



TOWN AND COUNTRY PLANNING ACT 1990

SECTION 78 APPEAL BY Taylor Wimpey (UK) LTD

**OUTLINE APPLICATION FOR UP TO 195 DWELLINGS, WITH ALL
MATTERS RESERVED EXCEPT FOR ACCESS**

Land North of BARKBY ROAD, SYSTON

PLANNING APPLICATION REF: P/21/2639/2

APPEAL REFERENCE: APP/X2410/W/23/3325902

CHARNWOOD BOROUGH COUNCIL

**Response to Leicestershire County Council's CIL
Compliance Statement of 4th October 2023**

6th October 2023



1. Introduction

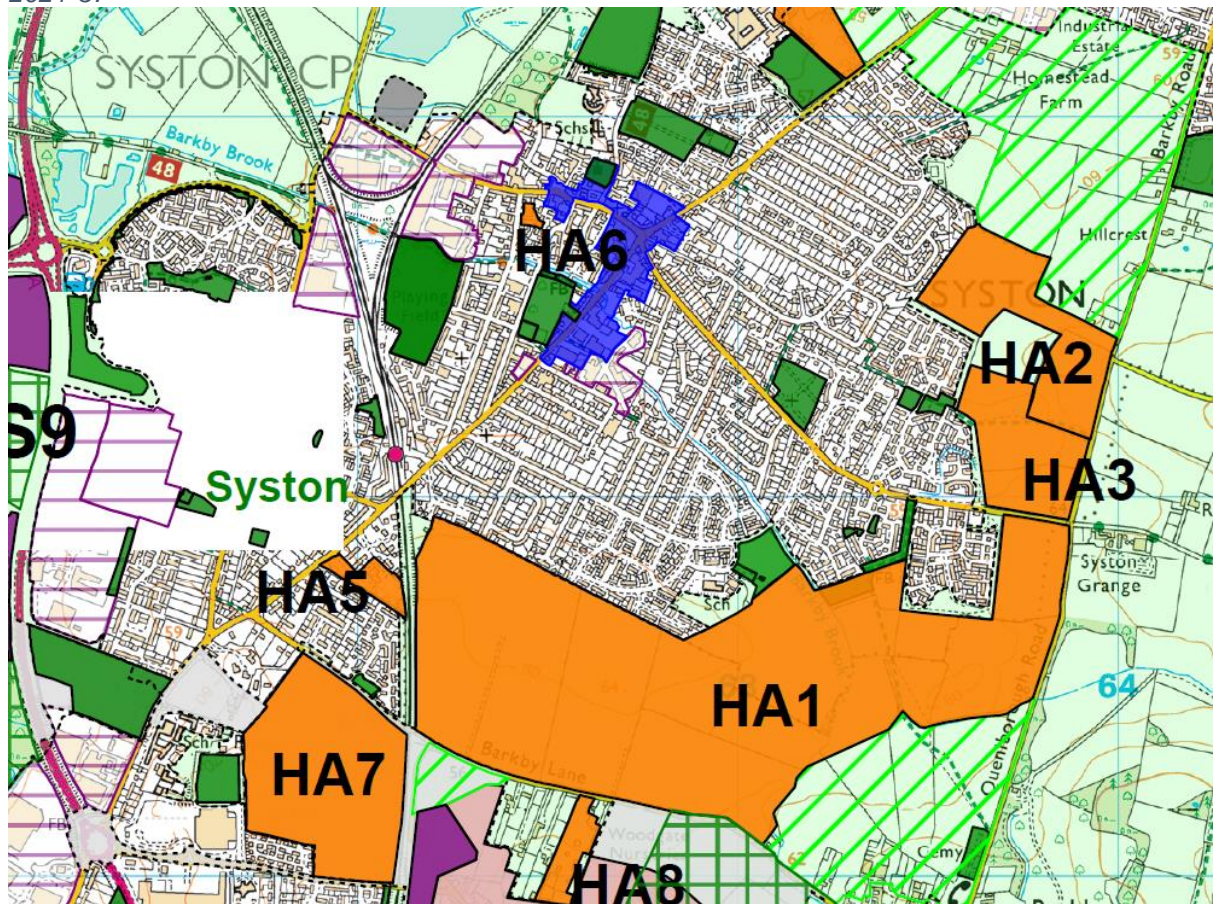
- 1.1 This response on behalf of Charnwood Borough Council addresses the revised justification for developer contributions in respect of this appeal issued by Leicestershire County Council (LCC) on 4th October 2023. In particular, it addresses how LCC's requests accord with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (As Amended).
- 1.2 The parties to this appeal had previously been agreed that contributions in respect of education, waste, libraries, travel packs and bus passes were necessary, directly related, and fairly and reasonably related in scale and kind to the development proposed.
- 1.3 The major outstanding component of the developer contributions requested by LCC which had not been agreed by the parties as being compliant with the CIL Regulation 122 limitations was that related to the "Local Highway Mitigation". This document limits its scope to commentary on that topic area, which seeks a financial contribution from the developer of £263,991.

