

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)

**PROOF OF EVIDENCE BY GARY PECK, BA (Hons), Dip TP,
MRTPI ON BEHALF OF WORTHING BOROUGH COUNCIL,
DECEMBER 2021**

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

Local Authority Reference: AWDM/1264/20

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1. INTRODUCTION

1.1 Worthing Borough Council ('the Council') refused outline planning permission on 11 March 2021 (application reference AWDM/1264/20) 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 (Outline with all matters reserved)." ('the Appeal Proposal')

1.2 The application was refused for six reasons as set out below:

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.

1.3 Following the refusal of permission, additional information was submitted by the Appellant which has enabled National Highways (formerly Highways England) and West Sussex County Council, as the Highways Authority for the area, to withdraw their objections in respect of refusal reason 3. Those reasons are no longer pursued by the Council. However, it is understood that West Sussex County Council maintain their objection with regard to refusal reason 4.

1.4 It is anticipated that reasons for refusal 5 and 6 can be overcome by the submission of an appropriate Section 106 planning obligation. As such, the Council has not produced substantive evidence in respect of these reasons for refusal.

2. QUALIFICATIONS AND EXPERIENCE

2.1 I am a Chartered Town Planner and Full Member of the Royal Town Planning Institute. I was the case officer for the submitted application and wrote the officer's report to the Planning Committee.

2.2 I have an Honours Degree in Urban Studies and a Postgraduate Diploma in Town and Country Planning both from Sheffield University and these qualifications combined to provide academic accreditation from the Royal Town Planning Institute.

2.3 I have 26 years experience in Planning Policy and Development Management. I began my working career in Planning Policy at Adur District Council and then West Sussex County Council but since 1997 have worked solely in Development Management. I was employed by Horsham District Council for 15 years in their Southern Area Planning Team and was the Team Leader when I left in 2012. Since then I have been employed by Adur and Worthing Councils as the Planning Services Manager. Although the Councils offer a number of joint services, they remain as two separate planning authorities, with their own planning committees and Local Plans, and therefore for the purposes of this appeal, I am representing Worthing Borough Council.

3. SCOPE OF EVIDENCE

3.1 This Proof of Evidence is made on behalf of the Council in connection with an appeal made by Persimmon Homes Thames Valley ('the Appellant') pursuant to section 78 of the Town and Country Planning Act 1990, against the decision of the Council on 11 March 2021 to refuse planning permission for the Appeal Proposal.

3.2 My evidence addresses the first two reasons for refusal, following which I carry out the overall planning balance. In carrying out the overall planning balance in section 9 of my Proof of Evidence, I rely on the evidence provided by other witnesses on behalf of the Council.

3.3 Reasons for refusal 4 is the subject of a proof of evidence provided by Stephen Gee, Principal Planner, County Highways from West Sussex County Council. West Sussex County Council is the local highway authority, with responsibility for the local highway network.

3.4 Insofar as reasons for refusal 1 and 2 relate to landscape and the impact on the setting of the National Park, I refer to the evidence of Brain Duckett, Director of Hankinson Duckett Associates addresses issues of landscape.

3.5 The evidence of Ian Moody, Planning Policy Manager of Worthing Borough Council addresses issues specifically relating to planning policy and housing land supply.

3.6 As indicated above, reasons for refusal 5 and 6 are considered capable of being overcome by appropriately worded planning obligations.

4. SUMMARY OF EVIDENCE

4.1 My proof of evidence assesses the appeal proposal against the policies of the Development Plan.

4.2 My proof then considers other material considerations including the weight to be given to the emerging Local Plan.

4.3 My proof also considers the effect of the appeal proposal upon highway safety - a separate proof of evidence is provided by Stephen Gee of West Sussex County Council (the Highways Authority for the area) which provides a detailed assessment of this issue.

4.4 The effect of the appeal proposal upon the National Park and its setting, landscape and heritage is then considered. A separate proof of evidence will be provided by Brian Duckett of Hankinson Duckett Associates considering landscape issues and a Statement of Common Ground has been agreed between the Council and the appellant in respect of the relevant heritage issues.

4.5 The benefits of the appeal proposal are then considered, before an assessment of the overall Planning Balance.

4.6 The proof then concludes with an assessment of whether other material considerations dictate if the appeal should be determined other than in accordance with the Development Plan.

4.7 The proof sets out that the appeal proposal conflicts with policy 13 of the Worthing Core Strategy as the appeal site is located outside of the built up area.

4.8 The proof concludes that significant weight should be given to the new Local Plan which has been through an Examination and the Inspector's advice letter regarding proposed modifications subsequently received. The proposed modifications required to make the new Local Plan sound do not affect the location of the site outside of the built-up area and it will be subject to a Local Green Gap policy. The Inspector has not advised that additional residential allocation should be added to the Plan.

4.9 The proof then concludes that the appeal proposal will have an adverse impact upon the landscape including the National Park.

4.10 The proof further concludes that the proposal will adversely affect highway safety as there is insufficient evidence to conclude that there will be no severe impacts on the local highway network as a result of the proposed development.

4.11 The benefits of the appeal proposal are set out as the provision of additional housing, open space, potential net gain in biodiversity, expenditure on construction and investment, the provision of a new local centre and financial contributions towards off site infrastructure. The weight to be given to provision of housing is considered to be significant but the other benefits are considered to be of more limited weight.

4.12 The proof concludes that the appeal proposal is contrary to the policies of the new Local Plan and will undermine the designation of the Appeal Site as a Local Gap in the emerging Local Plan. In requesting the deletion of an allocated site from the new Local Plan, the Local Plan Inspector concluded that despite the housing

delivery issues and the difficulties that exist in meeting needs it does not mean that all forms of housing development are acceptable. The proof therefore concludes that the harms and policy conflict justify the refusal of permission.

5. SITE LOCATION, DESCRIPTION, RELEVANT PLANNING HISTORY AND APPEAL PROPOSAL

5.1 The appeal site is at Chatsmore Farm ('the Appeal Site'). It 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. To the west is a smaller field in agricultural use and Ferring Lane, both of which are within the boundary of Arun District Council.

5.2 The application site is a greenfield site of just under 20 hectares. It is currently in agricultural use and is predominantly flat. There are no buildings or structures within the site apart from the overhead power lines (which are proposed to be put underground as part of the application).

5.3 At present, the Appeal Site is accessed from the A259 to the north eastern corner of the site. There are two 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. The location of the public footpaths is shown at **Appendix 1**.

5.4 The boundary of the South Downs National Park is approximately 225 metres to the north of the Appeal Site. The National Park is clearly visible from the Appeal Site as the land rises to the north beyond the A259. Within the National Park lies the Highdown Conservation Area and several listed buildings, the closest of which are located immediately adjacent to the A259 to the north.

5.5 Although there is no recent planning history, there have been historic applications for planning permission for development on the Appeal Site . A public inquiry was held in 1962 regarding an application for the development of the Appeal

Site for residential purposes. The appeal was dismissed by letter in 1963 (**Appendix 2**). In the decision letter, the Inspector concluded *'there was continuous development along so much of this South Coast...it was most desirable to preserve the breaks there were in it...because there was so much pressure to live in this coastal strip...this should not be an excuse for destroying these gaps or be a reason for finding room in this coastal area for all who sought it. He considered that all of this particular gap should continue to be preserved as public open space and agricultural land.'*

5.6 Subsequent applications for planning permission for residential development were refused in 1969 and 1972 with an appeal against the latter being dismissed in 1974 (**Appendix 3**). The Inspector noted that in respect of the Goring Green Estate (as described then, referring to the residential development south of the Appeal Site, on the other side of the railway line) that *'the effect of that permission was to narrow the wedge of between Ferring and Goring making...the remaining open land even more valuable as an extension of the wider landscape into the urban area. Among the people of Ferring the maintenance of this break also features a lively sense of being a separate community rather than an anonymous part of the larger Goring/Worthing amalgam.'*

5.7 This Appeal Proposal seeks outline planning permission with all matters reserved 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.

