

Statement of Common Ground

EDUCATION

**LAND AT CRABTREE FARM, HINCKLEY ROAD,
BARWELL, LEICESTERSHIRE**

Planning Application References:

23/01175/FUL

23/01177/FUL

23/01184/FUL

23/01186/FUL

Planning Appeal Reference:

APP/6002755/2756/2757/2758

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THIS STATEMENT OF COMMON GROUND HAS BEEN AGREED BY:

LEICESTERSHIRE COUNTY COUNCIL

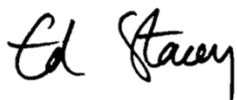


Signed

Name Ian Sharpe
Service Manager: School Organisation Service
Children and Family Services
Leicestershire County Council

Dated 25th March 2026

HINCKLEY AND BOSWORTH BOROUGH COUNCIL



Signed

Name Edward Stacey
Planning Manager (Development Management), Hinckley and
Bosworth Borough Council

Dated 24th March 2026

BARWELL CAPITOL LIMITED



Signed

Name Ben Hunter
Associate Director
EFM
(on behalf of Barwell Capitol Limited)

Dated 25th March 2026

1. INTRODUCTION

- 1.1. This Statement of Common Ground ("**SoCG**") has been prepared jointly by Leicestershire County Council ("**LCC**") in its role as the Local Education Authority (LEA), Hinckley and Bosworth Borough Council ("**HBBC**") in its role as the Local Planning Authority (LPA) and EFM on behalf of Barwell Capitol Limited ("**the Appellant**"). This statement concerns an appeal in relation to four sites known as land at Crabtree Farm, Hinckley Road, Barwell, Leicestershire ("**the Site**").
- 1.2. This SoCG relates to the planning applications (23/01175/FUL, 23/01177/FUL, 23/01184/FUL, and 23/01186/FUL) submitted by the Appellant in 2023. HBBC considered these applications and refused them, with a decision notice published on 11th July 2025. References to "the Parties" in this SoCG shall mean the Appellant, LCC as the LEA and HBBC as the LPA.
- 1.3. "The Applications" in this SoCG shall mean:
- **23/01184/FUL**: Residential Development of 16 Dwellinghouses with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP
 - **23/01175/FUL**: Residential Development of 51 Dwellinghouses with Associated Access and Parking (Revised Scheme 21/00695/FUL)
 - **23/01186/FUL**: Residential Development of 14 Dwellinghouses with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP (now 13 dwellings)
 - **23/01177/FUL**: Residential Development of 44 Dwellinghouses with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP (Revised Scheme 22/01053/FUL)
- 1.4. This SoCG sets out a written statement of factual information about the Applications, which is agreed between the Parties.

2. BACKGROUND

- 2.1. The Applications are on land at Crabtree Farm, Hinckley Road, Barwell, Leicestershire and the outline applications are for up to 51, 44, 16 and 13 dwellings respectively in the administrative area of HBBC, which is the Local Planning Authority. The applicant for all four the Applications is Barwell Capitol Ltd and in each case Certificate A has been signed.

2.2. For the purposes of school provision, the Applications collectively provide for an additional 124 dwellings.

2.3. Submitted with each of the Applications was an identical Supporting Planning Statement, dated 28th November 2023. The Parties agree that the following paragraphs are relevant to the consideration of the interrelationship between the Applications: 1.2; 1.4; 1.11; 2.2; 2.22; and 7.9. The Supporting Planning Statement also comments on the Site Allocations and Development Management Policies DPD Policy DM3 at paragraphs 5.20 and 6.27, and includes an overall masterplan (annotated to show the Application extents as four phases) at Appendix 1, and the parties agree that these are relevant also.

2.4. Superseding earlier responses, LCC provided consultation responses to HBBC on 3rd October 2024 and, in respect of 23/01177/FUL only¹, on 19th December 2024. The 2024 contributions requested (in respect of education sectors) are set out in the table below.

Table 1: Summary of LCC 2024 responses

	EY	Primary	Secondary	Post-16	SEND	Totals
23/01175/FUL	£0.00	£0.00	£134,338.14	£28,700.60	£0.00	£163,038.74
23/01177/FUL	£0.00	£0.00	£0.00	£0.00	£0.00	£0.00
23/01184/FUL	£0.00	£0.00	£47,764.67	£10,204.66	£0.00	£57,969.33
23/01186/FUL	£0.00	£0.00	£41,794.09	£8,929.07	£0.00	£50,723.16
Totals	£0.00	£0.00	£223,896.90	£47,834.33	£0.00	£271,731.23

2.5. On 18th October 2024 the appellant disputed LCC'S inclusion of Hastings High School and the Hinckley School in the secondary assessment because these schools do not directly serve Barwell and are not within the safe statutory walking distance of 3 miles. The appellant argued that Heath Lane Academy was the only secondary school within three miles that pupils could safely walk to.