2. Cumulative Impact Assessment

- 2.1 The County Council's statement of 4th October describes a "localised cumulative" transport impact arising from the cluster of adjacent housing allocation sites to the south-east of Syston, as identified in the emerging Charnwood Local Plan 2021-37. Whilst this emerging plan is not yet adopted, it is at an advanced stage of preparation. The Borough Council's Statement of Case for this appeal expands somewhat on the stage which the emerging plan has reached. Updates can be offered to the Inspector during the balance of this appeal's process.
- 2.2 The following map extract illustrates the relationships between proposed housing allocations sites HA1, HA2 and the appeal site, which is HA3. The allocation to HA1 is 960 dwellings, 270 to HA2 and 195 to HA3, making a total of 1425 new homes in this cluster.
- 2.3 HA2 is the subject of a full planning application, reference P/22/0354/2, validated in June '22. The promoter of HA1 (who is also the appellant in this case) has entered into a Planning Performance Agreement (PPA) with the Borough Council and aims to submit a planning application during coming months, in accordance with the terms of that PPA. There is a reasonable expectation that all three areas will produce housing within a few years. In particular, any permissions granted to HA2 and HA3 during coming months will have time limiting planning conditions which would necessitate commencement of developments at very similar times.



Figure 1 - Extract from the Proposals Map associated with the submitted Charnwood Local Plan 2021-37



- 2.4 The HA1 site is running somewhat behind the delivery timetable of the other sites in this cluster. It is significantly larger, and has several points of access for pedestrians and vehicles. The computation of traffic flows, and configuration of public transportation routes is at an early stage, but some of the traffic from HA1 will flow through Barkby Road, taking its point of access and egress from a roundabout that is planned to be coincident with the appeal site's point of access.
- 2.5 Should this appeal be allowed, it would grant outline planning permission to the appellant. This would need to be followed by an application for reserved matters before substantive development could commence. The HA2 site's full planning application could, if approved, permit development to commence sooner. Given that the impacts on transport and travel relating to HA2 and HA3 are likely to arise at a similar time, it is reasonable, and fair to consider them cumulatively. Whilst HA1's delivery might arise a few years later, it appears likely that it will add to those impacts, and its impact on the highway capacity should be considered when designing any junction improvements.
- 2.6 The appellant's submission to the appealed planning application dated 28th June '23 by DTA, at its paragraph 1.4 records that their analysis considered the cumulative impact



of the appeal site and HA2 allocation sites. Its modelling output sheets, for example at pdf page 40 (enumerated p 38) suggests that the analysis included 2027 projected traffic flows, plus committed sites, plus the development proposal. The March 17th DTA report, upon which the later one is based, records at its page 6 that a figure of 1300 houses was included in the growth projections in and around Syston.