5.8 The proposed net density of the development would be around 46 dwellings per hectare. Whilst layout is a reserved matter, an Illustrative Masterplan has been submitted showing the layout of development (but not the locations of all 475 dwellings) with the local centre being located at the south eastern corner of the development. The plan also shows 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. Again, this is a reserved matter and therefore what is shown is for illustrative purposes.

6. POLICY CONTEXT

The Development Plan

6.1 In accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, an application for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point for the determination of this appeal is therefore the adopted development plan. If the Appeal Proposal fails to accord with the development plan, then there is a presumption that planning permission should be refused unless there are material considerations of sufficient weight to rebut the statutory presumption.

6.2 The adopted development plan for the borough consists of the Worthing Core Strategy (2011 to 2026) and the saved policies of the Worthing Local Plan 2003.

6.3 The Core Strategy was adopted in 2011. The relevant policies of the Core Strategy for the purposes of this appeal are 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). The appeal site is not allocated for development by any policies in the development plan.

6.4 Policy 7, (Meeting Housing Need), explains that the Council will provide 200 dwellings per annum over the plan period.

6.5 Policy 8, (Getting the Right Mix of Homes) states that residential development will deliver a wide choice of high quality homes to address the needs of the community.

6.6 Policy 10 (Affordable Housing) sets out the Council's approach to affordable housing and states that for developments of more than 15 dwellings, 30% affordable housing will be sought.

6.7 Policy 12, (New Infrastructure), states that, where appropriate, developers will be required to deliver the infrastructure that meets the needs that arise from their development, either on-site or through a financial contribution to off-site provision. At paragraph 7.40 of the supporting text, it is further explained that "*Development contributions will be expected to meet the infrastructure needs of the occupiers / users of the new development. New and enhanced facilities and services must be of high quality, easily accessible and well related to the communities they serve.*"

6.8 Policy 13, (The Natural Environment and Landscape Character), states that "*Residential development outside of the existing built up area boundary will only be considered as part of a borough-wide housing land review if there is a proven under-delivery of housing within the Core Strategy period.*" The proposals map for the Core Strategy shows that the Appeal Site is outside the built-up area as defined by the Core Strategy. The supporting text for policy 13 also notes at paragraph 8.3 that: "*Although Worthing is primarily an urban area it does contain important greenfield areas to the east, west and north of the town.*" At paragraph 8.4 it says "*The South East Plan highlights the importance of protecting an area's open countryside. In particular, planning authorities and other agencies should recognise and aim to protect and enhance the diversity and local distinctiveness of the region's landscape.*" At paragraph 8.12, it is noted that "*If, through future monitoring, development is considered to be necessary within greenfield areas then a*

Development Plan Document will be required. In this instance, proposals will need to take into account any adverse effects on local landscape and visual sensitivity.”

6.9 Policy 14, Green Infrastructure, notes that planning obligations from new development will be used to both enhance the current green infrastructure stock and contribute towards any new provision. The supporting text at paragraph 8.13 states that: *“Worthing’s green infrastructure includes parks and gardens, amenity green space, natural and semi-natural green space, sports facilities, allotments, beaches and green corridors. Worthing also contains parts of a newly designated National Park. All of these areas make a significant contribution to the local character of Worthing and help to provide quality living environments for both residents and visitors alike. These areas are key to the town’s stock of green infrastructure and exhibit significant landscape sensitivity and value. At paragraph 8.14, it is further explained that: “As pressure for development grows over time it remains important to protect and enhance all of the borough’s green assets and coastal topography. These are integral elements of the town and are worthy of detailed consideration in the planning process. If development in and around these areas is to be considered it is important that it avoids any adverse environmental and visual impacts.”*

6.10 Policy 16 (Built Environment & Design) states that *“Throughout the borough all new development will be expected to demonstrate good quality architectural and landscape design and use of materials that take account of local physical, historical and environmental characteristics of the area. In particular, new development should display a good quality of architectural composition and detailing as well as respond positively to the important aspects of local character, exploiting all reasonable opportunities for enhancement. Where appropriate, innovative and contemporary*

design solutions will be encouraged. The settlement structure, landscape features and buildings which represent the historic character of Worthing should be maintained; preserving and enhancing existing assets.” Whilst there is no objection to the Appeal Proposal on the basis of design, the need to have regard to, and respond to, the historical and environmental characteristics of the area is relevant to RfR 1.

6.11 Policy 17 (Sustainable Construction), requires all new residential development to meet the relevant standards for sustainable construction.

6.12 Policy 18, (Sustainable Energy), requires sufficient renewable energy to be provided to meet the relevant national or regional standards in place.

6.13 Policy 19, (Sustainable Travel), states that the demands that users have for local public transport services and the impacts that car users have on the surrounding road network will be assessed for all new development and that major new development will require the provision of a Transport Assessment. Where appropriate, new development will require the provision of a Travel Plan and/or a Transport Assessment, which will need to demonstrate what infrastructure is needed to promote the priorities set out in the Local Transport Plan and the Statement of Common Ground.

6.14 While the appeal site is not subject to any specific designations under the adopted development plan, it was previously designated as a Strategic Gap in the Worthing Local Plan (2003) and subsequently in the West Sussex Structure Plan (2004). Following the revocation of the Structure Plan in 2011, there was no longer any specific policy reference to Strategic Gaps. As a result, 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, which is the subject of policy 13 of the Core Strategy.

The Emerging Local Plan

6.15 The Council began preparing a new Local Plan, to be known as the Worthing Local Plan, in 2016. Whilst the currently adopted Core Strategy was originally intended to guide development in the borough until 2026, since its adoption, changes in central government policy have taken place. These relate particularly to how housing needs are addressed and cross boundary matters. Accordingly, the Council considered it necessary to start work on the new Worthing Local Plan.

6.16 The first stage of consultation in respect of the new Local Plan took place in 2016 and a Draft Local Plan was published for consultation in 2018. The comments submitted at the previous consultation stages, alongside a comprehensive evidence base, helped to shape the Submission Draft Local Plan, which was submitted earlier in 2021. During November 2021, the new Local Plan was subject to an independent examination in public. The scheduled hearing sessions concluded on 17 November 2021.

6.17 On 9 December 2021, the Inspector issued his initial post hearing advice letter which outlines any further Main Modifications or steps needed to make the new Local Plan sound and legally compliant (**Appendix 4**). The contents of this letter are discussed in further detail below, but in short, the indication is that the emerging Local Plan is likely to be found sound, subject to further modifications.

6.18 The relevant policies of the emerging Local Plan are policy SS4 (Countryside and Undeveloped Coast); policy SS5, (Local Green Gaps); policy SS6 (Local Green Space) (subject to modification in accordance with the Inspector's letter); policy DM

23 (Strategic Approach to the Historic Environment) and policy DM 24 (Historic Environment).

6.19 Under emerging policy SS4 (Countryside and Undeveloped Coast), the new Local Plan provides as follows: *“Outside of the Built Up Area Boundary land will be defined as ‘countryside and undeveloped coast’*. Development in the countryside will only be permitted where a countryside location is essential to the proposed use, it cannot be located within the Built Up Area Boundary, and it maintains its character and function for natural resources. Under the new Local Plan, the Appeal Site remains outside the Built-up Area as shown on the proposals map.

6.20 The supporting text to the policy is also of relevance, noting that over 24% of land in the borough falls within the National Park and that consideration will need to be given to development that affects the setting of the Park. Additionally, the text notes:

“Outside of the National Park, there are small pockets of countryside that represent a very small and finite resource that is valued for its open space, respite from intense urban activity, and intrinsic character. Therefore, the countryside should be protected and enhanced, particularly in terms of the additional benefits it can offer through agriculture, green infrastructure (for example to biodiversity and flood management/storage) and informal recreation such as cycling, walking, horse-riding and other Non-Motorised Users (NMUs).”

