

## **Town and Country Planning Act 1990**

### **Appeal by Persimmon Homes Thames Valley**

**Site Address: Land North West of Goring Railway Station,  
Goring-by-Sea, Worthing, West Sussex**

***Proposal: Mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre (uses including A1, A2, A3, A4, A5, D1, D2, as proposed to be amended to use classes E, F and Sui Generis) with associated car parking, car parking for the adjacent railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities (Outline with all matters reserved)***

### **STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

**Appeal Reference: APP/M3835/W/21/3281813**

# 1. INTRODUCTION

1.1 This is the Statement of Case of Worthing Borough Council in respect of the planning appeal submitted by Persimmon Homes Thames Valley relating to the site north west of Goring Railway Station, West Sussex (Appeal Reference APP/M3835/W/21/3281813).

1.2 The application which is the subject of this appeal was validated by the Local Planning Authority on 10 August 2020 (Local Authority reference AWDM/1264/20). The application sought outline planning permission, with all matters reserved, for the following development:

*Mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre (uses including A1, A2, A3, A4, A5, D1, D2, as proposed to be amended to use classes E, F and Sui Generis) with associated car parking, car parking for the adjacent railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities*

1.3 The application was presented to Worthing Borough Council Planning Committee on 10 March 2021 with an officer recommendation for refusal.

1.4 The Members of the Planning Committee unanimously resolved to refuse planning permission in accordance with the officer recommendation for the following reasons:

1. *The proposed development is outside of the built-up area as defined in the Worthing Core Strategy and the emerging Submission Draft Worthing Local Plan and is not allocated for residential development. The proposal is therefore contrary to policy 13 of the Worthing Core Strategy and emerging policies SS4, SS5 and SS6 of the Submission Draft Worthing Local Plan, resulting in the coalescence of settlements and the loss of an important area of green space that contributes to local amenity, sense of place and wildlife. Furthermore, it is considered that the adverse impacts of the development would demonstrably outweigh the benefits as substantial*

*adverse landscape and visual effects would arise from the development affecting the local area and the wider landscape, including the landscape setting to the National Park (therefore adversely affecting its statutory purpose to conserve and enhance its natural beauty and cultural heritage), Highdown Hill scheduled Monument and the Conservation Area.*

2. *The application is considered to be premature as the development proposed is so substantial, and its cumulative effect would be so significant, that to grant permission would undermine the plan-making process in particular its overall spatial strategy about the location of new development, its landscape evidence and proposed green space designations that are central to the emerging Submission Draft Worthing Local Plan. The proposal therefore fails to comply with paragraph 49 of the National Planning Policy Framework.*

3. *The Local Planning Authority is not satisfied that adequate information has been submitted to demonstrate that the proposal is acceptable in terms of access and would not therefore give rise to increased hazards to highway users including the Strategic Road Network. The proposal therefore fails to comply with the relevant guidance of the National Planning Policy Framework which requires that the potential impacts of development on transport networks can be addressed in development proposals.*

4. *The Local Planning Authority does not consider that adequate information has been submitted to demonstrate that the mitigation proposed is acceptable in terms of its impact on the local highway network including (but not limited to) the Goring Crossroads and A259/ Goring Way / Aldsworth Avenue junctions and Strategic Road Network. As such it has not been demonstrated that the development would not have a severe impact on the local highway network and therefore the proposal fails to comply with paragraph 109 of the National Planning Policy Framework 2019.*

5. *It has not been demonstrated to the satisfaction of the Local Planning Authority that the development provides suitable mitigation for the impact of the development upon ground nesting birds.*

6. *It has not been demonstrated to the satisfaction of the Local Planning Authority that the infrastructure requirements of the development can be adequately met in respect of the provision of affordable housing, public and open space, highways improvements and off site mitigation for the provision of nesting birds.*

In respect of refusal reasons 5 and 6 above, it is anticipated that these refusal reasons could be overcome by the submission of an appropriate Section 106 planning obligation.

