
- The withdrawal of the child-minding provision would be unsettling for children currently in the applicant's care
- The child-minding service enables children to socialise together
- A standard nursery isn't an option due to start and finish times
- This is the only child-minder with the flexibility to work around parents' shifts
- The service of walking children to school reduces car journeys, promoting a healthy lifestyle and being better for the environment
- Parents have been told they can only park in the allocated spaces to the front of the property
- There is no issue with parking and the area is not overcrowded
- The applicant's services were essential during lockdown
- Numerous provisions have been made to ensure ease of access
- Many parents walk, and parents collect their children in a staggered nature
- Cars relating to the applicant's property are never parked on the road
- Children have formed a bond with the child-minder
- Cars never cause obstructions
- When previously living next door, noise disturbance was never an issue
- The needs of the many parents using the service outweigh those few aggrieved neighbours
- Everyone spoken to in the estate has no issues with the business
- Being a neighbour, there has never been any experience of disruption through noise or cars
- Noise comes from trains and planes, not from children
- Parents, carers and neighbours always respect speed limits
- The business supports parents working from home

6.6 Comments defending the business in terms of supposed parking and noise disturbance are related to material planning considerations discussed in section 9 below. The application must be considered on its own merits based on the site context, and the availability of alternative childcare is not directly relevant. However, the community benefits of the proposal in terms of providing a childcare service are a material planning consideration, discussed below. Comments relating to the applicant in a personal capacity, or celebrating her skills as a child-minder and her connection with the children, cannot be taken into account in decision-making. Planning permission applies to the site rather than the specific applicant, and the proposal is assessed based on the principle of the development rather than the practices of this particular child-minder.

## **7.0 Parish Council**

- 7.1 Blaxton Parish Council have taken a position of neutrality on this planning application.

## **8.0 Consultations**

### **8.1 Environmental Health**

Concerns raised regarding the number of children at the property, as up to 16 children may be present at one time. With the property being detached, problems related to noise are likely to be from when the children are outside.

On the basis that the number of children using the garden and the hours of garden use cannot be restricted by condition, the Chartered Environmental Health Practitioner objects. The number of children at the property, based on the figures supplied by the applicant, would exceed what would be expected as part of normal family occupation, and use of the outside areas is likely to have a detrimental effect on residential amenity due to noise.

### **8.2 Highways Development Control**

A space measuring 12 metres by 5 metres is available for parking at the front of the house. The applicant's family have two cars, leaving two spaces available for the child-minding business.

Although the road to the development is situated on a cul-de-sac, the traffic using the business still needs to be regulated and controlled in a reasonable and practical manner. Young children are likely to be unaware of the risks cars pose. Because of their small stature, children are not easily visible to car drivers. It also means they are more susceptible to head injuries if they were involved in an accident with a car, with a higher risk of fatality than an adult, especially at lower speeds.

To make the proposal acceptable, it would be necessary to condition that 15-minute slots are assigned to each of the two spaces for parents/guardians to drop off and pick up children. This gives enough flexibility for them to arrive and depart, as well as allowing the child/children to exit/enter the car in a controlled manner, allowing for fastening/unfastening of seat belts, unloading of children's bags/equipment, and time to briefly speak with the child-minder.

Any child that arrives on foot or in a pushchair will not need to be assessed in terms of traffic, but this does not mean that they can park on-street close-by and walk. In terms of on-street parking, part-time staff may use this facility but away from the development so as not to interfere with its operation.

The child-minding business will continually change, so these parameters would maintain a reasonable level of control whilst being sympathetic to neighbours and residents so as not to create a nuisance.

After speaking with the Council's legal officer, the planning case officer has come to the conclusion that the conditions requested by Highways Development Control would not meet the tests for conditions set out in the NPPF, and would not be legally enforceable.

Highways Development Control have therefore revisited their comments, and have advised that without any legally enforceable mitigation or control measures in place to regulate drop-offs and pick-ups, the impact on the highway can only be assessed in relation to the worst-case scenario, which would be up to 16 parents potentially arriving at the same time. If this were to occur, there would be a real risk of an adverse effect on the highway, as the surrounding road, cul-de-sac and driveway are not designed to cater for this amount of traffic arriving/departing at a single dwelling at the same time.

### **8.3 Other Consultees**

No comments were received from Ofsted or from DMBC Children and Families.