6.21 Emerging policy of the new Local Plan, SS5, entitled *Local Green Gaps* states that Chatsmore Farm, including the appeal site, 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.*”

6.22 The emerging policy originally stated:

“Development within these Gaps will be carefully controlled and will only be permitted in exceptional circumstances. Any development must be consistent with other policies in this Plan and ensure (individually or cumulatively):

- i) it does not lead to the coalescence of settlements;*
- ii) it is unobtrusive and does not detract from the openness of the area;*
- iii) it conserves and enhances the benefits and services derived from the area’s Natural Capital; and*
- iv) it conserves and enhances the area as part of a cohesive green infrastructure network.”*

6.23 As a result of discussion during the Local Plan Examination, modifications were proposed to the policy and the preamble. The proposed amended wording of criteria i and ii) are as follows:

“Outside of those areas designated as Local Green Space, all applications for development (including entry level exception sites) within Local Green Gaps must demonstrate that individually or cumulatively:

- i) It would not undermine the physical and/or visual separation of settlements;*

ii) *It would not compromise the integrity of the gap;*”

6.24 The Inspector noted in his letter of 9 December 2021 in respect of this change: *“The suggested changes to criteria i) and ii) also better reflect the perceived purpose of the LGG designation and are more consistent with similar policies in neighbouring areas. They also remove reference to coalescence and openness, which are akin to Green Belt policy. I agree that modifications are necessary to these criteria to be justified and ensure effectiveness.”*

6.25 Despite the change to the wording of the emerging policy, the criteria in i) and ii) provides a high level of protection for land designated as a ‘Local Green Gap’. The development permitted on land within Local Green Gaps is likely to be limited in quantum, scale or type to that which would not cause the coalescence of settlements or undermine the integrity of the gap. Given the Inspector’s indication that the proposed wording is now acceptable, this policy is considered to be highly relevant to the determination of the appeal proposal.

6.26 Further policy protection for the Appeal Site was to be provided by policy SS6 (Local Green Space), the purpose of which was to “protect green areas of particular importance to the local communities they serve.” (Emerging Local Plan, page 58, para 3.41).

6.27 The Inspector has advised that Chatsmore Farm (which includes the appeal site) should be excluded from the Local Green Space policy (only one site in the Borough will remain subject to emerging policy SS6) or the area subject to the

designation otherwise reduced. In his letter of 9 December 2021, the Inspector explained in paragraphs 9 to 17 as follows:

“The Plan identifies three areas as Local Green Spaces (LGS) [one of which includes within its scope the appeal site]. Paragraph 102 of the Framework establishes three criteria for designating LGS. I am satisfied they are all in reasonably close proximity to the communities they serve, exhibit characteristics that make them demonstrably special to local communities and have particular local significance. Accordingly, they meet the requirements of criteria a) and b) of paragraph 102...I do however have concerns about the extent to which...Chatsmore Farm ..relate to criterion c). This states that LGS must be local in character and must not be an extensive tract of land. There is no definition of what constitutes an ‘extensive tract of land’ in national policy. The Planning Practice Guidance (PPG) provides some assistance by stating that a “blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designations should not be proposed as a ‘back door’ way to try to achieve what would amount to a new area of Green Belt by another name”

6.28 The Inspector further explains that *“The Chatsmore Farm designation is around 30 hectares (ha) and is primarily made up of open agricultural fields. It represents a gap in the built form between the railway line, A259 to the north and east and the built form of Arun to the west. Notwithstanding the presence of the road, the site is well related visually to the South Downs National Park (SDNP) and thus provides an opportunity for the open countryside to penetrate the built-up area. The LGS designation therefore covers a large area of land and has the appearance of an unbroken area of open agricultural countryside. The area also coincides with the*

proposed Local Green Gap (LGG) designation. The main purpose of this designation is to retain the separate identities and character of settlements.

6.29 He further states: *“In the context of national policy on LGS, the scale and character of the area is that of a ‘blanket designation of open countryside’. Moreover, given the relationship with the LGG, the designation would effectively function as a new area of Green Belt. On this basis, the LGS conflicts with the guidance in the PPG and is thus not appropriate...In coming to these conclusions, I have had regard to the detailed evidence and discussions regarding the landscape, biodiversity and recreation value of the areas, as well as the support of the local population for their designation. My decision does not diminish these characteristics.”*

6.30 The Inspector has recommended that the designation in its current form be removed, although he has invited representations from the Council about whether there are amendments to the boundary that could be considered. The Council are currently considering this matter, although it is unlikely that any amendments will have been submitted by the time that the present Inquiry commences, due to the necessity to report the contents of the Inspector’s letter to elected members. The Inquiry will be kept updated of any developments in this regard.

6.31 Whilst the Inspector has not endorsed the inclusion of Chatsmore Farm as a designated area of Local Green Space, his comments in respect of the site itself are pertinent to the present appeal. In particular, the Inspector’s letter recognises the visual relationship between the Appeal Site and the National Park, and the role of the appeal site in penetrating the built-up area with open space.

6.32 Overall, the Inspector has requested that the Council provide additional wording for policies SS4 to SS6, which re-consider the relationship between these policies.

6.33 To support the approach adopted in the emerging Local Plan, including policy SS4 (Countryside and the undeveloped coast) and policy SS5 (Local Green Gaps) (as well as policy SS5 (Local Green Spaces), a Topic Paper has been prepared: '*Topic Paper 2 - Land Outside the Built Up Area Boundary*'. The Topic Paper at page 1 states:

"The purpose of this paper is to provide context and rationale of the spatial approach of defining land outside the Built Up Area Boundary as set by Policy SS4: Countryside and undeveloped coast, Policy SS5: Local Green Gaps and Policy SS6: Local Green Spaces. Areas of undeveloped land and coastline protected by the three policy designations provide a valuable source of multi-functional green infrastructure network which offers important recreational and landscape benefits to the local community as well as nature conservation value."

6.34 Dealing specifically with the Appeal Site at page 14 (para 7.2), the Topic Paper identifies that its main functions is to provide a sense of separation between Goring and Ferring; provide an open aspect to surrounding settlements in an otherwise developed coastal plain; form an undeveloped setting to the National Park to the north and given its prominence in views from Highdown Hill within the National Park, protect the provision of accessible open space; and support a variety of habitats and form an important site for wintering and migrating birds.

6.35 The topic paper reflects the multi-dimensional role and importance of Chatsmore Farm (including the Appeal Site), reflecting what is valued by the area by local residents.

6.36 In summary, the position under the adopted and emerging development plan is as follows:

i) The Appeal Site is outside the built up area in both adopted and emerging policy;

ii) The Appeal Site is therefore not allocated for development and both adopted and emerging policy do not support the principle of development outside the built up area;

iii) Under emerging policy, the Appeal Site has two layers of protection from development, namely, it is outside the built up area (policy SS4) and is designated as a Local Green Gap (policy SS5). These policy provisions have been accepted by the Inspector and therefore offer a very high level of protection for the site in recognition of the important roles that the site plays in maintaining a valuable gap between the settlements of Goring and Ferring, a function that has been acknowledged in planning policy and appeal decisions for decades and which has again been accepted by the Inspector when considering modifications to the new Local Plan.

6.37 The emerging Local Plan proposes 12 main major allocations for residential development. These allocations would deliver a total of 1,753 houses. At paragraph 29 of his recent letter, the Inspector has proposed a deletion of an allocated site, Titnore Lane. This site was included within the submission version of the emerging

Local Plan and was allocated for 60 dwellings. The Inspector's reasoning for the deletion of the site is relevant to the determination of the appeal. He explained as follows:

"I am clearly very conscious of the Council's housing delivery issues and the difficulties that exist in meeting needs. Nonetheless, as the Council have also argued, this does not mean that all forms of development are acceptable in principle. In this instance, I consider that the risk of adverse impacts from developing the site would significantly and demonstrably outweigh the benefits. Consequently, the allocation is not justified or consistent with national policy."

