

Statement of Common Ground.

Between Charnwood Borough Council and Pegasus Group
on behalf of Taylor Wimpey UK Ltd.

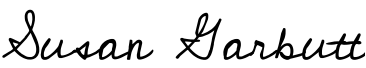
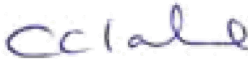
Outline planning application for up to 195 dwellings with all
matters reserved except access.

Land at North of Barkby Road, Syston.

Date: 20 September 2023 | Pegasus Ref: P20-3155

Application Ref: P/21/2639/2 | Appeal Ref: APP/X2410/W/23/3325902

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Signed: 	Signed: 
Name: Susan Garbutt	Name: Clare Clarke
On behalf of: Charnwood Borough Council	On behalf of: Pegasus Group (acting on behalf of the appellant, Taylor Wimpey UK Ltd)
Date: 20/9/2023	Date: 20/09/2023



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1. Introduction

- 1.1. This Statement of Common Ground has been prepared by Pegasus Group, on behalf of Taylor Wimpey UK Ltd ('the Appellant'), in conjunction with Charnwood Borough Council ('the Council'). This Statement concerns an appeal made pursuant to the non-determination of planning application ref: P/21/2639/2 by the Council at Land at North of Barkby Road, Syston ('the site').
- 1.2. It has been prepared in accordance with Annex R of the Planning Inspectorate's Procedural Guide – Planning Appeals – England (June 2023) and Article 37, Paragraph (3) (b) (x) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 1.3. This statement addresses the following areas of common ground:
 - Background to the appeal
 - Description of the site
 - Description of the surrounding area
 - Planning history of site
 - The proposed development
 - Relevant Development Plan policies and relevant draft development plan policies
 - Relevant Other Material Considerations
 - Others matters upon which the parties agree
 - Draft terms of Section 106 obligations
- 1.4. It also sets out the matters upon which the parties disagree.

2. Background to the Appeal

- 2.1. This Statement of Common Ground refers to an appeal against the non-determination of an outline planning application for residential dwellings for up to 195 dwellings with all matters reserved except access at Land North of Barkby Road, Syston.
- 2.2. The application was submitted 20th December 2021 and validated by the Council on 20th December 2021, before being registered on 28th February 2022. The original target date for determination was 7th April 2022, and extensions of time were agreed with the Local Planning Authority, with the last extension agreed on 24th February 2023 until 21st April 2023.
- 2.3. The application was supported by a full set of supporting documents and plans. Amended plans and additional supporting documents were provided to the Council to address consultee comments. A list of all the documentation supporting the application is set out in Appendix A.
- 2.4. Following the submission of further information on air quality and a peer review of the pluvial flood modelling study and resubmission of the Flood Risk Assessment, there were no outstanding requests for further information or technical objections raised by statutory consultees, with the exception of Leicestershire County Council (LCC) as the Local Highway Authority. The LCC response was the key outstanding issue preventing the site being presented to Plans Committee with a positive recommendation when the appeal was submitted.
- 2.5. Initial comments were issued by LCC on 13th May 2022 and the Appellant's Transport Consultants, DTA, responded in June 2022. Additional comments were then made by LCC on 3rd October 2022 and DTA provided a response to these comments on 13th December 2022. Further LCC comments were issued on 27th January 2023 and at the Appellant's request a meeting was held to on 16th March 2023 with a written response provided by DTA following the meeting. A second meeting was held on Friday 24th March 2023 and it was agreed final comments would be issued by the end of March to enable the planning application to be considered at the Council's planning committee in April.
- 2.6. On 13th April 2023 LCC confirmed via email that further detailed evidence was required in relation to site specific mitigation, alongside a wider strategic highway and transport contribution as identified in the emerging Local Plan. Additional information regarding the site specific mitigation was provided to the LPA and Highways Authority by DTA on a without prejudice basis on 29th June 2023.
- 2.7. An appeal against non determination was submitted on 13th July 2023.
- 2.8. On 17th August 2023 the appeal site was considered by Charnwood Borough Council's Planning Committee. Final LCC Highways comments were received on the day of Committee stating:

The Local Highway Authority Advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to the conditions and/or planning obligations outlined in this report.