## **9.0 Assessment**

9.1 The main issues for consideration under this application are as follows:

- The Principle of the Development
- Residential Amenity
- Provision of Childcare
- Highway Safety and Parking

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

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

### **The Principle of the Development**

9.3 Whether or not the running of a child-minding business from a residential property requires planning permission is a matter of fact and degree, in terms of assessing whether the development constitutes a material change of use. In some cases, a small-scale child-minding operation can be considered ancillary to the residential use of a dwellinghouse. However, when the child-minding enterprise reaches a scale and intensity at which the property is effectively operating as a business premises to an equal or greater degree than as a residential dwelling, a material change to a mixed-use site will occur, meaning that planning permission is required. A number of factors may contribute to the

consideration of whether the use needs planning permission, including the number of children looked after, number of staff, operating hours, number of vehicular movements created, and how much physical space on the site is taken up by the business as opposed to the use as a residential dwelling.

- 9.4 The nature of the child-minding enterprise at 41 Lower Pasture, as described in information provided by the applicant, has undoubtedly reached a scale at which planning permission is required, as it is a full-time business (07:15-18:00 on Mondays to Fridays) looking after up to 16 children at once and in excess of 40 children overall, with two members of staff in addition to the applicant. This constitutes a material change of use from the singular use of the site as a dwellinghouse to a combination of commercial and residential functions.
- 9.5 The carrying out of development (including a material change of use) without the necessary permission constitutes a planning breach. As set out in section 171 of the Town and Country Planning Act 1990 (as amended), unauthorised development becomes immune from enforcement action if no action is taken within 10 years of a material change of use.
- 9.6 As set out in the applicant's planning statement, child-minding activities at the application site have been taking place for approximately nine years. The applicant has explained to the case officer that when the business first started, there were approximately 12-15 children registered in total, including the applicant's own children, and there was one assistant. The business has grown substantially to its current form today, as there are now over 40 children registered and two assistants.
- 9.7 It is difficult to pinpoint exactly when a 'material change of use' as described above is likely to have occurred. It is also acknowledged that instances of unauthorised development are not always intentional, and sometimes planning breaches may occur due to uncertainty over whether or not permission is actually required. However, in this case, it is certain that the business has been operating from the site for less than 10 years, and so the unauthorised development is not immune from enforcement action and has not become lawful through the passage of time.
- 9.8 Consequently, this planning application seeks retrospective permission for the change of use, in order to regularise the development and continue operating the child-minding activities from the application site without the threat of enforcement action. Although the application is retrospective and the business has been operational for a number of years, it must still be assessed with regard to the relevant planning policies set out above, and the proposal is best considered as a 'new' business for the purposes of the assessment, as if the application had been submitted prior to the change of use occurring. Comments submitted by members of the public in relation to the existing and past operations of the business (both in support and in opposition) are relevant and are taken into account as useful evidence, but the local planning authority must also make a fresh assessment and consider whether it would support the establishment of the proposed child-minding activities at this site as a matter of principle, regardless of the unauthorised site history.

- 9.9 The application site is located in a Residential Policy Area. Policy 10 of the Local Plan states:

*The establishment or increase of non-residential uses of appropriate scale will be permitted provided they would not cause unacceptable loss of residential amenity through, for example, excessive traffic, noise, fumes, smells or unsightliness.*

Accordingly, the acceptability of this application rests upon an assessment of the impact of the change of use upon the residential amenity of neighbouring properties, as well as determining whether or not the business is of an “appropriate scale” for its residential neighbourhood. In this case, noise and traffic/parking are the most relevant aspects of residential amenity to consider. These matters are discussed in detail below.

## **9.10 SOCIAL SUSTAINABILITY**

### Residential Amenity

- 9.11 As set out above, policy 10 of the Local Plan supports non-residential uses in Residential Policy Areas only where they would not cause an unacceptable loss of residential amenity. Criterion 2 of policy 46(A) also states that non-residential and commercial developments should “have no unacceptable negative effects upon the amenity of neighbouring land uses or the environment”. Paragraph 130 of the NPPF states that planning decisions should:

*f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users*

- 9.12 Three of the objections received from neighbouring residents relate explicitly to disturbance to their residential amenity. A further two objections from relations of one of the neighbours also refer to matters of residential amenity, although these are afforded less weight, as those members of the public do not live on the street and would not be expected to experience the impact of the business on a day-to-day basis. Most of the objections relate to noise, although one neighbouring household also cites concerns over privacy, due to children and parents looking into their front windows. It is not considered that the proposal is harmful to neighbouring privacy, as passers-by are always able to look into front windows regardless of whether there may be a neighbouring business use on the street, and the proposal does not impact upon privacy to the rear.
- 9.13 Turning to the issue of noise disturbance, Environmental Health have raised concerns over the number of children cared for at the property, and the associated noise created. The application property benefits from being a detached house, thus limiting transmission of internal noise as there are no party walls shared with neighbouring properties. However, the noise created through outdoor play in the rear garden area on a regular basis could be harmful to the amenity of neighbouring residents.