6.38 The Inspector has not asked the Council to consider the inclusion of any additional housing sites in his letter of 9 December 2021. He has now invited the Council to complete a schedule of Main Modifications for his consideration to avoid any soundness issues. Once the schedule is agreed, which is anticipated to be early in 2022, it will be subject to consultation for a minimum of six weeks.

6.39 The preparation of the Local Plan is therefore at a very advanced stage. In accordance with paragraph 48 of the NPPF, which states that the more advanced an emerging plan's preparation the greater the weight that may be given to it, significant weight should be attached to it in the determination of the appeal. While the Council recognises that there were a number of objections to certain policies of the emerging Local Plan, including from the Appellant, these have largely been resolved by the Inspector in his identification of the modifications required. Other than the points raised in the Inspector's letter of 9 December 2021, it is appropriate to assume that he has no outstanding concerns as to their soundness.

National Planning Policy

6.40 National planning policy is contained within the National Planning Policy Framework 2021 (NPPF).

6.41 Paragraph 11 relates to the presumption in favour of sustainable development. The NPPF states that for decision taking this means:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. 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*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”*

6.42 There are two footnotes to this text which are also of relevance. The first, footnote 7 states:

“The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 176) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable

habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 63); and areas at risk of flooding or coastal change.”

6.43 As stated above, the new Local Plan sought to include the application site as a designated Local Green Space but even if that designation no longer applies to the appeal site, the Inspector’s endorsement of the Local Gap policy means that existing policy in the Core Strategy, which establishes the site as being subject to countryside policies, cannot be considered out of date, given the new Local Plan is wholly consistent with the thrust of this policy but provides for a designation with the additional protection of a Local Gap policy.

6.44 Paragraph 49 of the NPPF states that arguments that an application is premature are 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.”

6.45 The Council considers that the limited circumstances referred to apply in full in this instance.

6.46 Paragraphs 101-103 of the NPPF relate to Local Green Space. Paragraph 101 states:

“The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.”

6.47 Paragraph 102 goes onto state that:

“The Local Green Space designation should only be used where the green space is: a) in reasonably close proximity to the community it serves; b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and c) local in character and is not an extensive tract of land.”

6.48 It is agreed between the parties that the Council cannot demonstrate a five year supply of deliverable housing sites and therefore the appeal proposal falls to be determined against para 11(d) above. Under the adopted development plan, none of the specific policies referred to in footnote 7 are engaged.

6.49 It is therefore considered that the ‘tilted balance’ is engaged and that permission should only be refused if the adverse impacts of the Appeal Proposal ‘*significantly and demonstrably*’ outweigh the benefits. This does not, however,

displace the statutory presumption in favour of the development plan, which provides the starting point for the determination of the appeal.

7. MAIN ISSUES IN THE DETERMINATION OF THE APPEAL

7.1 As confirmed at paragraph 9 of the Inspector's CMC Note, there are five main issues in the determination of the appeal:

i) Whether the appeal site offers an acceptable location for development having regard to local and national planning policy, the need for housing and the Council's emerging local plan;

(ii) The effect of the proposed development on local green space;

(iii) The effect of the proposed development on designated heritage assets;

(iv) The effect of the proposed development on the landscape setting of the South Downs National Park;

(v) The effect of the proposed development on highway safety, including on the Strategic Road Network;

7.2 I consider each of these issues in turn, before carrying out the overall planning balance. I note at this stage that the wording of the Inspector's issue (ii) corresponds with the emerging Local Plan policy SS6. In light of the Inspector's indication that the emerging designation of Chatsmore Farm is to be removed and/or amended, my analysis focuses on the emerging designation of the appeal site as a Local Green Gap, in addition to considering the role that the appeal site already plays as an area of local green space (albeit without reliance on a formal designation as such). Furthermore, in respect of issue (iii), I understand that the heritage experts have reached common ground as to the impact of the development on heritage assets, namely that the less than substantial heritage harm, on its own, would be outweighed by the public benefits of the scheme and would not constitute a reason

for refusing permission. Rather, the less than substantial harm is a matter to be weighed in the overall planning balance.

i) Whether the appeal site offers an acceptable location for development having regard to local and national planning policy, the need for housing and the Council's emerging local plan;

7.3 This issue is relevant to reasons for refusal 1 and 2. The first refusal reason relates to the principle of development and its impact upon the surrounding character of the area and the second reason for refusal relates to the impact that determining the appeal favourably would have upon the plan making process.

7.4 The policies specifically referred to in the first reason for refusal are policy 13 of the Core Strategy and emerging policies SS5 and SS6 of the new Local Plan.

7.5 Policy 13 of the Core Strategy is clear; residential development outside of the existing built up area boundary will only be considered as part of a borough-wide housing land review if there is a proven under-delivery of housing within the Core Strategy period. There are two elements to this: (i) the need for a borough-wide review before residential development is permitted outside the built up area, and (ii) proven under-delivery of housing. The supporting text to the policy at para 8.12 makes clear that what is envisaged is a DPD. Leaving aside (ii) above, there has been no DPD that supports the grant of permission for residential development outside the built-up area.

7.6 As stated in the officer's report to the Planning Committee, therefore, the application conflicts with policy 13 of the Core Strategy. This has been

acknowledged by the Appellant at paragraph 6.39 of the Planning Statement submitted with the outline planning application.

7.7 Under emerging Local Plan policy, the appeal site remains outside the built-up area and in the open countryside (see emerging policy SS4). It is notable that the principle of residential on the appeal site has, therefore, been recently considered as part of the Local Plan process, and has been rejected.

7.8 Overall, it is not considered that the appeal site represents an appropriate location for development having regard to both adopted and emerging local planning policy which provide for the spatial strategy within the borough.

7.9 Leaving aside policy 13, however, the Appeal Site is particularly unsuitable for residential development by virtue of the strategic role that it currently plays, and has played for nearly 60 years, as an area of undeveloped greenfield land between the settlements of Ferring and Goring.

7.10 As can be seen from the planning history, the Appeal Site has long been recognised as part of an open gap between two existing settlements with appeals dismissed for such reason in the 1960s and 1970s. Attempts to develop the site have been consistently unsuccessful. As recognised in those decisions, even then, the Appeal Site played a strategic role in providing an undeveloped, open gap between the two existing settlements of Goring and Ferring.

7.11 In 2003, the Appeal Site's role was reflected in its designation as a Strategic Gap in the Worthing Local Plan (2003) and subsequently in the West Sussex Structure Plan (2004). The 2003 Local Plan stated in paragraph 3.14 of the supporting text to the Strategic Gap policy that "*The strategic gaps to the east and west of Worthing have long been subject to the most stringent policies of*

protection...The objectives of strategic gaps are to prevent coalescence and retain the separate identity and amenity of settlements and protect the undeveloped coastline.” This policy objective was maintained in the Structure Plan adopted in 2004: at paragraphs 323 and 325, it was stated that “The loss of gaps between settlements would threaten not only the separation and setting of the settlements on both sides but also the overall character of the County...Coalescence does not mean exclusively the physical joining of settlements but also includes a perceived joining of settlements due to physical development and/or a level of activity which reduces their visual separation and the sense of travelling between settlements. The towns and villages of the County have their own distinctive character which derives partly from the relationship between the settlements and the open areas and countryside around them and the relationship between the towns and villages. In order to protect their separate identity, the predominantly open and undeveloped character of the land between settlements should be maintained to ensure that there is an actual and perceived visual break between the settlements...Some gaps between settlements are of strategic importance. Accordingly, strategic gaps are planning policy designations which are applied to areas between certain settlements which should be kept apart in order to maintain the strategic settlement pattern of the County. In general, these areas are the gaps between the main settlements and the main settlements and adjoining settlements. The concept of strategic gaps has been important to West Sussex for many years and is well-understood within the county. The essential feature of them is the relative absence of development rather than their landscape quality”. The appeal site was designated as one such Gap.