## **2. THE APPEAL SITE AND SURROUNDINGS**

2.1 The appeal site is located to the north west of Goring Railway Station, and is bordered by the railway line to the south, Goring Street and the A259 to the east, the Ferring Rife to the north, beyond which is a further agricultural field leading to the east-west section of the A259, and to the west by a smaller field in agricultural use as well as Ferring Lane, both of which are within the boundary of Arun District Council.

2.2 The site area is some 19.96 ha. The appeal site is currently in agricultural use and predominantly flat. There are no buildings or structures within the site apart from the overhead power lines (which are proposed to be sited underground as part of the application).

2.3 At present, the site is accessed from the A259 to the north eastern corner of the site. There are 2 public footpaths on the site, adjacent to the western boundary of the site and the whole length of the southern boundary adjacent to the railway line.

2.4 The site is outside of the built-up area as defined by the Worthing Core Strategy (2011) and this is proposed to remain the case in the emerging Local Plan (which has been subject to two rounds of public consultation; was submitted for examination in June 2021 and which will be the subject of examination hearings in November 2021). The site is not allocated for residential development in the adopted or emerging Local Plans and is designated both a Local Green Gap and a Local Green Space in the emerging Local Plan.

2.5 The South Downs National Park lies some 225 metres from the application site at its nearest point to the north and is clearly visible since the land rises to the north beyond the A259. Within the National Park is also the Highdown Conservation Area and several listed buildings and non-designated heritage assets., the closest of which are located immediately adjacent to the A259 to the north.

### **3. THE APPEAL PROPOSAL**

3.1 The appeal scheme is in outline, with all matters reserved and seeks permission for a mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre commercial and community uses with associated car parking, car parking for the Goring railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities.

3.2 In the supporting information, the appellant indicates that the site area extends to just under 20 hectares and that the proposed net density of the development would be around 46 dwellings per hectare.

3.3 Whilst layout is a reserved matter, an Illustrative Masterplan was submitted to set out an indicative layout of the development. This showed that development was not anticipated to extend as far north as the Ferring Rife. The proposed local centre would be located at the south-eastern corner of the site, closest to the railway station along with a new car park to serve the railway station and address the existing parking problems in the area.

3.4 In respect of housing mix, it was stated that the precise housing mix will be agreed at a later stage if planning permission is granted. It was anticipated that the proposals would include a range of house types, including detached, semi-detached, and terraced houses as well as apartments. House sizes were likely to range from 1 to 4 bedroom units. The appellant had also stated that the proposals would make provision for a '*range of tenures*' and would include 30% of affordable housing in accordance with Policy 10 of the Core Strategy.

3.5 In terms of building heights, while a reserved matter and therefore subject to a future application it was stated that building heights would be predominantly 2 and 2½ storeys with 3 and 4 storey elements at selected locations.

3.6 A Landscape & Visual Statement was also submitted with the application which stated that the development would extend onto land between the settlements, but considered that there would still be a spatial break with the built-up area.

3.7 In respect of drainage, the supporting information stated that while the wider area falls within Flood Zones 1-3, the appeal site itself is solely within Flood Zone 1.

3.8 In respect of access, it was stated that the appeal site would be served by a new 3-arm roundabout junction off the A259 Goring Street at the eastern boundary. There would also be provision for a secondary access and a dedicated access into the local centre/extended railway parking area to the south eastern corner of the site.

3.9 The submitted Transport Statement stated that the development proposals would have the potential to generate in the order of 309 and 316 two-way vehicular traffic movements during the weekday AM (08:00 – 09:00) and PM (17:00 – 18:00) peak hour periods.

## **4. PLANNING HISTORY**

4.1 The first application to develop Chatsmore Farm for housing was made in 1969. There followed another application in 1972 for 525 dwellings in the Worthing part of the site, and 55 dwellings on the Arun part of the site.

The subsequent appeals were dismissed in 1974 on the grounds of loss of agricultural land and the effect of the development on the gap between settlements.