- 9.14 Environmental Health have discussed the possibility of limiting the total number of children permitted to play in the garden area at any one time, and/or restricting the number of hours for which children may be permitted to play in the garden. The applicant has expressed a willingness to accept planning conditions to this effect, and to manage outdoor noise generation appropriately. However, the local planning authority must have regard to paragraph 56 of the NPPF in considering the use of planning conditions, which states:

*Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.*

- 9.15 It is not considered that conditions restricting the use of the garden area would meet the tests for conditions set out in paragraph 56. Crucially, such conditions would not be legally enforceable, as it would not be possible to monitor a private garden area, and any complaints from neighbouring residents would be difficult to substantiate with evidence, leading to potential future conflict between the child-minding business and neighbouring residents. The local planning authority would be unable to take any meaningful action against the child-minder should a breach of condition be alleged. Furthermore, such restrictive conditions cannot be considered reasonable, as it would be unfair to force the child-minder to keep large numbers of children inside during the summer months without the opportunity to engage in beneficial outdoor play.
- 9.16 In discussion with the Council's Senior Legal Officer, the case officer has determined that very few possibilities exist for reasonable and enforceable conditions which might effectively limit the intensity of the business and its associated noise generation. The conditions which could be applied in this case are limited to a restriction on the number of children to be cared for by the child-minder at any one time; a restriction on the overall operating hours of the business; and a limit on the number of staff.
- 9.17 Whilst the local planning authority has no reason to consider that the applicant would not seek to control noise to the best of her ability, it is necessary to consider the worst-case scenario of potential noise disturbance without any legally enforceable controls on outdoor play. If applying only the above conditions discussed in paragraph 9.16, the worst-case scenario could, in theory, entail 16 children and three staff members spending all day outside for five days a week, creating a level of noise inappropriate for a residential area. Improbable as this specific scenario may be in reality, it must be acknowledged that a very high level of noise disturbance would be made lawfully possible if the Council were to grant planning permission.
- 9.18 It is also critical to note that planning permission applies to the application site, and *not* to the specific applicant or site user. Therefore, even if the applicant were to personally take all possible measures to restrict noise to a reasonable level, it is feasible that the property could, in future, be placed on the market and advertised as a premises with permission for a child-minding business. This could pave the way for another child-minder to then operate from the site at the

maximum capacity permitted by planning conditions, without being as sensitive to neighbours. The worst-case scenario discussed above could then become more likely.

- 9.19 Even irrespective of outdoor play, there exist other potential sources of noise disturbance, such as the noise generated on the street by the regular comings-and-goings of children and parents, including conversations, car engines and slamming doors. In particular, the early opening time of 07:15 may result in regular disturbance at unsociable hours, and one objector has indeed made reference to disruption to sleep patterns. During the dark winter months, the headlights of increased cars on the street could also create light pollution which might disturb neighbours at an early hour. None of these factors could be controlled through planning conditions.
- 9.20 Overall, whilst the applicant has attempted to cooperate with the Council to minimise noise generation, it is not considered that so many children can be looked after at one property in a residential street without causing considerable disturbance to neighbours, unless very restrictive measures are applied. Given that the extent of measures necessary would not be in accordance with the tests for planning conditions set out in the NPPF, there is a need to consider the worst-case scenarios in the absence of such controls. The potential for noise disturbance caused by the development is deemed to be unacceptable for a residential area, and it is therefore considered that the proposal is harmful to residential amenity, being contrary to policies 10 and 46 of the Local Plan, and to paragraph 130(f) of the NPPF.