2.6. The Local Planning Authority's assessment of the Applications is set out in a combined Delegated Report (DR), uploaded 10th July 2025. The description of the proposal at the head of the report is *"Four separate full applications for residential development totalling 125 dwellings with associated access, parking, landscaping and open space – see below for the description of development for each application"*. Paragraph 2.2 of the DR explains that four applications instead of a single application was submitted to enable the applicant to take advantage of fee reductions, and that re-consultation

¹ Following a re-consultation on an amendment to this application to reduce the number of dwellings proposed from 45 to 44.

with neighbours had been carried out to clarify the combined number of dwellings across the site. Paragraph 2.7 of the DR presents the dwelling mix of the development as a whole (not as individual applications). Paragraphs 6.5 and 8.99 present LCC's Planning Obligations requests as combined amounts by sector, although it is noted that the total amounts sought for education are based on the combination of LCC's 3rd October 2024 responses, and appears to disregard the response issued on 19th December 2024.

2.7. The Applications are refused for identical reasons, and both reasons incorporate the reference numbers of all four of the Applications.

2.8. Following a request from the LPA for updated figures, LCC issued a revised consultation response to HBBC on 12th February 2026 ("the first 2026 response"). As summarised at Table 1 above, the 2024 consultation responses did not include planning obligations for early years (EY) or special education needs and disabilities (SEND) contributions and dealt with all four applications separately². The first 2026 consultation response, by contrast, assesses the combined impact of the development proposed in all four applications, taken as a whole.

2.9. The first 2026 consultation response followed the same assessment processes as the previously issued responses, including - in respect of secondary - assessment of Hastings High School, Redmoor Academy, Hinckley School as well as Heath Lane Academy.

2.10. It should be noted that the dispute in relation to education was related to the need for additional secondary school and sixth form infrastructure. This has now been resolved between the Parties.

2.11. Following discussions between the parties, it came to LCC's attention that a further amendment to the development had reduced the number of proposed dwellings down from 125 to 124. In light of this, LCC issued an updated response dated 12th March 2026 ("the second 2026 response"). The education contributions requested are summarised in Table 2 below.

Table 2: Summary of LCC second 2026 response

	EY	Primary	Secondary	Post-16	SEND	Total
124 dwellings	£177,869.64	£0.00	£0.00	£0.00	£64,351.22	£242,220.86

² LCC's usual trigger for assessment of EY and SEND impacts being developments of 100 or more dwellings.

3. REASON FOR REFUSAL

3.1. This is an appeal against refusal. Reason for refusal 01 states the following:

The applicant is unwilling to agree Section 106 contributions for the delivery of library services, education provision, health services, or travel packs. As such the applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL fail to make necessary, fair and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.

4. PLANNING POLICY

4.1 Reason for refusal 01 cites Policy DM3 of Hinckley and Bosworth Borough Council's Site Allocations and Development Management Policies DPD (2016). It states that:

"Where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism."

4.2. LCC has adopted the Leicestershire Planning Obligations Policy (LPOP) (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.

4.3. The LPOP does not hold statutory weight, but should be treated as material planning consideration when determining applications or as part of any planning appeals.

4.4. The LPOP 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) (December 2024) makes a circular reference to the CIL Regulation 122 (2) under paragraph 58.

4.5. The County Council's Planning Obligations Policy (2019) at paragraph 26 of page 18 (Type of Education and Early Years Contributions to be Sought) states that:

“Applications for less than 10 dwellings will be exempt unless their co-location with other sites requires examination of their cumulative impact. Early Years contributions will be sought for all applications of 100 dwellings or more”

4.6. In relation to EY, paragraph 19 of Appendix 3 of the LPOP states that:

“However, where housing developments of more than 100 dwellings are proposed (excluding those discounted from education contributions as listed below in paragraph 29), then an assessment of the capacity of existing early education facilities will be undertaken in relation to the impact of new development. In the main this will not normally raise a need for a contribution if below 100 dwellings but where it can be reasonably demonstrated that there is no capacity for local providers to meet increased demand for early learning places arising as a consequence of the development then a funding contribution (based on the methodology set out in subsequent paragraphs) will be sought by the County Council.”

4.7. Within Appendix 3 of the LPOP, with regards to the need for SEND infrastructure, it states at paragraph 49:

“For developments of over 100 dwellings with two or more bedrooms an assessment will be made of the need to secure additional accommodation for pupils with special educational needs (SEN).”

4.8. Within Appendix 3 of the LPOP, with regards to the need for EY infrastructure, it states at paragraph 53:

“For developments of over 100 dwellings with two or more bedrooms an assessment will be made of the need to secure additional S106 funding for early years/pre-school provision, where it can be reasonably demonstrated that there is no capacity for local providers to meet increased demand for early year’s places arising as a consequence of the development.”