2.9. The Plans Committee resolved that, had they been asked to make decision on that date, they would have refused to grant permission for the application. The reasons for refusal are set below:

1	The proposed development is on land which sits outside the limits to development for Syston identified on the Borough of Charnwood Local Plan 1991–2006 Proposals Map, adopted January 2004, and within Countryside. The form of development proposed does not fit with the exceptions defined in the Charnwood Local Plan (2004) and is therefore in conflict with its policies ST/2, CT/1 and CT/2.
2	The application site is within a Mineral Safeguarding Area, as defined in “Mineral and Waste Safeguarding, Charnwood Borough, Document S2/215” published December 2015. The application is not accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to it. It is therefore in conflict with Policy M11 (safeguarding of Mineral Resources) of the Leicestershire Minerals and Waste Local Plan up to 2031, adopted in 2019.
3	The applicant has not undertaken a sufficient level of archaeological investigation as required by NPPF Section 16, paragraph 194 to assist the local planning authority in understanding the heritage impacts of the scheme and thereby inform a balanced planning decision, as required by NPPF paras. 194, 195 and 203. The proposal is therefore in conflict with policy CS14 in the Core Strategy, and with Policy EV8 of the draft Charnwood Local Plan 2021–37.
4	Fourth Reason for Refusal on the Committee Report was obviated by receipt of the consultation response from LCC Highways on 17 th August
5	Planning obligations relevant to the proposal have not been agreed with Leicestershire County Council in respect of Highways and sustainable travel. The proposal is therefore in conflict with Policies CSA17 and CS24 in the Core Strategy, and CC5 in the emerging local plan. At the date of writing policies INF1 and INF2 of the ELP have limited weight, but the proposal, without agreement between the applicant and LCC on contributions and obligations, is in conflict with these policies.
6	The development creates demand for open space, education provision and healthcare services which cannot be met by existing services. Additionally there is a need to secure affordable housing and an appropriate mix of type tenure and size of home in order to ensure that the proposal complies with development plan policy CS3. These matters would normally be secured by way of a Section 106 Legal Agreement but this has not at this time been provided. Accordingly the development fails to comply with policies CS3 and CS 24 of the Development Plan and would lead to significant and demonstrable harm which would outweigh the benefits of the scheme.

2.10. The Plans Committee also resolved:

That delegated authority be given to the Head of Planning and Growth to respond to any changed circumstances in the context of the non-determination planning appeal which might alter the council’s position. This authority would extend to whether to withdraw some or all reasons for refusal. It would also authorise him to agree the terms



of a S106 agreement and planning conditions, which will be required by the Planning Inspectorate, regardless of the recommended decision.

- 2.11. On 4 September 2023 the Appellant wrote by email to the Highway Authority and copying in the Local Planning Authority, confirming that, as set out in the appellant's Statement of Case, the Appellant was contesting the need for the offsite highway works at the two junctions identified by the county and the need for the highway contributions sought for mitigating the wider impacts of the development on the highway and transport network.
- 2.12. Using his delegated authority, the Head of Planning and Growth made a delegated decision on 12th September 2023 to withdraw all of the reasons for refusal.



3. Description of the Site

- 3.1. The site is located north of Barkby Road, on the eastern edge of Syston. The site extends to approximately 8.29 hectares and consists of two arable fields.
- 3.2. The site is bounded by Queniborough Road to the east, existing residential development along Hallaton Drive, John Frear Drive and Empingham Drive to the west, and open countryside to the north. To the south lies Barkby Road, open countryside and recently built residential development.
- 3.3. A Public Right of Way (PRoW) (footpath, ref J37) passes through the site linking east from the settlement edge to Queniborough Road.