#### Provision of Childcare

- 9.21 Testimonies from the parents of children looked after at the application site demonstrate that the child-minding business is a valued local service which enhances the local community and is beneficial for the well-being of both children and parents. It is clear that childcare is of great importance to people in terms of enabling parents to work, allowing children to socialise, and improving mental health. To this extent, the proposal brings clear benefits in terms of social sustainability, and paragraphs 92 and 93 of the NPPF and policy 50 of the Local Plan are therefore relevant.
- 9.22 Paragraph 92 of the NPPF states that planning decisions should “aim to achieve healthy, inclusive and safe places”. Paragraph 93 states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
- a) *plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
  - b) *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*

- c) *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
- d) *ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
- e) *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

9.23 Policy 50 of the Local Plan states:

*The Council will improve and promote strong, vibrant and healthy communities by ensuring a high quality environment is provided with local services to support health, social and cultural wellbeing.*

- 9.24 It is accepted that, should this planning application be refused and the child-minding business required to cease operating, there would be upsetting and challenging implications for parents and children. However, this must be balanced against the harm to residential amenity identified above. The Council will seek to support high-quality childcare provision, but this must be in appropriate locations, with an integrated approach to considering the location of community services in relation to housing (see paragraph 93(e) of the NPPF).
- 9.25 As discussed in paragraphs 9.5-9.8, the change of use to a child-minding business, which has already occurred, is an unauthorised development which does not benefit from an existing planning permission and is not immune from enforcement action. Therefore, whilst the business has been operational for a number of years, the planning application must now be assessed largely as a new proposal, as the Council has not previously been afforded the opportunity to assess the impacts of the change of use. As such, paragraph 93(c) of the NPPF, which guards against the “unnecessary loss of valued facilities and services”, is not directly relevant, as the existing child-minding business is not *lawfully* established in planning terms. Although it is acknowledged that the closure of the business may reduce the parents’ ability to meet day-to-day needs, for reasons discussed above in relation to residential amenity it is considered that a childcare facility of this scale is not appropriate to a residential area, and is unlikely to have been supported if a planning application had been submitted prior to the child-minding business expanding to its current level.
- 9.26 Due to the child-minding business not being a lawfully established use of the site in planning terms, it is not for the local planning authority to consider the availability of alternative childcare provision to compensate for the potential ‘loss’ of the facility. The social benefits of the service for the community of parents and children are clear, but planning assessments must also consider development proposals in spatial terms, in relation to impacts on the application site and its immediate context. On balance, the identified harm to residential amenity is considered to outweigh the social and community benefits of the childcare provision in this case.



## Conclusion on Social Impacts

- 9.27 Whilst the applicant has displayed a willingness to implement controls on outdoor play to mitigate noise disturbance, such controls cannot be legally enforced through planning conditions, and so there would be an inappropriate reliance on goodwill in minimising the harmful impacts of the development. Taking into account worst-case scenarios in the absence of enforceable planning conditions, it is considered that the proposal is harmful to residential amenity due to noise generation, and is therefore inappropriate for a residential area. Social benefits of the proposal have been identified in terms of supporting the well-being of children and parents, but on a finely balanced judgement, it is not considered that the benefits would outweigh the significant potential harm to residential amenity. Therefore, the proposal is considered to be harmful overall in terms of social sustainability, being contrary to policies 10 and 46 of the Local Plan, and to paragraph 130(f) of the NPPF.

## 9.28 ENVIRONMENTAL SUSTAINABILITY

### Highway Safety and Parking

- 9.29 Part A of policy 13 of the Local Plan states that it should be ensured that:

6. *development does not result in unacceptable impact on highway safety, or severe residual cumulative impacts on the road network. Developers must consider the impact of new development on the existing highway and transport infrastructure. Where necessary, developers will be required to mitigate (or contribute towards) any predicted adverse effects on the highway and the wider transport network.*

- 9.30 Paragraph 111 of the NPPF states:

*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.*

- 9.31 Objections to the planning application have frequently raised concerns about highway safety, obstructions, and difficulty with parking on the street, caused by the increased journeys created by drop-offs and collections associated with the child-minding business. On a visit to the site on 12 November 2021, the case officer did not witness any traffic congestion or cars causing obstructions to neighbouring driveways or the cul-de-sac. It was clear to see that the hardstanding to the front of the property did leave space for two cars in addition to the applicant's family's own vehicles. However, the case officer's visit was in the middle of the day, and not during peak times for drop-offs and collections as shown on the indicative time charts provided by the applicant. The site conditions seen on this visit represented a snapshot in time, and cannot be taken as a representation of the site at its busiest periods. Reports of parking nuisances by neighbours who experience the everyday impact of the business should still be afforded significant weight.

