

Statement of Common Ground.

Between

Redrow Homes South Midlands

and

North Hertfordshire District Council

Land Between Royston Road and Cambridge Road, Barkway, Hertfordshire.

Date: 10 July 2025 | CD Ref: CD-E19

Status: DRAFT

Signed:	Signed:
Name:	Name:
On behalf of: North Hertfordshire District Council	On behalf of: Pegasus Group (acting on behalf of the Appellant)
Date:	Date:



Document Management.

Version	Date	Author	Reason for revision
DRAFT V1	10 July 2025	Pegasus (on behalf of the Appellant)	First draft for agreement.



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1. Introduction

- 1.1. This Statement of Common Ground (“SoCG”) is prepared on behalf of Redrow Homes South Midlands (a trading name of BDW Trading Ltd) (“the Appellant”) for agreement with North Hertfordshire District Council as the Local Planning Authority (“the LPA”). The SoCG relates to an Appeal by the Appellant against the non-determination of an application submitted under Section 73 of the Town and Country Planning Act 1990 (“the s.73 application”). The s.73 application, and this pursuant Appeal, concerns Land Between Royston Road and Cambridge Road, Barkway, Hertfordshire (“the Site”).

Core Documents

- 1.2. A list of Core Documents is provided at Appendix 1 of the Appellant’s Statement of Case.

2. The Planning Application

- 2.1. The factual background is set out in this section, which is agreed between the parties.

Context

- 2.2. The s.73 application relates to a variation of an Outline Planning Permission (“OPP”) granted on 25 July 2023 (Reference: 18/01502/OP).
- 2.3. The site is allocated in the adopted North Hertfordshire Local Plan 2011-2031 by Policy BK3 for the delivery of residential development. The policy identifies a dwelling estimate of 140 homes for the site.
- 2.4. The LPA is unable to demonstrate a five year housing land supply, with the latest published supply standing at 3.9 years (May 2024).
- 2.5. The tilted balance set out at paragraph 11 (d) of the NPPF is therefore engaged and the presumption in favour of sustainable development applies.

The Application

- 2.6. The s.73 application was submitted to North Herts on 6 September 2024 and was validated on 19 September 2024 with the application reference 24/01994/S73.
- 2.7. The application description was amended post submission to state the below, which is the description that this appeal is made on:

Variation of wording to Condition 3 and Condition 20 of planning permission 18/01502/OP granted on 25.07.2023.

- 2.8. Following the submission of the s.73 application, the Appellant worked closely with the LPA in their review and assessment – as a continuation of discussions that had taken place prior to submission. In doing so, the Appellant agreed to extend the formal determination period (beyond the statutory determination period) until 20 June 2025.
- 2.9. The application was not determined within that timescale and a notice of intention to appeal was issued by the Appellant on 19 June 2025.
- 2.10. Further details of the relevant chronology in regard to the s.73 application is set out in summary in the table below.

Summary of Activity to 08.07.2025

Date	Relevant Party	Activity
30 April 2024	LPA & Appellant	Pre-app meeting held in which the RM was discussed along with the restrictions imposed by condition 3.
10 May 2024	LPA	Written response to the pre-app was received, including a section relating to the need to consider condition 3.
28 May 2024	LPA & Appellant	Further pre-app meeting held, including a discussion relating to the need to amend the wording of condition 3.
28 May 2024	Appellant	Follow-up email from the meeting that day, asking whether amendments to condition 3 could be made by way of an NMA.
14 June 2024	Appellant	Further information submitted, including a Planning & Design Justification document explaining the elements of the outline permission that could not be wholly complied with.
1 July 2024	LPA & Appellant	Design workshop held, at which the LPA indicated that amendment to the wording of condition 3 would need to be via a s.73 application rather than NMA.
17 July 2024	LPA	Note of the design workshop issued with no specific mention of condition 3.
7 August 2024	Appellant	Email confirmation that RM & s.73 applications would be submitted soon. Noted intention for the s.73 application to seek to change the word 'wholly' to 'broadly'.
8 August 2024	LPA	LPA confirmed its recommendation that the s.73 application ensures any variation to condition 3 retains "wholly in accordance" for key parameter plans, and "broadly in accordance" for other framework plans.
9 August 2024	Appellant	The Appellant sought further clarification by proposing a variation of condition 3 that was considered to address the LPA's recommendation.
13 & 19 August 2024	Appellant	Follow-up emails to ask for feedback on the suggested condition wording.
6 September 2024	Appellant	s.73 application submitted.
22 January 2025	LPA	Confirmed that Council's legal team had provided an initial response but that further advice had been requested.
26 February 2025	LPA	Again confirmed that a variation to condition 3 would be acceptable, although alternative wording would need to be considered by the LPA before sharing with the Appellant.
5 March 2025	LPA	Clarification of advice issued on 8 August that s.73 application should update the outline plans to align with the LPA checklist provided.
19 March 2025	LPA	Workshop meeting takes place to discuss feedback on RM application and how to progress s.73 application. Reiterate preference for new suite of outline parameter and framework plans.
8 April 2025	LPA	Minutes of meeting on 19 March issued to Appellant and meeting held with Appellant to discuss way forward.
8 April 2025	Appellant	Draft revised Framework Plan issued to the Council for comment.
9 April 2025	Appellant	Details of legal representative provided as well as suggested DoV wording.
24 April 2025	LPA	Confirmed instruction to Council legal services will be made to progress DoV.
13 May 2025	LPA	Initial Urban Design feedback provided on draft revised Framework Plan.