4. Description of the Surrounding Area

- 4.1. Syston is located in the administrative borough of Charnwood in Leicestershire. At the time of the 2021 census, the civil parish of Syston, had a population of 13,600.
- 4.2. The site is located on the edge of the existing built-up area of Syston, a sustainable Service Centre on the edge of the Leicester Urban Area. Syston, is the third largest settlement within Charnwood Borough, after Loughborough and Shepshed. It is located east of the A607 and A46 and is proposed to be defined as part of the Leicester Urban Area in the emerging Local Plan.
- 4.3. The site is located approximately 12km to the north east of the centre of Leicester.
- 4.4. The existing facilities and services available within Syston, are located within walking distance of the application site, including The Merton Primary School located approximately 500–700m from the site access, and Aldi and Tesco located within walking distance of the site. Jubilee Medical Centre is located on Melton Road adjacent to the Post Office, and a number of other retail stores are located nearby, including a pharmacy – these facilities are around 1.4km from the site.
- 4.5. The nearest bus stop to the site is located on Barkby Road, approximately 300m from the site access, with the number 100 bus service running every two hours between Leicester and Melton Mowbray via Barkby, Barsby, Gaddesby and Great Dalby. Within Syston town centre, the number 5/5A bus service runs every 20 minutes between Leicester and East Goscote/Melton Mowbray.
- 4.6. The nearest railway station is Syston which is approximately 1.9km southwest of the site, off Melton Road. The station provides an hourly service to Leicester, Lincoln, Nottingham and Loughborough, with car and cycling parking facilities available at the station.
- 4.7. The local pedestrian infrastructure is good, and a continuous footway network currently runs between the southwest corner of the site on Barkby Road towards the town centre. A Public Right of Way runs through the site, linking to existing residential dwellings to the west.

5. Planning History of the Site

- 5.1. A planning application for up to 195 dwellings, the formation of a new vehicular access into the site, and the provision of new areas of open space, landscaping, storm water attenuation and children's play, was submitted by Pegasus Group on behalf of Taylor Wimpey UK Limited in July 2018 (application reference number: P/18/1366/2).
- 5.2. No technical objections were received from statutory consultees in relation to the development proposals.
- 5.3. The planning application was subsequently withdrawn in recognition of the need to engage with the emerging Local Plan process.
- 5.4. A Screening Opinion was also submitted in 2018 ahead of the application (reference P18/0691/2). The Council confirmed no EIA was required on 31st May 2018.

6. The Proposed Development

- 6.1. The outline planning application reference P/21/2639/2 sought permission for:
Outline application for up to 195 dwellings with all matters reserved except access.
- 6.2. The planning application seeks outline planning permission for up to 195 dwellings, together with associated affordable housing, open space, landscaping, drainage and play space facilities. All matters are reserved except access which is proposed from Barkby Road.
- 6.3. The application was supported by a full set of plans and supporting evidence, a full list of the documents submitted with the application is set out in Appendix A. A list is also provided in Appendix A of the supplementary and revised documents and plans submitted in response to consultee comments in respect of flood risk, air quality and highways.
- 6.4. Pegasus Group prepared a Concept Masterplan on behalf of Taylor Wimpey UK Ltd, in support of the application, which demonstrates how the site might come forward for residential development and deliver up to 195 dwellings (P20-3155 003 Rev F).
- 6.5. The proposed development includes a commitment to provide 30% of dwellings as affordable housing, in line with the adopted Local Plan policy for Syston to be secured through a Section 106 Agreement.
- 6.6. The Concept Masterplan (P20-3155 003 Rev F) shows that a new area of on-site public open space could be provided with a new children's play area located centrally within the development, along the route of the Public Right of Way J37, which could also be secured through a Section 106 Agreement and conditions.
- 6.7. Areas of surface water attenuation are indicated on the concept masterplan along with an area of landscaping along the eastern site boundary.
- 6.8. The site is capable of delivering a significant biodiversity net gain, currently estimated to be 14.94% net gain for habitats on the site and 48.18% for hedgerows.
- 6.9. The site would be accessed via Barkby Road with a new priority junction, as detailed on the submitted revised Access Plan (20060-02 Rev F) prepared by DTA on behalf of Taylor Wimpey UK Ltd.
- 6.10. As set out in Section 9, the parties agree that the proposed access arrangements shown in revised Access Plan (20060-02 Rev F) will provide safe and suitable access to the site. It is also agreed by the parties that the Concept Masterplan should be amended to reflect the changes, and should indicate how sufficient land for junction improvements in relation to allocation site HA1, to the south side of Barkby Road, can be accommodated within the site frontage, subject to the agreement of the Inspector.