- 9.33 Highways Development Control have raised concerns regarding the trip generation of a child-minding business with over 40 children registered, even if not all children will be present at one time. The cul-de-sac does not have space for on-street parking, and any additional cars waiting outside the property could block the cul-de-sac if the two allocated spaces for the business were to already be occupied. With unregulated traffic, safety could be put at risk, particularly in relation to young children. An extreme example of a dangerous situation which could feasibly occur would be that obstructions on the cul-de-sac could potentially prevent an emergency vehicle from accessing dwellings at the end of the cul-de-sac, lengthening response times in critical situations.
- 9.34 Highways Development Control consider that a system of staggered arrival and collection times could manage traffic and parking in a manner sufficient to prevent the types of issues described above. A proposal was made to apply a condition to the effect that no more than two vehicular drop-offs or collections should be permitted within any 15-minute period, with these drop-offs and pick-ups to take place only on the allocated spaces on the driveway. The applicant has expressed a willingness to cooperate with the Council and implement the suggested measures.
- 9.35 Unfortunately, similarly to the controls on garden use suggested to mitigate noise disturbance (discussed in sections 9.14-9.15), it is not considered by the case officer and the Senior Legal Officer that such a condition would meet the tests for conditions set out in paragraph 56 of the NPPF, in terms of reasonableness and enforceability. Despite the best will of the applicant, there is always a possibility of parents running late, staying for longer than their time slot to speak to the child-minder about issues during the day, or simply failing to pay attention to the child-minder's rules on parking. Therefore, a strict condition on staggered arrivals would be difficult to comply with, and would consequently be considered unreasonable. As with the proposed condition on garden use, the proposed staggered vehicular movement condition would not be legally enforceable, as there would be no mechanism by which the Council could ensure parents' punctuality. The Council would be virtually powerless to respond in a meaningful way to any complaints raised by neighbours regarding possible breaches of the condition, which could give rise to unresolved conflict between the child-minders and the neighbours.
- 9.36 Whilst it would be reasonable to at least implement planning conditions to reserve two spaces for drop-offs and collections during the operating hours of the business, there is no sound planning mechanism by which the staggering of these vehicular movements could be guaranteed and legally enforced, meaning that the goodwill of the applicant would again be relied upon to ensure proper management. Despite all indications from the applicant of willingness to cooperate, a planning decision cannot be made on a basis of personal trust, due to the permission applying to the site rather than to the applicant – consequently, worst-case scenarios must again be considered.
- 9.37 In the absence of any enforceable mitigation or control measures in place relating to staggered arrival and collection times, the worst-case scenario would

involve up to 16 parents arriving at the same time. Highways Development Control highlight that this could cause a real risk of an adverse effect on the highway, as the cul-de-sac is not designed to cater for such a large amount of traffic at once.

- 9.38 Without legally enforceable conditions to ensure traffic is appropriately managed, the development is therefore contrary to policy 13 of the Local Plan, having an unacceptable impact on highway safety which would represent grounds for refusal based on the criteria set out in paragraph 111 of the NPPF.

### **Conclusion on Environmental Issues**

- 9.39 As the application relates only to a material change of use with no physical interventions proposed, the development has no environmental implications in terms of design, character, visual impact, ecology, biodiversity, or tree protection. The only relevant environmental consideration is the impact on highway safety. As discussed above, there are no appropriate conditions which could ensure the proper management of vehicular arrivals and departures in a staggered manner, and due to the constrained nature of the cul-de-sac, it is possible that traffic associated with the child-minding business could create highway safety issues without any legally enforceable measures in place. Therefore, the proposal is contrary to policy 13 of the Local Plan.

### **9.40 ECONOMIC SUSTAINABILITY**

- 9.41 The proposal would bring some private economic benefits, in providing a source of income for the applicant and her two assistants. The child-minding business also brings micro-economic benefits to parents, as provision of wrap-around childcare widens the possibilities of different employment opportunities for parents who might otherwise be constrained by childcare duties. In terms of macro-economic benefits, there are some limited positive implications of more parents being economically active in the workplace, thus contributing more to the local economy. However, it is not possible to make properly substantiated claims regarding the overall economic impact of the proposal, since parents may be able to find alternative childcare arrangements. Overall, the demonstrable economic benefits of the proposal are limited.

### **Conclusion on Economy Issues**

- 9.42 The development brings minor economic benefits including a source of income for the applicant and her assistants, and the facilitation of widened employment opportunities for parents who might otherwise be time-limited by the need to care for their children. To a limited extent, the proposal would support the economic objective of sustainable development as set out in paragraph 8 of the NPPF.