7.12 These historic designations reflected the importance of the Appeal Site remaining undeveloped with the 'absence of development' being cited as a quality in itself in preventing the coalescence of settlements and maintaining the character of the undeveloped coast. The qualities outlined in paragraph 7.9 have not altered today.

7.13 As explained in further detail in respect of issue (ii) below, the longstanding strategic importance of the Appeal Site as undeveloped greenfield land is now to be reflected in the emerging Local Plan. Not only is the Appeal Site outside the built up area in the emerging Local Plan, it is provided the highest level of protection by virtue of its designation as a Local Green Gap (and subject to a review of potential boundaries may still be recognised as a Local Green Space). As explained further below, the introduction of a large residential development would entirely rob the Appeal Site of its character as an open, undeveloped greenfield site that is free from development and activity and capable of retaining separation between the two settlements. On this basis, the Appeal Site is an unsuitable location for development by reference to emerging Local Plan policy.

7.14 The Appeal Site is also located within the setting of the National Park. As explained by Mr Duckett, the appeal site makes a substantial contribution to the sense of openness and separation between the settlements of Goring by Sea and Ferring, with uninterrupted views to the National Park, including Highdown Hill from the public footpath along the southern edge of the Appeal Site, in which the site forms a significant part of the extensive open and agricultural foreground setting to the National Park and Highdown Hill. Indeed, a landscape assessment was carried out as part of the emerging Local Plan process. It concluded the gap (including the

Appeal Site) was judged to have substantial landscape sensitivity in relation to its contribution to the open character and setting of the surrounding landscape and settlement.

7.15 The proximity of the Appeal Site to the National Park, and the linkage it provides between the coast and the Park itself (something that has been recognised by the Local Plan Inspector himself in his recent letter) means that the Appeal Site is inherently unsuitable for residential development. By virtue of its landscape impact (as explained further below and in the evidence of Mr Duckett), the Appeal Proposal is contrary to policy 13 of the Core Strategy and SS4 and SS5 of the new Local Plan.

Prematurity

7.16 Reason for refusal 2 states;

“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.”

7.17 As explained above, paragraph 49 of the National Planning Policy Framework states that a refusal of permission can be justified where a 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, where that emerging plan is at an advanced stage.

7.18 The emerging Local Plan is at an advanced stage. It was the subject of an examination in November 2021 and the Council has already received a copy of the Inspector's initial letter dated 9 December 2021 inviting modifications to the Local Plan. While the Council recognises that there have been a number of objections to certain policies of the emerging Plan, those objections have been considered by the Local Plan Inspector and effectively resolved through the modifications which he has proposed. The Council considers that significant weight can be given to the emerging Local Plan in the determination of the appeal.

7.19 A mixed use development of up to 475 homes is considered to be substantial, both in itself but also when compared to other residential allocations in the Plan which are significantly smaller. The location of residential development is a key element of the Local Plan process. The strategy proposed by the Council in the emerging Local Plan should be properly subject to scrutiny and shaped through the Local Plan process. The Council's proposed strategy for delivering residential development in the Borough does not include delivering a large amount of housing on the Appeal Site. The Council does not consider that such a strategy would be sustainable. This strategy, including the location of all residential allocations, has been subject to independent examination. The Inspector has indicated that, in one instance, he does not consider an allocation to be appropriate due to the environmental impacts it would have. The Appellant itself promoted the Appeal Site through the Local Plan process. Despite this, there has been no indication from the Inspector to date that the Appeal Site is, in his view, an appropriate location for residential development.

7.20 On the contrary, through the Local Plan process, and with the support of local residents, the Council has proposed that the Appeal Site be provided with protection in its strategic role through the allocation of the site as a Local Green Gap. The indication from the Inspector is that this will be accepted, subject to the amendments to the criteria proposed.

7.21 To grant planning permission on the Appeal Site against this background is to hijack that Local Plan process. It not only prejudices the Council's strategy of delivering housing in the Borough, but it wholly frustrates the designation of the Appeal Site as a Local Green Gap. Both of these elements of the Plan are of strategic importance for the borough. Both represent decisions that should properly be made through the Local Plan process. Indeed, the designation of land as a Local Green Gap in order to safeguard the identity of settlements and prevent coalescence can *only* take place through the Local Plan process.

7.22 The cumulative effect of this development, and its implication for the proposed designation on the Appeal Site, 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.

7.23 The Council considers it quite clear that the appeal proposal would prevent the Appeal Site from fulfilling the function of maintaining the physical and visual separation of the settlements given that the illustrative masterplan indicates that the level of development proposed would fill the entire length of the gap within the Borough Council boundaries. When viewed from the north, including from within the National Park and Conservation Area, there would no longer be a discernible break

between settlements north of the railway line and accordingly the physical and visual separation of those settlements would be fundamentally compromised.

7.24 Similarly, the appeal proposal would fail against the second criterion requiring the integrity of the gap to be maintained. At present, the gap forms a clear and noticeable break in the development to the north of the main railway line along the coastal plain, a feature that has been recognised in both planning policy and appeal decisions for a number of decades. Public footpaths are located to the edge of the Appeal Site and from these more local views the site also makes a substantial contribution to the sense of openness and separation between the settlements of Goring by Sea and Ferring. The visual amenity of the footpath network would be diminished by the appeal proposal. As explained above, previous appeal decisions in respect of the Appeal Site have found that residential development would fundamentally undermine the visual quality of the gap and consequently its integrity and it is not considered that the appeal proposal overcomes those concerns.

7.25 The appeal proposal is therefore contrary to existing development plan policy and will be contrary to the policies of the new Local Plan, modifications to which have been accepted by the Inspector.

(ii) The effect of the proposed development on local green space

Historic role of the Appeal Site

7.26 The Appeal Site has an historic role as a gap, with dismissed appeal decisions in the 1960 and 1970s recognising its importance in providing a break between the settlements of Goring and Ferring. The appeal of 1974 was dismissed because of the effect of the development on the gap between settlements. More

formal policy protection subsequently followed with the designation of the site as a Strategic Gap.

Local support for designation of the Appeal Site

7.27 During the initial Issues and Option consultation for the new Local Plan in 2016, a significant number of representations were received expressing the view that all greenfield sites should be protected from development. The Appeal Site, along with the southern gap between Goring and Ferring, attracted the most concern with 70% of 261 respondents raising strong concern about the potential development of the site. Local groups had already prepared a Local Green Space application in 2014.

7.28 A Regulation 18, preferred approach consultation was undertaken in 2018 and 102 representations of support for a Local Green Gap policy were received. Key reasons given in support were that the gaps provided an important break between development and that the gap is valued for the contribution it provides for health and well-being.

Emerging Local Plan designations

7.29 As explained above, under the submission version of the emerging Local Plan, the Appeal Site (as part of Chatsmore Farm) was to be designated as a Local Green Gap (policy SS5) and Local Green Space (policy SS6). This was, in part, a recognition of the local support for protection of this site, as described above.

7.30 As outlined above, the Local Plan Inspector, in his initial advice letter, has indicated that the Local Green Space designation should be removed from the new Local Plan, albeit he has indicated that he will consider amendments to the proposed

boundaries of the designation. As also indicated above, it is unlikely that any such amendments would have been agreed by the Council prior to the Inquiry.

7.31 Notwithstanding this indication, the Local Plan Inspector has made a number of comments relevant to the consideration of issue ii), as follows.