7. Relevant Development Plan Policies

- 7.1. The Development Plan for the area against which applications should be determined, as per Section 38 of the Planning and Compulsory Purchase Act (PCPA), is the Charnwood Core Strategy, adopted in November 2015 and saved policies in the Borough of Charnwood Local Plan, adopted in 2004.
- 7.2. In accordance with Section 38 of the PCPA, applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 7.3. The parties agree that the following Development Plan policies are relevant to this appeal:

Charnwood Core Strategy

- Policy CS1: Development Strategy
- Policy CS2: High Quality Design
- Policy CS3: Strategic Housing Requirements
- Policy CS11: Landscape and Countryside
- Policy CS13: Biodiversity and Geodiversity
- Policy CS14: Heritage
- Policy CS15: Open Spaces, Sports and Recreation
- Policy CS16: Sustainable Construction and Energy
- Policy CS17: Sustainable Travel
- Policy CS18: The Local and Strategic Road Network
- Policy CS24: Delivering Infrastructure
- Policy CS25: Presumption in Favour of Sustainable Development

Saved Borough of Charnwood Local Plan

- Policy ST/2: Limits to Development
- Policy EV/1: Design
- Policy CT/1: General Principles for Areas of Countryside, Green Wedge and Local Separation
- Policy CT/2: Development in the Countryside
- Policy TR/18 Parking in New Development



Minerals and Waste Local Plan 2019

- Policy M11 Safeguarding of Mineral Resources

8. Relevant Material Considerations

8.1. The parties agree that the following emerging policy and supplementary planning documents and guidance are material considerations which are relevant to this appeal.

- National Planning Policy Framework
- Planning Practice Guidance
- National Design Guide
- Charnwood Local Plan 2021–2037 Pre-Submission Draft & Policies Map – Regulation 19 Consultation Version (July 2021)
- Leicestershire Highways Design Guide (2022)
- Charnwood Design Supplementary Planning Document (2020)
- Charnwood Housing Supplementary Planning Document (2017)
- Charnwood Planning Guidance for Biodiversity (2022)
- Charnwood Open Spaces Strategy (2019)
- Charnwood Open Spaces Assessment (2017)
- Charnwood Playing Pitch Strategy (2018)
- Landscape Character Assessment (2012)
- Charnwood Landscape Sensitivity Assessment (2021)
- Leicester and Leicestershire Housing and Employment Needs Assessment (June 2022)
- Leicester and Leicestershire Statement of Common Ground (June 2022)
- Charnwood Five Year Housing Land Supply & Site List (1 April 2023)
- Charnwood Local Development Scheme (April 2023)
- Charnwood Authority Monitoring Report (1st April 2021 to 31st March 2022)

9. Other Matters Agreed

9.1. The following matters are agreed upon by the parties.

Housing Land Supply

9.2. It is agreed the Council is unable to demonstrate a five-year housing land supply.

Presumption in Favour of Sustainable Development

9.3. It is agreed that the tilted balance set out in the Framework's presumption in favour of sustainable development at paragraph 11 (d) (ii) is engaged on two counts. Firstly, as some of the most important policies with respect to the supply of housing, and relevant to the appeal, are out of date. Secondly, the Council is unable to demonstrate a five-year supply of deliverable housing land.