## **10.0 PLANNING BALANCE & CONCLUSION**

- 10.1 In accordance with Paragraph 11 of the NPPF, the proposal is considered in the context of the presumption in favour of sustainable development. The

proposal is considered to bring limited social and economic benefits in terms of supporting the well-being of children and parents, as well as widening opportunities for parents to participate in the local economy due to the help received with childcare. However, it is deemed that it would not be possible to implement planning conditions which would adequately mitigate identified harm to residential amenity and highway safety through increased noise generation and vehicular movements. Consequently, the application is contrary to policies 10, 13 and 46 of the Local Plan, and to policy 130(f) of the NPPF, and is therefore recommended for refusal.

## **11.0 RECOMMENDATION**

### **11.1 MEMBERS RESOLVE TO REFUSE PLANNING PERMISSION FOR THE PROPOSED DEVELOPMENT, FOR THE REASONS SET OUT BELOW:**

#### **Reasons for Refusal**

01. The development would be harmful to the amenity of neighbouring residential properties by virtue of the noise disturbance caused by children playing in the outdoor garden area and by the comings and goings of parents and children throughout the day. Therefore, the proposal is contrary to policies 10 and 46 of the Doncaster Local Plan (adopted 2021) and to paragraph 130(f) of the National Planning Policy Framework (2021).
02. The development would cause potential highway safety issues by virtue of the increased vehicular movements associated with the business, with a heightened risk of obstructions to the highway due to the lack of a suitable mechanism to ensure staggered arrival and departure times. As a result, the proposal is contrary to policy 13 of the Doncaster Local Plan (adopted 2021).

**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**

Without prejudice to the Planning Committee's decision, if members were minded to grant approval contrary to the officer recommendation of refusal, the case officer would respectfully advise that the following planning conditions should be considered:

### **Conditions**

01. The development hereby permitted must be carried out and completed entirely in accordance with the terms of this permission and the details shown on the approved plans and specifications.

#### **REASON**

To ensure that the development is carried out in accordance with the application as approved.

02. The operating hours of the childminding business shall be restricted to 07:15-18:00 on Mondays to Fridays, and at no time on Saturdays, Sundays or bank holidays.

#### **REASON**

To protect neighbouring amenity, in accordance with policies 10 and 46 of the Local Plan.

03. Two car parking spaces within the curtilage of the application property shall be reserved exclusively for the drop-off and collection of children during the entirety of the operating hours of the business. Staff members shall not be permitted to park in these designated spaces.

#### **REASON**

In the interests of highway safety, in accordance with policy 13 of the Local Plan.

04. The child-minding business hereby approved shall be permitted to employ no more than two members of staff and a staff register shall be maintained and made available for inspection for the life of the development by the Local Planning Authority on request.

#### **REASON**

To prevent the over-intensification of the business in a residential area, in accordance with policies 10 and 46 of the Local Plan.