- 2.7 Whilst these submissions argued that off-site junction improvement works were not necessary, it was the expert opinion of LCC's Highways development management professional officers, expressed in their Substantive Response dated 17th August 2023, that some improvements were necessary.
- 2.8 The Community Infrastructure Levy (Amendment) (England) (No. 2) Regulations 2019 removed Regulation 123, which had limited the use of pooled contributions from five or more separate planning obligations. This limitation no longer applies.
- 2.9 The emerging Charnwood Local Plan anticipates that pooled contributions will be used toward mitigation of the cumulative impacts of development. Policy INF1 (Infrastructure and Developer Contributions) in the emerging Local Plan includes, at its third bullet point, a contribution to the reasonable costs of any infrastructure, including through pooling of developer contributions, where impacts can only be addressed in a comprehensive way. Similarly, Policy INF2 (Local and Strategic Road Network), at its third bullet point, envisages seeking contributions toward the mitigation of costs arising from the cumulative of the emerging Local Plan's development strategy upon the road network, in accordance with Policy INF1. The supporting text, at paragraph 9.18 discusses the pooling of contributions toward the mitigation of the impact of cumulative developments. These policies are the subject of unresolved representations, at the date of this submission they have limited weight. Weight may be added as the emerging plan makes progress in parallel with this appeal.
- 2.10 It is acknowledged by all parties that the appeal proposal will contribute to increased pressure on highway capacity and public transportation within Syston. It will therefore be necessary to improve that capacity and service in order to make the development acceptable in planning terms.
- 2.11 The requested improvement to public transportation services is directly related to the appeal proposal.
- 2.12 The appellant has argued in their Statement of Case that the appeal proposals, by themselves, do not necessitate junction improvements downstream from the proposed



access. It seems possible that the developers of HA1 and HA2 could make a similar argument, and that the junction capacity tipping point arises when some later triggering development volume is reached, with all of the cost of highway capacity upgrading falling to the subsequent developer(s). However, LCC has assessed that the cumulative impact of all three sites together would be unacceptable, and as such it is necessary for proportionate mitigation from each.

- 2.13 In these circumstances, and in the methodology described in LCC's 4th October 2023 justification, the obligations requested by the County Council are directly relevant to the appeal proposal.

3. Quantum and apportionment

- 3.1 The £430,510 total cost of junction improvements at Fosse Way/ High Street, and at Goodes Lane was tabled in the appellant's transport submission by DTA dated 28th June 2023, and detailed in its Appendix 3, and appears to have been agreed by LCC. The annual cost of £71,000 for improved frequency to the bus service serving the appeal site has been sourced from the operator of the service by the appellant, as described in the DTA submission of Jun 23 (Paragraphs 4.1-4.4) and agreed between the appellant and LCC. The route is already subsidised by LCC, and so the commercial components of this increased service provision will be a matter wholly within their knowledge. It is not challenged by Charnwood Borough Council.
- 3.2 The apportionment of the junction improvements is described as being pro-rata against the total housing provision across the three sites HA1, HA2 and HA3. The total number of 1406 referred to LCC's 4th October 2023 statement differs from the allocation numbers. That is because the full application in HA2 is for 251 dwellings rather than the allocated 270, and so the total likely output from the cluster is lower than the allocations. In these circumstances, Charnwood is content that this cost apportionment, resulting in the appellant's being asked to pay a total of £263,991 as set out in the statement of 4th October 2023, is fair and reasonable.
- 3.3 The cost apportionment in respect of public transportation excludes HA1 from its denominator. Given its scale, and the requirement to provide a school site within the allocation, it is likely that HA1 will necessitate a different solution to public transportation, such as a redirected bus route. That consideration is not yet concluded,



and so its obligations in this respect will be a matter for a later application. It is therefore considered fair and reasonable to apportion the costs of the proposed public transport enhancements in the manner shown.

4. Conclusion

- 4.1 It is the opinion of Charnwood Borough Council that the planning obligations requested by Leicestershire County Council in their statement of justification dated 4th October 2023, in respect of the “local highway mitigation” are consistent with the limitations on the use of planning obligations described in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).