## **5. PLANNING POLICY**

5.1 Planning applications and appeals must be determined in accordance with the development plan, unless material considerations indicate otherwise.

5.2 The development plan comprises the saved policies of the Worthing Local Plan and the Worthing Core Strategy (2011). The Council will seek to agree with the Appellant the policies of the development plan which are of particular relevance to this appeal. These are likely to include Policy 7 Meeting Housing Need; Policy 8 Getting the Right Mix of Homes; Policy 10 Affordable Housing; Policy 12 New Infrastructure; Policy 13 The Natural Environment and Landscape Character; Policy 14 Green Infrastructure, Policy 16 Built Environment and Design, Policy 17 Sustainable Construction, Policy 18 Sustainable Energy Policy and Policy 19 Sustainable Travel.

5.3 Relevant material considerations include the NPPF (2021); PPG, relevant Supplementary Planning Guidance (Guide for Residential Development 2013 and Developer Contributions 2015) and the Submission Draft Worthing Local Plan (SDWLP) which was submitted for examination in June 2021 and will be the subject of an examination hearings in November 2021, prior to the appeal Inquiry, which is due to commence in January 2022.

5.4 Those parts of the NPPF which are considered to be particularly relevant to the appeal scheme include: Parts 2. Achieving sustainable development, 3. Plan-making, 4. Decision-making, 5. Delivering a sufficient supply of homes, 8. Promoting healthy and safe communities 9. Promoting sustainable transport, 11. Making effective use of land 12. Achieving well-designed places, 13. Protecting Green Belt land, 14. Meeting the challenge of climate change, flooding and coastal change and 15. Conserving and enhancing the natural environment

5.5 The Spatial Strategy of the Submission Draft Worthing Local Plan will be referred to, and in particular Policies SS4 Countryside and Undeveloped Coast; SS5, Local Green Gaps; SS6 Local Green Space; DM 23 Strategic Approach to the Historic Environment and DM 24 Historic Environment.

## **6. APPEAL PROCEDURE AND PRESENTATION OF EVIDENCE**

6.1 The Local Planning Authority agreed with the appellant that a Public Inquiry was the most appropriate method of determining the appeal. The planning application generated a significant amount of public interest with over 1,200 representations received in respect of the proposed development, with all but 1 objecting to the appeal proposal.

6.2 There are 6 reasons for refusal:

- Reason 1 relates to the principle of development and its impact upon the surrounding character of the area
- Reason 2 relates to the impact of determining the appeal favourably would have upon the plan making process
- Reason 3 relates to the necessity of ensuring that the appeal proposal does not result in additional hazards to highway users
- Reason 4 relates to ensuring that adequate mitigation is provide to accommodate the impacts of the additional traffic arising from the development
- Reason 5 relates to the necessity to ensure that suitable mitigation measures for ground nesting birds is provided
- Reason 6 relates to the necessity to ensure that the infrastructure requirements of the development are adequately met

Note: It is anticipated that refusal reasons 5 and 6 could be overcome by the submission of an appropriate Section 106 planning obligation.

## **7. WITNESSES**

7.1 It is currently anticipated that the Council will present evidence on the following topics:

- 1) Housing land supply;
- 2) Landscape and visual impact (setting of the National Park).
- 3) Traffic and transportation;
- 4) Planning.
- 5) Heritage Impacts

## 8. CASE FOR THE LOCAL PLANNING AUTHORITY

8.1 As set out earlier in this Statement of Case, there are 6 refusal reasons:

8.2 The first refusal reason is as follows:

*The proposed development is outside of the built-up area as defined in the Worthing Core Strategy and the emerging Submission Draft Worthing Local Plan and is not allocated for residential development. The proposal is therefore contrary to policy 13 of the Worthing Core Strategy and emerging policies SS4, SS5 and SS6 of the Submission Draft Worthing Local Plan, resulting in the coalescence of settlements and the loss of an important area of green space that contributes to local amenity, sense of place and wildlife. Furthermore, it is considered that the adverse impacts of the development would demonstrably outweigh the benefits as substantial adverse landscape and visual effects would arise from the development affecting the local area and the wider landscape, including the landscape setting to the National Park (therefore adversely affecting its statutory purpose to conserve and enhance its natural beauty and cultural heritage), Highdown Hill scheduled Monument and the Conservation Area.*