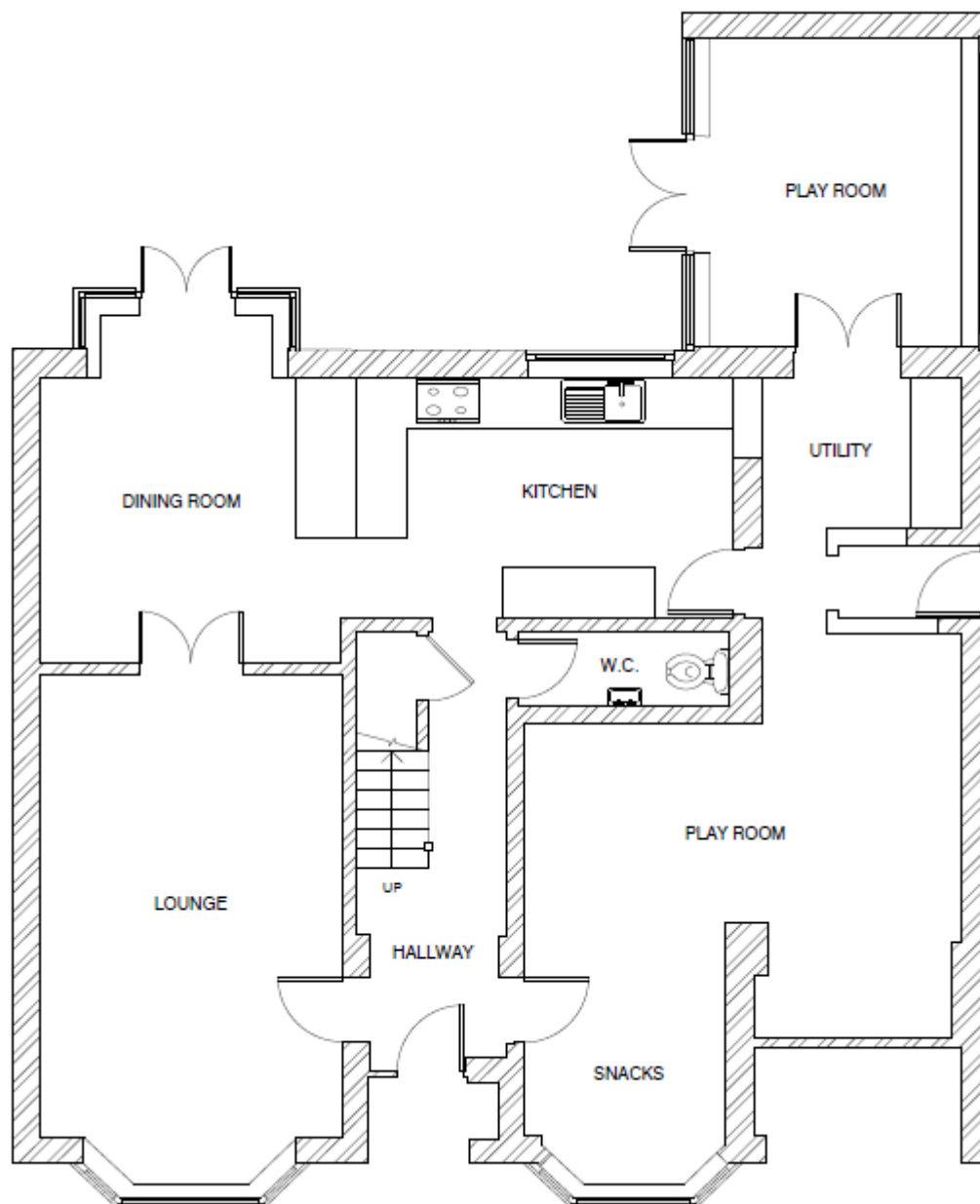
05. No more than 16 children shall be cared for at the premises at any given time. A weekly register of those registered children shall be maintained and made available for inspection on request by the Local Planning Authority for the lifetime of the development. No less than six consecutive months' worth of registers shall be available for inspection.

**REASON**

To prevent the over-intensification of the business in a residential area, in accordance with policies 10 and 46 of the Local Plan.