9.4. It is agreed that in such circumstances, planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, when taken as a whole.

Emerging Local Plan

9.5. It is agreed that the emerging Local Plan allocates the appeal site for 195 homes under Policy DS3, to be delivered between 2021 and 2037.

9.6. Charnwood Pre-Submission Draft Local Plan 2021 – 2037 was consulted on in July–August 2021 and submitted on 3rd December 2021 for Examination. Hearing sessions commenced on the 28th June 2022, with a further hearing session on the 25th October to consider issues of Leicester's unmet needs and then reconvened sessions were held between the 7th February and 22nd February 2023 for all remaining matters. A post Examination letter was published by the Inspectors on 23rd May 2023 confirming to the Council what additional work is needed ahead of Main Modification consultation. A further letter (Exam 73) was published on 22nd August which acknowledges that progress is being made toward the consultation described in the letter of 23rd May.

9.7. Once adopted, the new Local Plan will form part of the development plan and replace the Core Strategy (2015) and the saved policies of the Local Plan (2004).

9.8. Draft Policy DS1: Development Strategy sets out the overall spatial strategy of urban concentration and intensification, with some limited dispersal to other areas of the Borough. It is agreed that the emerging Local Plan identifies Syston as part of the Leicester Urban Area, moving the settlement up the settlement hierarchy from its current position as Service Centre. This change was not disputed through the Examination.

9.9. Draft Policy DS3: Housing Allocations allocates the appeal site, land north of Barkby Road, Syston for 195 dwellings, under Draft Policy Reference HA3. The policy supports development that is cohesive and integrated with other allocations set out in this plan including in relation to the provision of new schools and other infrastructure and in accordance with the site-specific requirements set out. The site specific requirements for HA3 relate to the need for development proposals to be accompanied by a Flood Risk



Assessment, and to make a financial contribution to the cost of part of a new primary school, to be located on another Site Allocation HA1 directly south of this site.

- 9.10. Modifications to the policies which might be material to the consideration of this appeal are likely to become the subject of a consultation process before this Inquiry has concluded, and may necessitate further submissions by the parties outside the timetable described in the “start date” letter issued by the Inspectorate on 1st August 2023.

Highways

- 9.11. It is agreed the proposed access arrangements shown in Drawing 20060-02-02 Rev F will provide safe and suitable access to the site.
- 9.12. It is also agreed that the proposed Roundabout option as demonstrated on Drawing no. 20060-06 Rev A is deliverable in principle and there are no constraints in providing a design compliant roundabout junction in the future to serve this and proposed strategic allocation HA1 in the Draft Local Plan, to the south of the site.
- 9.13. The current Concept Masterplan (P20-3155 003 Rev F) does not illustrate provision of the space necessary to construct and accommodate the roundabout illustrated on drawing 20060-06 Rev A. A revised Concept Masterplan will be tabled by the appellant during this appeal which does show how land can be provided for the roundabout.
- 9.14. It is agreed by the parties that the County are no longer pursuing the request for a £2,445,323.71 contribution under the Interim Charnwood Transport Contribution Strategy set out in their final response dated 17th August 2023. It is agreed, in principle, that a contribution towards transport improvements within Syston is appropriate.

Heritage

- 9.15. It is agreed that further archaeological work is required involving a field evaluation. Trial trenching is currently underway, the full results of which are not available to inform this Statement of Common Ground.



10. List of Possible Planning Conditions

- 10.1. The Council had tabled a set of draft planning conditions in April '23 but some of the considerations have changed since then. There have been revised recommendations from statutory consultees, further evidence in respect of archaeology, and impending legislative and policy changes which seem likely to be relevant at the Inspector's decision date. The Appellant has indicated a willingness to address the changed considerations, and the Council is content that outstanding matters can be resolved.
- 10.2. The Appellant and the Council will continue to develop a suite of draft conditions and offer these to the Inspectorate at the earliest possible date, and in any case not later than the date of submission of Proofs of Evidence.