8.3 The Local Planning Authority (LPA) assessed the impact of the appeal scheme on the setting of designated and non designated heritage assets and setting of the Conservation Area. The LPA concludes that any harm to these heritage assets is less than substantial. The National Planning Policy Framework states that where less than substantial harm occurs to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal.

8.4 The appeal proposal would result in the provision of new housing and some infrastructure improvements and accordingly there would be some public benefit to the scheme. In assessing heritage impacts in isolation of other considerations the

LPA accepts that public benefits would outweigh the harm to the setting of the Conservation Area and non designated and designated heritage assets.

However, there is demonstrable harm to the landscape setting of the National Park and the contribution the site makes in terms of preventing coalescence.

8.5 Footnote 8 of paragraph d of policy 11 states that where a Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites, permission should be granted unless 'the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed' or there are 'adverse impacts which would significantly and demonstrably outweigh its benefits'. Included in the footnote to these exceptions to granting permission is a reference to Local Green Space.

8.6 The appeal scheme conflicts with existing Core Strategy policies and emerging Local Plan policies as set out above. In light of that conflict, it cannot be said to accord with the development plan overall.

8.7 Given the conflict with the development plan, there is a statutory presumption against the grant of permission unless there are material considerations of sufficient weight to rebut that presumption. In this case, there are not.

8.8 The appeal site is outside of any built-up area as defined by the Core Strategy and this designation is proposed to remain in the emerging Local Plan, with policy SS4 stating that land outside of the built-up area will be designated as 'Countryside and Undeveloped Coast' with development being restricted to that for which a countryside location is essential or to support recreational uses on the coast.

8.9 The Local Planning Authority considers that the appeal scheme is contrary to Policy 13 of the Core Strategy. The Appellant acknowledges this conflict in its Appeal Statement of Case. While the appeal site is not subject to any designations in the Core Strategy, it was designated as a Strategic Gap in the 2003 Worthing Local Plan and subsequently in the West Sussex Structure Plan. Following the subsequent revocation of the Structure Plan LPA's were advised that they could no longer use

the term strategic gaps and the Council placed their protection of the appeal site under the wider and more general remit of protecting the natural environment and landscape character outside of the Built Up Area.

8.10 The Council will explain, with reference to the emerging Local Plan, it has been necessary to reconsider the approach to gaps taken in the Worthing Local Plan and that a local policy designation (in addition to countryside policy) is still viewed as necessary, in order to maintain the separate identity and prevent the coalescence of Worthing with neighbouring settlements in Adur District and Arun District.

8.11 The NPPF recognises that the designation of land as Local Green Space is an appropriate means of protecting green areas of particular importance to the community. The characteristics of the appeal site meet the requirements of national guidance for such designation.

8.12 The Local Green Gaps and Local Green Space in the Worthing Local Plan meets the soundness tests set out in the NPPF. This evidence is compelling and the views of a large number of respondents commenting on the application demonstrates the importance of the site to the local community.

8.13 The appeal site also plays its part in the historic landscape. It is in the setting of the South Downs National Park, while directly to the north of the site is the Grade II\* Registered Park and Garden 'Highdown Garden' which is also a Conservation Area, and to the northwest of this the Scheduled Ancient Monument 'Highdown Hill Camp'. The appeal site can be viewed from Highdown Hill and its hill fort. It is important to their setting as it gives a sense of the past relationship between their hill location, the coastal plain surroundings, and ultimately the sea. If the appeal site were to be developed, it would mask the visual transition between Downs, coastal plain and sea and would harm the setting of historic and landscape assets Whilst not a valued landscape in NPPF terms it is highly valued by the local community.