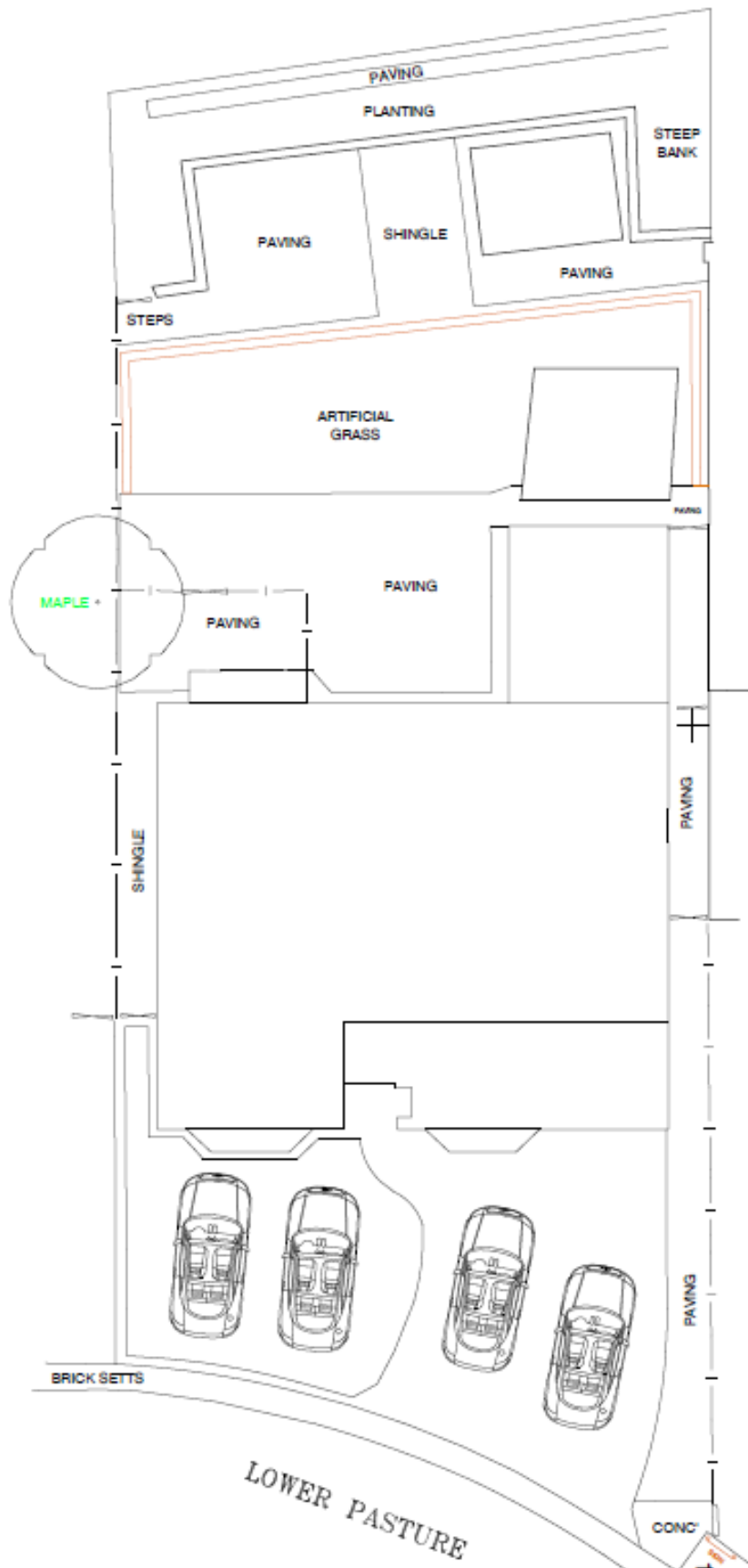
## APPENDIX 2

### Ground Floor Plan



### APPENDIX 3

#### Site Plan





### APPENDIX 3

#### Site Photograph



## APPENDIX 4

### Indicative Time Charts

(Recreated from charts provided by the applicant)

1. Chart showing the current pattern of arrivals and departures of children throughout the days of the week, including children of workers on shift patterns. The numbers in brackets are the number of children over the age of 8 (relevant for Ofsted compliance but not relevant to planning).

Time and Day	Monday	Tuesday	Wednesday	Thursday	Friday
7.15am – 8.40am (Children leave for school by 8.40am)	8 (4)	7 (3)	11 (7)	7 (6)	7 (2)
7.15am – 3.00pm (Pre-school children stay for the day. Variable leaving times upto 3pm)	2	4	5	5	5
3.30pm – 5.30pm (Children arrive back at 3.45pm)	14 (8)	16 (8)	15 (7)	14 (7)	7 (3)
Children collected between 4-5pm	8 (4)	4 (2)	7 (2)	4 (2)	2 (1)
Children staying for dinner and collection at 5.30pm	6 (4)	12 (5)	8 (5)	10 (5)	5 (3)

2. Children of workers on shift patterns (e.g. NHS staff, teachers, police etc.) vary in days and hours – this chart shows added numbers who may come per week on each day.

	Monday	Tuesday	Wednesday	Thursday	Friday
AM drop-off	2 (1)	2 (1)	1 (1)	1 (1)	1 (1)
Daytime	2	1	1	2	1
PM school pick-up	2 (2)	2 (1)	2 (1)	2 (1)	2 (1)

3. This chart shows the actual number of drop-offs and pick-ups by car during the week commencing 8 November 2021. The number in red represents the possibility of a vehicular movement from a shift pattern parent.

Day	AM drop-off 7:15 – 8:30	Mid-morning drop-off 9:00 – 12:00	Pre-school pick-up 13:00 – 15:30	Pre-dinner pick-up 16:00 – 17:00	After-dinner pick-up 17:00 – 18:00
Monday	6 1	2	1	5 1	4
Tuesday	7 1	1 1	1	5 1	5
Wednesday	6 1	1 1	2	4 1	4 1
Thursday	5 1	2 1	1 1	3 1	4
Friday	2 1	2	2	1 1	0 1

4. Chart showing average numbers of children during school holidays.

Time and Day	Monday	Tuesday	Wednesday	Thursday	Friday
Morning session (leave at lunchtime/1pm)	2	2	2	3	2
All-day session (8am – 5:30pm)	4	5	6	5	6
Afternoon session (Arrive after 1pm)	-	-	-	-	3