

Statement of Common Ground

EDUCATION

Land off Cossington Road, Sileby, Leicestershire, LE12 7SL

Planning Application Reference:

P/21/0491/2

Planning Appeal Reference:

APP/X2410/W/21/3287864

Contents

1. INTRODUCTION.....	2
2. BACKGROUND.....	2
3. REASON FOR REFUSAL	3
4. PLANNING POLICY	3
5. RELEVANT GUIDANCE.....	4
6. MATTERS AGREED BETWEEN THE PARTIES	5
7. MATTERS NOT YET AGREED BETWEEN THE PARTIES.....	7

THIS STATEMENT OF COMMON GROUND HAS BEEN AGREED BY:

LEICESTERSHIRE COUNTY COUNCIL

Signed 

Name Nic Thomas
Head of Planning, Historic and Natural Environment
Leicestershire County Council

Dated 16th March 2022

DAVID WILSON HOMES EAST MIDLANDS

Signed 

Name Ben Hunter, Education Consultant, EFM
(on behalf of David Wilson Homes)

Dated 16th March 2022

1. INTRODUCTION

- 1.1. This Statement of Common Ground (“**SoCG**”) has been prepared jointly by Leicestershire County Council (“**LCC**”) and EFM on behalf of David Wilson Homes (“**the Appellant**”), This statement concerns an appeal in relation to a site known as Land off Cossington Road, Sileby, Leicestershire, LE12 7SL (“**the Site**”).
- 1.2. This SoCG relates to the planning application (P/21/0491/2) submitted by the Appellant on 24th March 2021 and Refused by Charnwood Borough Council (“**CBC**”) on 17th September 2021. References to “the Parties” in this SoCG shall mean the Appellant and LCC as Education Authority.
- 1.3. “The Application” in this SoCG shall mean “Outline planning application for up to 170 dwellings (including affordable housing) with all matters reserved other than access together with associated landscaping and other infrastructure”.
- 1.4. This SoCG sets out a written statement of factual information about the Application, which is agreed between the Parties.
- 1.5. The SoCG refers also to specific questions the Inspector has asked LCC to consider as part of the Appeal.

2. BACKGROUND

- 2.1. The Application is on land East of Cossington Road and the outline application is for up to 170 dwellings in the administrative area of CBC, which is the Planning Authority. LCC is the Education and Children’s Services Authority.
- 2.2. For the purposes of school provision, the Application provides for up to an additional 170 dwellings.
- 2.3. LCC Education provided assessments of education need on three occasions: 7th April 2021, 7th December 2021, and 7th March 2022.
- 2.4. LCC Early Years provided assessments of early years need on two occasions: 8th April 2021, and 7th March 2022.
- 2.5. LCC has requested planning obligations towards additional early years places, primary school places, secondary school places, SEN places, and primary school transport.

3. REASON FOR REFUSAL

- 3.1. The first Reason for Refusal (“**RfR**”) was related to a loss of an Area of Local Separation.
- 3.2. The second RfR states that the development creates demand for open space, education provision and healthcare services which cannot be met by existing services.

4. PLANNING POLICY

- 4.1. LCC has an adopted Planning Obligations Policy (approved by Cabinet on 25th June 2019 following public consultation) that makes reference to Section 106 Agreements at paragraph 1.4 and to Education matters in its Appendix 3.
- 4.2. The Planning Obligations Policy does not hold statutory weight, but should be treated as material planning consideration when determining applications or as part of any planning appeals.
- 4.3. The Policy makes reference to CIL Reg 122 in paragraph 1.4 in that a planning obligation must be:
 - a) necessary to make the development acceptable in planning terms
 - b) directly related to the development, and
 - c) fairly and reasonably related in scale and kind to the development.”

The National Planning Policy Framework (NPPF) (July 2021) makes a circular reference to the CIL Regulation 122 (2) under paragraph 57.

- 4.4. Paragraph 55 of the NPPF (July 2021) sets out that:

“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.”

- 4.5. Paragraph 95 of the NPPF (July 2021) sets out that:

“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education.

They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
- b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”

5. RELEVANT GUIDANCE

5.1. The Department for Education (“**DfE**”) published guidance on “Securing Developer Contributions for Education” (November 2019) sets out under paragraph 3:

“It is important that the impacts of development are adequately mitigated, requiring an understanding of:

- The education needs arising from development, based on an up-to-date pupil yield factor;
- The capacity of existing schools that will serve development, taking account of pupil migration across planning areas and local authority boundaries;
- Available sources of funding to increase capacity where required; and
- The extent to which developer contributions are required and the degree of certainty that these will be secured at the appropriate time.”

5.2. Paragraph 9 of the DfE report, relating to Early Years settings sets out:

“...Developer contributions have a role to play in helping to fund additional nursery places required as a result of housing growth, however they may be provided, in particular where these are proposed as part of school expansions or new schools.”