8.14 The appeal site forms a noticeable break in development along the coastal plain and makes a substantial contribution to the sense of openness and separation between the settlements of Goring by Sea and Ferring with the site forming a

significant part of the extensive open and agricultural foreground setting to the National Park and Highdown Hill.

8.15 The appeal scheme would result in adverse landscape and visual effects; would erode the openness and separation between settlements and would adversely affect the local area and the wider landscape, including the landscape setting to the National Park, Highdown Hill scheduled Monument and the Conservation Area and the sea views from the National Park. The appeal scheme is contrary to Core Strategy Policy 13 and policies SS4, SS5 and SS6 of the emerging Local Plan.

8.16 The Council accepts that it is not able to demonstrate a five year supply of deliverable housing. However, the absence of a five year supply does not justify development at any cost, nor does it mean that relevant development plan policies should be treated as irrelevant or attributed no weight. Paragraph 11 of the NPPF does not, and could not, displace the decision-maker's statutory responsibilities with regard to the development plan and the weight to attribute to out-of-date policies, as the courts have repeatedly emphasised, will always be a matter of planning judgment.

8.17 The second refusal reason is as follows:

*The application is considered to be premature as the development proposed is so substantial, and its cumulative effect would be so significant, that to grant permission would undermine the plan-making process in particular its overall spatial strategy about the location of new development, its landscape evidence and proposed green space designations that are central to the emerging Submission Draft Worthing Local Plan. The proposal therefore fails to comply with paragraph 49 of the National Planning Policy Framework.*

8.18 The Local Planning Authority will assert that insufficient weight is given to the emerging Local Plan the final version of which was published prior to the determination of the application which is the subject of the appeal. It will be further stated that the plan has already been through two rounds of public consultation and informed by a comprehensive evidence base.



8.19 The examination into the emerging Local Plan is taking place in November and therefore it is quite possible that the new Local Plan will be adopted in 2022.

8.20 The National Planning Policy Framework states that prematurity is unlikely to justify a refusal of planning permission other than in the limited circumstances where both a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

8.21 It is considered that both of the above provisions apply in this case.

8.22 The proposed development of up to 475 dwellings is considered to be substantial in size and scale particularly when compared to other allocations in the Plan which are significantly smaller. The cumulative effect of this development would seriously undermine the plan-making process by predetermining decisions about the location of new development, and protection given to Local Green Gaps and Local Green Space designations. These issues are central to the spatial strategy of the emerging Plan.

8.23 The emerging Plan is at an advanced stage having been through examination by the time of the Inquiry and the Local Plan Inspector's report is imminent.

8.24 It is therefore appropriate that weight is given to the spatial strategy outlined in the new Plan and the related policies. It will be reiterated that the emerging policy of the Submission Draft Local Plan, SS5, states that Chatsmore Farm will be designated as a Local Green Gap and will be protected in order to retain the separate identities and character of Worthing and Ferring settlements.

8.25 The Local Planning Authority will also refer to the further policy provision is made in subsequent policy SS6, Local Green Space, the policy preamble to which states that the appeal site is designated as Local Green Space because the community value: its setting to the historic environment and the South Downs National Park; important views that contribute strongly to a sense of place; wildlife,

especially along the Ferring Rife; and the offer of escape from the urban environment for relaxation and exercise.

8.26 The third Refusal Reason is as follows:

*The Local Planning Authority is not satisfied that adequate information has been submitted to demonstrate that the proposal is acceptable in terms of access and would not therefore give rise to increased hazards to highway users including the Strategic Road Network. The proposal therefore fails to comply with the relevant guidance of the National Planning Policy Framework which requires that the potential impacts of development on transport networks can be addressed in development proposals.*

8.27 The Highways Authority for the area is West Sussex County Council. Their view was that as a result of the junction modelling being undertaken in isolation it had not been demonstrated that a safe and suitable access could be provided to accommodate the level of development. Further information was requested in respect of Goring Crossroads, the appeal site access, A259 (The Strand) and A259 (Goring Way/Aldsworth Avenue). The Highways Authority concluded that the formation and use of an additional access to the public highway at this point would result in unacceptable safety impacts and interrupt the free flow of traffic.