7.32 At paragraph 11 of his letter, the Inspector stated that *“The Chatsmore Farm designation is around 30 hectares (ha) and is primarily made up of open agricultural fields. It represents a gap in the built form between the railway line, A259 to the north and east and the built form of Arun to the west. Notwithstanding the presence of the road, the site is well related visually to the South Downs National Park (SDNP) and thus provides an opportunity for the open countryside to penetrate the built-up area.”*

7.33 At paragraph 15, when concluding that the Appeal Site should not be designated as a Local Green Space, the Local Plan Inspector further explained that, *“In coming to these conclusions, I have had regard to the detailed evidence and discussions regarding the landscape, biodiversity and recreation value of the areas, as well as the support of the local population for their designation. My decision does not diminish these characteristics. However, it is necessary for all three criteria in national policy to be met. Owing to their scale, nature and function, both areas would constitute extensive tracts of land in the context of paragraph 102c) of the Framework.”*

7.34 In finding that the Appeal Site did not meet all the criteria in paragraph 102c), by virtue of being an ‘extensive tract of land’, the Inspector’s letter outlines the characteristics of the site as a large area of land and having the appearance of an unbroken area of open agricultural countryside. This would appear to confirm, therefore, the function of the appeal site as a gap between settlements.

7.35 In particular, the Local Plan Inspector acknowledges that the Appeal Site represents a *'gap in the built form'*, is *'well related visually to the National Park'* and *'provides an opportunity for the open countryside to penetrate the built-up area'*. The Inspector is at pains to emphasise that his *'decision does not diminish these characteristics.'*

7.36 As explained above, however, the indication from the Inspector's letter is that the designation of the Appeal Site as a Local Green Gap is likely to be accepted. This reflects the fact that it has long been acknowledged that there has been a necessity to avoid coalescence and preserve the separate character and identity of Worthing as distinct from Adur to the east and Arun to the west by providing physical and visual breaks. There are few breaks between Brighton and Chichester and those at the edges of Worthing are particularly fragile due to their small size and narrowness.

7.37 The open aspect of an otherwise developed coastal plain is therefore considered to be very important and similarly the Appeal Site provides accessible open space close to existing communities. Public footpaths are located around the edges of the site and hence there is no restriction to the local community to enjoy the benefits of the site and the fact that over 1200 residents objected to the application demonstrates that the appeal site is well used and of high value to the local community.

7.38 The principle of Local Green Gaps has already been tested at the Examination of the neighbouring Adur District Local Plan (2017) where the Inspector concluded:

“There has been very significant growth along this part of the south coast and in some places there is little to distinguish the start of one settlement with the finish of another. The identity of individual settlements is very much at risk and I saw on my travels that there are few gaps between settlements of much significance. On the basis that it is important for communities to retain their independent character and qualities I agree with the Council that the identification of local green gaps is a justified and necessary approach. Such gaps serve a legitimate planning purpose in preventing settlements merging together.” (Para 45)

7.39 The appeal proposal would therefore substantially erode the gap between the settlements by extending from the western edge of Goring to the eastern edge of Ferring to the clear detriment of the visual character of the area. This is contrary to adopted policy 13 by virtue of being within open countryside, and emerging policies SS4 and SS5. Notwithstanding that the Local Green Space designation may fall away, large scale residential development on this tract of land will fundamentally change its character and harm its ability to provide an undeveloped space for recreation and quiet reprise within the urban environment around it. As recognised by the Inspector, the lack of a specific designation of this site as Local Green Space does not diminish its characteristics.

(iii) The effect of the proposed development on designated heritage assets

7.40 The third issue relates to the first refusal reason. The relevant designated heritage assets include Scheduled Monuments, Listed Buildings, Registered Parks and Gardens, and Conservation Areas.

Legislation and Policy

7.41 The NPPF requires decision makers to identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) and assess the extent to which development may cause harm to this significance. Sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention/regard be given to preserving the setting of a listed building or preserving or enhancing the character of the Conservation Area. This requirement is reflected in paragraph 199 of the NPPF, which provides that: *“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”*

7.42 This obligation applies no matter what the level of harm is. Paragraph 200 adds “Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”. The policy guidance in paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (as is the current case), this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

Highdown Hill

7.43 The land at Highdown Hill is of great archaeological importance and this is recognised with the designation of the Scheduled Monument (SM) within part of the

land which is in the ownership of the National Trust. This land directly links to a wider area of recreational importance for local residents and provides long distance views across the coastal plain. The SM is identified as dating from the Bronze Age period (2000-700BC) and is therefore a heritage asset of some significance.

7.44 The Appeal Site is also to the south of Highdown, a designated conservation area, the southern extent of which is adjacent to the northern side of the A259 and the gardens appear as a Grade II* entry on the Register of Historic Parks and Gardens. The Conservation Area was originally designated in 1997 and consisted of Highdown Tower and its immediate environs, the Quarry Garden, together with the lodges and access road. Following the creation of the South Downs National Park in April 2011, the South Downs National Park Authority (SDNPA) became the Local Planning Authority for the Conservation Area and in 2020 adopted a new Highdown Conservation Area Character Area and Management Plan which superseded the earlier WBC appraisal. Although none of the few buildings within the Conservation Area are listed, they do make their own contribution to the special architectural or interest of the Conservation Area.

7.45 The Appeal Site is clearly visible from the top of the drive looking south towards the coast. Much of Worthing as well as Ferring and Angmering can be seen from this vantage point as well as the narrow strip of open land, including the appeal site, that separates them.

7.46 The area surrounding the Conservation Area is predominantly undeveloped, and this contributes to the significance of the heritage asset, with it being separate from the built-up areas of Goring and Ferring. The Appeal scheme would be situated to the south of Ferring Rife, and so would maintain a limited gap to the heritage

asset but would nonetheless have some impact on the setting of the conservation area. The Council has concluded that this would result in less than substantial harm.

North Barn

7.47 The nearest listed building to the Appeal Site, approximately 250 metres to its north, is the main block of North Barn and the wall across the southern boundary adjacent to the A259. The listing dates from 1975. These listed buildings were originally an early 19th century courtyard of farm buildings. In 2003 the buildings were converted to a pub and restaurant, with a new access road from Titnore Lane.

7.48 The listed building is surrounded by open agricultural land to the north, south (beyond the A259), east, and west. The open setting means this complex of buildings still stand in relative isolation.

7.49 The Appeal Site is considered to contribute to the setting of North Barn. The extent of the proposed development would therefore have an impact on the setting of this particular historic asset. The Council considers that any harm caused would be less than substantial, and would be towards the lower end of the scale.

7.50 The common feature of the quality of the designated assets identified above is the open nature of the surrounding area including the appeal site. The Council considers that the appeal proposal will further diminish the setting of Highdown Hill, and the Conservation Area with the introduction of built form and associated infrastructure and while this may be less than substantial harm under the terms of the NPPF it is considered that the appeal proposal will contribute to the erosion of the setting of these designated assets.

(iv) The effect of the proposed development on the landscape setting of the South Downs National Park

7.51 The designated heritage assets mentioned above are all located within the South Downs National Park, the southern boundary of which extends directly along the northern side of the A259 opposite to the appeal site. The consideration of this issue relates to refusal reason 1.

7.52 The southern boundary of the South Downs National Park (SDNP) lies just to the north of the Appeal Site, which falls within the setting of the National Park. The Council therefore has a statutory duty to consider the purposes of the National Park when making its determination, namely to conserve and enhance the natural beauty, wildlife and cultural heritage of the area and to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public. Paragraph 176 of the NPPF states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks which have the highest status of protection in relation to these issues.

7.53 The Appeal Site is open to view from locations within the South Downs National Park and the Council considered that the Appeal Site forms part of a noticeable break in development along the coastal plain with such views continuing in part through the playing fields to the south of the Appeal Site. The Appeal Site is open to view from public footpaths, and therefore 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.