4.9. Paragraph 56 of the NPPF (December 2024) 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.”

4.10. Paragraph 100 of the NPPF (December 2024) sets out that:

“It is important that a sufficient choice of early years, school and post-16 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 early years, schools and post-16 facilities through the preparation of plans and decisions on applications; and

b) work with early years, school and post-16 promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.”

4.11. A consultation on a substantially revised version of the NPPF was published for consultation in December 2025. The consultation closed on 10th March 2026 and the Government has yet to publish the consultation comments or its response to those comments. The parties agree that, at the present time, the consultation revised version of the NPPF carries no weight.

5. RELEVANT GUIDANCE

5.1. National Planning Policy Guidance (“PPG”) is published online and is arranged thematically and includes a section on Planning obligations.

5.2. Paragraph 007 of the Planning obligations section acknowledges that Government provides funding to local authorities for the provision of new school places, but that such funding is reduced to take account of developer contributions (meaning that government funding does not replace the requirement for developer contributions)³.

5.3. Paragraph 008 of the Planning obligations section indicates that developer contributions towards additional capacity may be required [if existing capacity is insufficient to accommodate the proposed development] and that such requirements should include all school phases age 0-19 years and special educational needs⁴.

³ Paragraph: 007 Reference ID: 23b-007-20190315 (Revision date: 15 03 2019).

⁴ Paragraph: 008 Reference ID: 23b-008-20190315 (Revision date: 15 03 2019).

5.4. The Department for Education (“DfE”) published guidance on “Securing Developer Contributions for Education” (August 2023) sets out under paragraph 7:

“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.”*

5.5. Paragraph 23 of the DfE report, relating to Early Years settings sets out:

“...Developer contributions have a role to play in helping to fund additional early years places for children aged 0-4 where these are required due to housing growth, whether these are attached to schools or delivered as separate settings.”

5.6. Paragraphs 25 and 26 specify:

Paragraph 25

“...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 26

“To determine the need for SEN provision, pupil yield data should identify the number of children and young people living in 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. The ability of special and alternative provision schools 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 documented need for additional SEN provision.”

- 5.7. Paragraph 44 of the DfE guidance acknowledges that impact upon education infrastructure may include impact from cumulative housing developments:

“You should advise local planning authorities of the consequences of allocating/permitting developments that have no school within safe walking distance and will require permanent public investment in home-to-school transport or generate significant additional trips, for pupils to access their nearest available schools. As well as the cost burden this imposes on the local authority, there may be lasting harm to the environment and public health through increased carbon emissions and detrimental impacts on air quality, which the local planning authority will weigh against any perceived benefits. Consider recommending refusal of planning applications when no suitable solutions for sustainable access to education infrastructure can be agreed, and there would be a clear detrimental impact, either from single or cumulative housing developments.”

6. MATTERS AGREED BETWEEN THE PARTIES

- 6.1. The description of the Applications in paragraph 1.3 of this SoCG is agreed between the parties.
- 6.2. The identification of Planning Policy and other documents in Section 4 and guidance related to securing developer contributions in Section 5 of this SoCG is agreed between the parties.

Education

- 6.3. The Parties agree that 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 Government provides funding for the provision of new school places,

but this funding is reduced to take account of developer contributions and, as such, Government funding and delivery programmes do not replace the requirement for developer contributions. Furthermore, basic need allocations do not factor in the cost of land acquisition.

6.4. The Parties agree that LCC's Development Pupil Yield is appropriate.

6.5. It is agreed between the Parties that, for the purposes of admissions criteria, the catchment area primary school to the development is Barwell Infant School.

6.6. It is agreed between the Parties that, for the purposes of admissions criteria, the catchment area secondary school to the development is Heath Lane Academy.

6.7. It is agreed between the parties that the post 16 provider serving this area is The Hinckley School.

6.8. It is agreed between the parties that all EY provision in the area is provided by the private, voluntary, and independent ("PVI") sector.

6.9. 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.

6.10. 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 aged up to 8 years old attending schools more than 2 miles walking distance of their home address have entitlement to receive home to school transport, and that any pupils 8 years old or older attending schools more than 3 miles walking distance of their home address have entitlement to receive home to school transport.

6.11. It is agreed between the Parties that, based on LCC's second 2026 assessment, there is no justification for primary school, secondary school, or sixth form infrastructure contributions due sufficient surplus capacity within catchment schools.

7. MATTERS NOT AGREED BETWEEN THE PARTIES

7.1. The matter not agreed between the parties relates to the assessment of the four applications' impact upon EY and SEND provision. It is the appellant's position that, as each application is for less than 100 dwellings, LCC's policy in relation to EY and SEND is not triggered. HBBC and LCC's position is that the development should be

taken as a whole and, therefore, the impact upon EY and SEND provision should be assessed and, where necessary, mitigated.