15 May 2025	LPA	Meeting to discuss LPA feedback on draft revised Framework Plan.
23 May 2025	Appellant	Submission made to include variation of condition 20 to application and extension of time agreed to 20 June 2025.
27 May 2025	LPA	Confirmed that the LPA's preferred approach was to vary the wording of condition 3 and include a new condition. On 3 June, the LPA confirmed the draft wording of condition 3 and the new condition would be provided by 6 June 2025.
3 June 2025	Appellant	Chased LPA for an update on progress on the DoV, and updated details of the Appellant's legal representative provided.
5 June 2025	LPA	Confirmation provided that the LPA's legal team had been instructed to progress the DoV.
11 June 2025	LPA	Confirmed that alternative wording for condition 3 had been drafted and was being reviewed internally by the LPA.
25 June 2025	LPA	Wording of new condition provided. Wording of condition 3 not provided.
27 June 2025	Appellant	Confirmed no objection to the suggested wording of the new condition.
3 July 2025	LPA	Wording of revised condition 3 provided. Confirmed no LLFA objection to revised condition 20 and can proceed as proposed by Appellant.
4 July 2025	Appellant	Confirmed no objection to the suggested wording for conditions 3, 20 and the new condition.
8 July 2025	LPA	Advised that their solicitor was awaiting officer approval but had no further comments on the draft Deed of Variation

3. Areas of Agreement

3.1. The matters of common ground are summarised below:

- It is agreed that a variation to condition 3 is required, as the current condition unreasonably requires reserved matters to be brought forward “*wholly in accordance*” with the approved plans. There are clear discrepancies between and within the plans themselves, which state a mix of ‘fixed’ and ‘indicative’ parameters.
- To address the above issue, the LPA has proposed the following amended wording for condition 3 which is agreed by the Appellant:

“The development hereby permitted shall be carried out wholly in accordance with the Location Plan (Plan No. 1797/30/110), Proposed Access – Royston Road (Plan No. 163462/006 Rev A), Proposed Access – Cambridge Road (Plan No. 163462-007 Rev A), and the reserved matters approved by the Local Planning Authority, or with minor modifications of those details or reserved matters which previously have been agreed in writing by the Local Planning Authority as being not materially different from those initially approved.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission or subsequent approval of reserved matters”.

- The LPA proposed that a new condition (the “Masterplan Compliance Condition”) is also inserted, to be read alongside condition 3. The Appellant agrees to this insertion:

“Concurrent with the submission of the first Reserved Matters application, and any subsequent Reserved Matter applications, a Masterplan Compliance Statement shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan Compliance Statement shall provide detailed explanation of how the proposal accords with the Masterplan Summary Report approved under application reference No. 18/01502/OP and dated March 2022, and plan numbers 1797/30/101 Rev E - Land Use Plan; 1797/30/103 Rev E - Access and Movement; 1797/30/104 Rev A - Urban Design Parameter Plan; and 1797/30/105 Rev A - Landscape Parameter Plan; 163462-002 Rev A – Alternative Royston Road Crossing Improvements (Option 2); 163462-003 Re B – Cambridge Road Potential Gateway Feature and Foot/Cycleway Extension; 163462-008 – Indicative Pedestrian Improvements Plan; 1797/30/100 Rev G – Illustrative Masterplan; 1797/30/104 Rev A – Urban Design Parameter Plan. Where the proposal does not accord with a specific principle or parameter within the approved Masterplan, the Masterplan Compliance Statement must provide clear and robust justification for each departure.

Reason: To ensure that the development as envisaged by the outline application is satisfactorily implemented in accordance with Policy SP9 of the North Hertfordshire Local Plan”.

- The variation to condition 20 as proposed by the Appellant is acceptable, with the wording being:

“Notwithstanding the surface water drainage strategy set out within the approved Flood Risk Assessment (Ardent Consulting, reference 163461-02a dated June 2018), prior to commencement of development a detailed surface water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The surface water drainage scheme shall include:

- 1. Implementation of the appropriate drainage strategy based on infiltration into using appropriate above ground SuDS measures; and*
- 2. Provision of storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + 40% climate change event.*

The surface water drainage scheme shall be fully implemented prior to full site occupation and in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To reduce the risk of flooding to the proposed development and future occupants”.

- A Deed of Variation to the Section 106 legal agreement dated 19 July 2023 is required and is acceptable to ensure that the original Deed applies and remains in full force in respect to any application made pursuant to Section 73 or Section 73B of the Town and Country Planning Act 1990.



4. Areas of Disagreement

- 4.1. The Appellant does not consider there to be any area(s) of disagreement between the parties. The LPA is invited to complete this section if it considers otherwise.

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

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