7.54 From within the Appeal Site itself, the expansive views towards the National Park afforded by the existing footpath network would be reduced to glimpses of the Downs. Views from new routes proposed would not compensate for this adverse

impact, as they would be substantially closer to the busy A259 road corridor and would include a more limited agricultural setting to the National Park. The visual amenity of the footpath network would also be diminished by the proposals.

(v) The effect of the proposed development on highway safety, including on the Strategic Road Network

7.55 The fifth issue now relates to refusal reason 4 only. West Sussex County Council (WSCC) are the Highways Authority for the area and since the appeal proposal also affects the strategic road network, National Highways (formerly Highways England) were also consulted on the application (although they subsequently withdrew their objection following the submission of further information from the appellant) Both highways refusal reasons were informed by the consultation responses from those consultees.

7.56 During consideration of the appeal proposal, WSCC objected to the proposal on the grounds that:

- i) Due to the junction modelling being undertaken in isolation it has not been demonstrated that a safe and suitable access could be provided to accommodate the level of development. As such the formation and use of an additional access to the public highway at this point would add to the hazards of highway users to an unacceptable degree and interrupt the free flow of traffic;
- ii) 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 and enable

and increase in environmentally sustainable means of travel such as walking and cycling and thereby minimise the impact of car journeys; and

iii) Insufficient information has been provided to assess the impacts of the offsite mitigation and as such it has not been demonstrated that the development would not result in a severe impact on the local highway network.

7.57 National Highways concluded that there were concerns regarding the accuracy of the modelling at the A27/A280 junction and therefore it requested that the trip generation, distribution, traffic flow diagrams and junction modelling were updated in line with the above comments and resubmitted. Until such time as that information had been provided, the advice from Highways England (now, National Highways) was that the Council should not approve the application because of the potential for harm to the Strategic Road Network. Additional information has since been provided which has enabled National Highways to withdraw their objection.

7.58 It is understood that negotiations have been ongoing with WSCC with regard to both refusal reasons. In respect of reason for refusal 3, WSCC are now satisfied that the reason for refusal can be resolved. In respect of reason for refusal 4 WSCC are not satisfied that there has been sufficient information provided to resolve the reason for refusal and their objection is therefore maintained.

7.59 Paragraph 110 of the NPPF states that in assessing sites specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. 111. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

7.60 Paragraph 111 of the NPPF explains that “*Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” Given the outstanding objections from WSCC, the Council considers that the proposed development will result in severe residual cumulative impacts on the road network.

8. HOUSING LAND SUPPLY

8.1 The Council accepts that it is unable to demonstrate a housing land supply equivalent to five years' worth of housing. As noted in the proof of evidence from Mr Moody, the most significant development constraint in Worthing is land availability. The Borough has the coastline to the south and the National Park to the north and hence there is little scope to accommodate development beyond the current Built Up Area Boundary without joining the urban areas of Ferring (to the west) and Sompting/Lancing (to the east) with the consequent effect of damaging the borough's character and environment. The compact nature of the town also means there are very few vacant sites or opportunity areas within the existing Built Up Area that could deliver significant levels of growth.

8.2 The NPPF requires local planning authorities to meet their full need for both market and affordable housing as far as is consistent with other policies in the Framework. The most up-to-date assessment of objectively assessed housing need (based on the standard method as set out in national planning guidance and the 2014 household projections published in September 2016) is 14,160 dwellings over the Plan period (2020 to 2036) which currently equates to 885 dwellings per annum.

8.3 Worthing's current minimum level of identified housing need for the plan period (885 dwellings per annum) is a much higher level of housing delivery than the borough has previously planned for or delivered. To put this into context, the Core Strategy (2011) set a housing requirement of 200 dwellings per annum and the average annual delivery rate since 2006 has been 306 dwellings (which includes a significant level of housing delivered on a large greenfield site at West Durrington).

8.4 In line with the NPPF, the Council has sought to plan positively to establish whether housing delivery could be increased significantly to help close the gap between the level of identified need and recent delivery levels. The Council's Strategic Housing Land Availability Assessment (SHLAA) has provided the mechanism through which the quantity and suitability of land potentially available for housing development has been determined.

8.5 It is recognised that brownfield sites alone will not be sufficient to meet housing needs and accordingly in the new Local Plan, six greenfield sites were proposed to be allocated for development, although the Local Plan Inspector in his advice letter has recommended the deletion of one of those sites.

8.6 As set out in Topic Paper 2, Land Outside the Built Up Area Boundary, robust evidence has also demonstrated that there are areas on the edge of town that are not suitable for development and this has helped to inform the Spatial Strategy and associated Policies SS4 (Countryside and Undeveloped Coast), SS5 (Local Green Gaps) and SS6 (Local Green Space).

8.7 Mr Moody set out further in his Proof that the delivery rates set out in the Submission Draft Worthing Local Plan indicate that a realistic housing capacity figure for the borough from 2020 to 2036 is a minimum of 3,672 dwellings. This housing target is a 'capacity-based' / 'policy-on' figure based on the level of housing that can be delivered within the Plan period, having regard to the identified constraints and development capacity.

8.8 The Plan sets an average minimum housing target of 230 homes per annum to be achieved by 2036. This is a target that is significantly higher (15%) than the levels of growth planned for within the Worthing Core Strategy. The Council considers that this increase beyond previous targets represents a challenging but realistic level of housing development that takes a positive approach to the allocation of sustainable sites whilst also providing the appropriate balance between meeting development needs and protecting the environment and character of the borough.

8.9 Mr Moody notes that the Council will meet about 26% of its housing need. Whilst acknowledging that this leaves a very high level of unmet need the Council has robust evidence to demonstrate how all options to reduce this figure and increase the rate of development have been exhausted. The tightly drawn boundary around the Borough and lack of available land means that a higher proportion of development needs cannot be delivered without considerable adverse impact upon the character and environment of the area.

8.10 The Local Plan Inspector's advice letter, which sets out the additional work and modifications required to make the Worthing Local Plan sound and legally compliant is referred to elsewhere in this proof, but the Council is of the view that the letter provides a strong indication as to the areas of the Plan that the Inspector is will support without the need for significant modification and accordingly the planning balance has been assessed with this Inspector's letter in mind.

9. PLANNING BALANCE

9.1 I now consider the Planning Balance. I first consider the appeal scheme's compliance or otherwise with the Development Plan. I then consider other material considerations including a consideration of the weight that should be given to the new Local Plan, an assessment of the effect of the appeal proposal upon highway safety, the National Park and its setting; landscape and heritage. Finally, I consider the benefits of the appeal scheme and set out my conclusions on the overall planning balance and whether other material considerations could indicate that the appeal proposal should be determined other than in accordance with the development plan.

Compliance with individual policies of development plan

9.2 The appeal scheme conflicts with policy 13 of the Worthing Core Strategy. The policy states that Worthing's development strategy is to meet new development needs within the existing built up area boundary and on previously developed sites, therefore: residential development outside of the existing built up area boundary will only be considered as part of a borough-wide housing land review if there is a proven under-delivery of housing within the Core Strategy period. Policy 13 is fundamental to the plan's spatial strategy. In my view, conflict with his policy means that the proposed development cannot be said to accord with the development plan, read as a whole.

Other material considerations

Emerging Local Plan

9.3 The weight that should be given to the new Local Plan has been outlined above. In my view, it attracts significant weight in the determination of this appeal. The new Local Plan has been through Examination and the Inspector's advice letter has been received which gives clear advice on the modifications required to make the plan sound.

9.4 Policy SS4 of the new Local Plan designates the site as outside of the built-up area and as a countryside location is not essential for the development proposed in this appeal, it fails to comply with the policy as a matter of principle.