5.3. Paragraphs 10 and 11 specify:

Paragraph 10

“...We advise you to seek developer contributions for expansions required to sixth form and special educational needs and disabilities (SEN) provision, commensurate with the need arising from the development.”

Paragraph 11

“To determine the need for SEN provision, pupil yield data should identify the number of pupils/learners within recent local housing developments who attend special schools, pupil referral units or alternative provision, SEN units and resourced provision within mainstream schools.

It is reasonable and fair to seek developer contributions for SEN provision in direct proportion to the needs arising from planned housing development, applying the same principle to SEN provision as to mainstream.

There is no standard capacity assessment applicable to special schools and other types of nonmainstream education, as their ability to accommodate pupils depends on the specific needs of each child. However, an increase in housing will lead to an increase in SEN, and we advise you to seek developer contributions for all special school/SEN places generated by a development, where there is a need for additional SEN provision.

Greater travel distances to special schools and alternative provision should not affect your consideration of whether a planning obligation meets the legal tests outlined in paragraph 1”

- 5.4. The “paragraph 1” referred to at the end of point 5.3 references the CIL Regulation 122(2)
- 5.5. In respect of transport to primary schools, this SoCG refers to the DfE Home to School Travel and Transport Guidance (2014)

6. MATTERS AGREED BETWEEN THE PARTIES

- 6.1. The description of the Application in paragraph 1.1 of this SoCG is agreed between the parties.
- 6.2. The identification of relevant Planning Policy Guidance and that related to securing developer contributions in Section 4 and other relevant guidance in Section 5 of this SoCG is agreed between the parties.

Education

- 6.3. The Parties agree that the LCC is the (Upper Tier) Local Authority (Education and Children’s Services Authority), is the strategic planner for schools and school places with a statutory duty to secure sufficiency and diversity of provision for its area. The Local Authority as Strategic Commissioner of Education Provision has a key role in securing funding to provide sufficient education provision in the County, particularly in schools. The cost of providing additional school places is predominantly met from Government Basic Need Grant, and monies secured via developer contribution.
- 6.4. The Parties agree that LCC’s Development Pupil Yield is appropriate.
- 6.5. The Parties agree that the cost per pupil place figures utilised by LCC as detailed in the table below are appropriate, and less than those that would be recommended by the DfE based on national benchmarking data.

Sector	DFE amount per pupil	Pupil ratio per house	Pupil ratio per flat/apartment
Primary	£18,356	0.30	0.043
High 11-14	£17,876	0.1	0.016
Upper 14-18	£18,355	0.1	0.016
Secondary 11-16	£17,876	0.167	0.0267
Secondary 11 – 18	£18,118	0.2	0.032
Post 16	£19,327	0.033	0.0053
Contributions for Special Schools are made on developments of 100 houses or more with at least 2 bedrooms			
Primary (Special Schools)	£65,664	0.00363	0.00052
Secondary 11-19 (Special Schools)	£81,531	0.004	0.00064

- 6.6. It is agreed between the Parties that, for the purposes of admissions criteria, the catchment area Primary School to the development is Sileby Redlands Community Primary School.
- 6.7. It is agreed between the Parties that, for the purposes of admissions criteria, the catchment area Secondary School to the development is Humphrey Perkins School.
- 6.8. It is agreed between the parties that the Proof of Evidence submitted by EFM Partnership Ltd is based on information forming part of the Schools Capacity Return (the SCAP return) submitted to the DfE in May 2020, and which is superseded by more recent analysis submitted by the County Council to the DfE, and referred to in the statement of evidence provided on 7th March 2022.
- 6.9. It is agreed between the parties that the post 16 provider serving this area is the Wreake Valley Academy
- 6.10. It is agreed between the parties that all early years provision in the area is provided by the private, voluntary, and independent (“PVI”) sector
- 6.11. It is agreed between the parties that children having specialist SEND needs are most likely to attend specialist provision outside of the immediate area whereas those with an EHCP and less complex diagnosis of SEND need may attend a mainstream school with SEND support
- 6.12. It is agreed between the parties that by virtue of the Education Act 1996 and subsequent enactments or revisions to this that any primary age pupils attending schools more than 2 miles walking distance of their home address have entitlement to receive home to school transport

6.13. It is agreed between the Parties that the request for planning obligations from LCC consists of the following:

Educational Sector	Request
Primary School Sector	£936,156.00
Primary School Transport	£220,400.00
Secondary School Sector	£507,499.64
Special Schools Sector	£95,962.33
Early Years Sector	£89,070
TOTAL	£1,849,087.97

7. MATTERS NOT YET AGREED BETWEEN THE PARTIES

7.1. The Parties do not agree on the justification for Primary School planning obligations.

7.2. The Parties do not agree on the justification for Primary School Transport planning obligations.

7.3. The Parties do not agree on the justification for Secondary School planning obligations.

7.4. The Parties do not agree on the justification for SEN planning obligations.

7.5. The Parties do not agree on the justification for Early Years planning obligations.