8.28 The Highways Authority's consultation response indicated that due to the lack of pedestrian and cycle linkages to the North and cycle linkages to the north west of the site, the proposal would not achieve safe and convenient access by a choice of means of travel nor encourage or enable an increase in environmentally sustainable means of travel such as walking and cycling and thereby minimise the impact of car journeys.

8.29 Highways England were also consulted on the appeal proposal during the determination of the application and concluded that the application had not demonstrated that it will not have a detrimental impact on the safe and efficient operation of the Strategic Road Network. Highways England agreed with the refusal reasons, in particular raising concerns regarding the accuracy of the modelling at the

A27/A280 junction, and further indicated that in accordance with the Town and Country Planning (Development Affecting Trunk Roads) Direction 2018, the Council must inform us and consult the Secretary of State and await his decision prior to the issuing of any permission.

8.30 The fourth refusal reason is as follows:

*The Local Planning Authority does not consider that adequate information has been submitted to demonstrate that the mitigation proposed is acceptable in terms of its impact on the local highway network including (but not limited to) the Goring Crossroads and A259/ Goring Way / Aldsworth Avenue junctions and Strategic Road Network. As such it has not been demonstrated that the development would not have a severe impact on the local highway network and therefore the proposal fails to comply with paragraph 109 of the National Planning Policy Framework 2019.*

8.31 The Highways Authority concluded that the applicant has provided insufficient information to assess the impacts of the proposed offsite mitigation and that it has not been demonstrated that the development could be accommodated without a severe residual cumulative impact on the local highway network.

8.32 The fifth refusal reason is as follows:

*It has not been demonstrated to the satisfaction of the Local Planning Authority that the development provides suitable mitigation for the impact of the development upon ground nesting birds.*

8.33 In the absence of supporting information being provided prior to the Inquiry, the Local Planning Authority will assert that insufficient information has been provided to mitigate the impact of the development upon ground nesting birds.

8.34 The sixth refusal reason is as follows:

*It has not been demonstrated to the satisfaction of the Local Planning Authority that the infrastructure requirements of the development can be adequately met in respect*

*of the provision of affordable housing, public and open space, highways improvements and off site mitigation for the provision of nesting birds.*

8.35 It will be necessary to ensure that the infrastructure requirements of the development are adequately met. This will include:

Affordable housing - 40% of the overall development (in line with emerging Local Plan policy) of the overall development including 70% rented accommodation and 30% intermediate housing

Play Areas and Open Space

Highways improvements (if required information has been provided)

Nesting Birds - off site mitigation

## **9. DOCUMENTATION**

9.1 A set of Core Documents will be agreed with the appellant prior to the Inquiry.

9.2 In addition to the application documents, it is noted that the appellant will refer to the following documents, which the Local Planning Authority will also refer to.

### National Documents

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

### Local Documents

- The Worthing Core Strategy (2011)
- The Emerging Worthing Local Plan
- Emerging Worthing Local Plan evidence base

9.3 The Local Planning Authority will also refer to relevant Appeal Decisions and Legal Cases and reserves the right to refer to additional documents to those outlined above in preparation of its case and in support of the proposals.

## **10. PLANNING CONDITIONS AND OBLIGATIONS**

10.1 A list of conditions (agreed with the Appellant insofar as is possible) will be provided to the Inspector before the start of the Public Inquiry.

10.2 It is noted that the Appellant intends to submit a planning obligation pursuant to Section 106 of the Town and Country Planning Act which will secure any planning obligations that are deemed necessary to make the development proposals acceptable. The Council will liaise with the Appellant and seek to agree the appropriate contributions.