11. Draft Planning Obligations

11.1. A list of agreed planning obligations is provided below:

- Health contribution = £94,984.03
- Early Years Education = £304,250.70
- Primary Education contribution = £679,172.00
- SEND Education = £110,074.44
- Waste contribution = £10,075.65
- Library contribution = £5,888.55
- Travel Packs = £52.85 per dwelling
- Bus passes = £360.00 per pas – 2 passes per dwelling.
- Travel Plan Monitoring = £6,000
- 30% affordable housing provision = 59 units comprising 39 Affordable Rent (67%) and 20 Shared Ownership (33%)
- Parks and amenity green space = 0.66Ha on site provision of multi-functional green space areas.
- Natural and semi-natural green space = 0.94Ha on site provision of defined habitat areas.
- Local Equipped Area for Play Provision for Children on site or alternatively, a contribution of £51,998 toward an off-site provision at Chestnuts Play Area or other suitable location.
- Equipment/facilities for young people contribution = £186,028
- Outdoor sports facilities contribution = £64,227
- Allotments contribution = £22,020

11.2. These obligations are agreed to be proportionate and necessary to make the development acceptable in planning terms.

11.3. It is agreed that a Section 106 Agreement will secure the above.



12. Matters Not Agreed

Section 106 Contributions

- 12.1. The extent and justification for transport contributions are under discussion.
- 12.2. The parties will continue to refine their positions, or to find a consensus before the Inquiry opens.

Appendix A – List of Documents Submitted with the Planning Application and in response to Consultee Comments and used to inform the Council’s Decision

Documents Submitted with the Planning Application

- Covering Letter
- Site Location Plan (P20–3155 001 01)
- Site Access Plan (20060–02 C) (Superseded)
- Concept Masterplan (P20–3155 003 01 F)
- Planning Statement
- Design and Access Statement
- Statement of Community involvement
- Landscape and Visual Appraisal Parts 1 & 2
- Archaeological and Heritage Assessment
- Phase 1 & 2 Geo Environmental Site Assessment Parts 1–4
- Ground Gas Risk Assessment
- Agricultural Land Classification Report
- Flood Risk Assessment Parts 1 – 3 (Superseded)
- Ecological Appraisal
- Biodiversity Impact Assessment (Superseded)
- Arboricultural Impact Assessment
- Arboricultural Technical Note
- Transport Assessment
- Travel Plan

Documents Submitted in Response to Consultee Comments

- Air Quality Assessment (submitted 20 July 2022)
- Flood Risk Assessment Update Parts 1 – 4 (submitted 6 July 2022)
- Local Highway Authority Response Note June 2022 (submitted 22 June 2022)
- Road Safety Audit (submitted 25 October 2022)
- Junction Modelling Rev E Covid Factors (submitted 25 October 2022)
- Proposed Site Access Plan 20060–01–2 (submitted 25 October 2022) (Superseded)
- Proposed Site Access Plan 20060–02 Rev D (submitted 25 October 2022) (Superseded)
- Vehicle Tracking Plan 20060–02–2 Rev D (submitted 25 October 2022)
- Roundabout Tracking Plan 20060–06–2 (submitted 25 October 2022) (Superseded)
- Roundabout Proposed Site Access Plan 20060–06 (submitted 25 October 2022) (Superseded)
- Biodiversity Additional Information (submitted 1 November 2022)
- Biodiversity Net Gain Assessment Technical Note (submitted 12 December 2022)
- Local Highway Authority Response Note December 2022 (submitted 13 December 2022)
- Note of Meeting with LHA held on 16 March 2023 (submitted 17 March 2023) (including drawing 20060–06 Rev A showing roundabout)
- Local Highway Authority Response Note March 2023 (submitted 17 March 2023)



- Site Access Plan 20060-02 Rev F (submitted 20th March 2023)
- Note of Meeting with LHA held on 24 March 2023 (submitted 27 March 2023)
- Transport Technical Note (submitted 29 June 2023)

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

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