9.5 Policy SS5 of the new Local Plan relates to Local Green Gaps. The Appeal Site is a designated Local Green Gap and with the Inspector's suggested modifications, any development proposal must not undermine the physical and/or visual separation of settlement or compromise the integrity of the gap. The appeal proposal, by virtue of proposing a substantial level of residential development across the entire width of the gap within the Borough boundary, would leave no discernible separation between the settlements of Worthing and Ferring, therefore fundamentally affecting the function of the gap.

9.6 The Local Green Space designation originally proposed for the appeal site is suggested to be withdrawn by the Inspector, although he has invited consideration of a smaller boundary. Were a smaller boundary to be accepted, the appeal proposal would also fail to comply with policy SS6 of the new Local Plan. I accept that at the present time, little weight should be attributed to the potential Local Green Space designation given that its extent, if any, is yet to be determined

National Planning Policy Framework - landscape

9.7 Paragraph 174 of the National Planning Policy Framework requires that valued landscapes are protected and enhanced and that the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland is protected.

9.8 The appeal proposal is contrary to development plan policy in respect of the countryside and fails to protect the landscape.

National Planning Policy Framework - National Park and setting/Heritage

9.9 As described previously, the Appeal Site lies adjacent to The South Downs National Park, a nationally designated area. Paragraph 176 states.

“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

9.10 The appeal proposal is considered to fail against this part of the NPPF as it proposes development in the setting of a National Park which adversely affects its setting.

9.11 Paragraph 202 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. The benefits and harm of the appeal proposal are assessed below albeit it is recognised that considered in isolation, the public benefits would outweigh the less than substantial heritage harm.

National Planning Policy Framework - Highways

9.12 In assessing sites that may be allocated for development in plans, or specific applications for development, paragraph 110 of the NPPF requires decision-makers to ensure it should be ensured that:

- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- b) *safe and suitable access to the site can be achieved for all users;*
- c) *the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code 46; and*

d) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

9.13 Paragraph 111 indicates that *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

9.14 Although refusal reason 3 has been withdrawn, refusal 4 remains in dispute, with the County Council as Highways Authority concluding that there is insufficient evidence to conclude that there will be no severe impacts on the local highway network as a result of the proposed development. The proposal therefore fails against paragraphs 110 and 111 of the NPPF.

Adverse impacts of the proposal

9.15 As previously stated, it is agreed between the parties that the Council cannot demonstrate a five year supply of deliverable housing sites and therefore the appeal proposal falls to be determined against para 11(d) of the NPPF. Under the adopted development plan, none of the specific policies referred to in footnote 7 are engaged.

9.16 It is therefore considered that the ‘tilted balance’ is engaged in the determination of the appeal such that permission should only be refused if the adverse impacts of the Appeal Proposal *‘significantly and demonstrably’* outweigh the benefits. That policy in the NPPF does not, however, displace the statutory presumption in favour of the development plan, which provides the starting point for the determination of the appeal. As the courts have repeatedly emphasised, the

weight to attribute to out-of-date policies is a matter of planning judgement for the decision-maker.

9.17 The appeal proposal is contrary to the Core Strategy and new Local Plan, which it is considered should be afforded significant weight in the determination of the appeal. The long established role of the Appeal Site as a gap in the countryside, which now appears very likely to be affirmed by a formal policy protection in the new Local Plan by way of a Local Gap policy in addition to its countryside protection, would be adversely affected by the appeal proposal to the extent its fundamental function would be irrevocably altered. The value of the Appeal Site was demonstrated by responses to the new Local Plan consultation process and then by the receipt of over 1200 objections to the planning application which is the subject of the appeal. I give the harm to the countryside and to the gap provided by the Appeal Site significant weight in the determination of the appeal.

9.18 The Highways Authority has concluded that insufficient information and/or mitigation has been provided to confirm that the proposed development will not have a severe impact on the local highway network. I give the highway objection significant weight in the determination of the appeal.

9.19 In terms of other adverse impacts, the Council assessed the impact of the appeal scheme on the setting of designated and non designated heritage assets and setting of the Conservation Area. The Council concludes that any harm to these heritage assets is less than substantial. The NPPF, paragraph 202, 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. If the harm to heritage assets alone were weighed against the benefits of the proposal, the

Council accepts that the public benefits would outweigh the harm to the setting of the Conservation Area and non designated and designated heritage assets. Notwithstanding this however, sections 16, 66 and 72 of the Act 1990 requires that great weight be given to the harm to heritage assets. This harm must be weighed in the wider planning balance, which will include *inter alia*, the harm to the setting of the National Park and the wider landscape harm. The evidence of Mr Duckett concludes that the proposal will result in harm to the landscape and the setting of the National Park with the additional harm of loss of good quality agricultural land. I therefore give this matter significant weight in the determination of the appeal.

Benefits of the proposal

9.20 Set against those harms and policy conflicts, I acknowledge that the appeal scheme will also deliver a number of benefits that should be weighed in the balance. The benefits of the proposal include the provision of additional market housing, for which there is an identified need; the provision of affordable housing for which there is also an identified need; provision of open space, potential net gain in biodiversity, expenditure on construction and investment including securing construction jobs which could be secured either by condition or by legal agreement, the provision of a new local centre and financial contributions towards off site infrastructure.

9.21 There is no dispute between the parties that the Council lacks a 5 year housing supply. The provision of additional open market housing and affordable housing are acknowledged as a significant benefit of the proposal.

9.22 The appeal scheme would provide public open space which would largely be used by residents of the new development, but also be accessible to residents nearby. However, the appeal site is accessible already to local residents, with public

footpaths located to the edge of the development and therefore I consider this benefit to have limited weight.

9.23 The scheme would appear to offer a potential benefit in biodiversity, but as the application is in outline form, it was noted in consultation responses from the Council's ecological consultant, Parks department and Sussex Ornithological Society that further information would be required at the Reserved Matters stage. I therefore give this benefit limited weight at this stage.

9.24 Residential development would result in expenditure on construction and securing additional construction jobs, which could be directly taken from the local economy. However, any such benefits from the construction programme would only be temporary and balanced against the permanent impacts of the development, I give this benefit moderate weight.

9.25 The proposals would also deliver a new local centre which will serve the day to day needs of the development and existing residents nearby and provide an element of permanent employment. The Planning Statement submitted with the outline application indicated that this should be afforded limited/moderate weight. I agree with that level of weight.

9.26 The appeal proposal will also provide financial contributions towards infrastructure. Such contributions are required to mitigate the impact of new development and therefore I consider they should be afforded limited weight.

Overall Conclusion

9.27 Paragraph 12 of the NPPF makes it clear that the presumption in favour of sustainable development does not change the statutory status of the development

plan as the starting point for decision-making. For the reasons explained above, the Appeal Proposal is contrary to the adopted development plan, taken as a whole.

9.28 In light of the conflict with existing Core Strategy policy and the new Local Plan, the appeal proposal is neither consistent with local or national policy and in particular would threaten the strategic objectives of the new Local Plan.

9.29 It is accepted that the Council is unable to demonstrate a 5 year housing land supply and therefore the tilted balance under paragraph 11 d applies. Under that provision, planning permission should be refused where any adverse impacts of a development proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

9.30 The new Local Plan designates the appeal site as a Local Green Gap. The new Local Plan has been the subject of independent examination; is at an advanced stage; and outstanding objections have largely been resolved through the Inspector's identification of the areas that require additional work and, importantly, those that do not. The appeal proposal is contrary to the policies of the new Local Plan and will contribute to the coalescence of settlements and detract from the openness of the area. It will fundamentally harm the integrity of the Gap and undermine the designation of the Appeal Site in the emerging Local Plan. In requesting the deletion of an allocated site from the new Local Plan, the Local Plan Inspector concluded that despite the housing delivery issues and the difficulties that exist in meeting needs it does not mean that all forms of housing development are acceptable. The Council considers that the harms and policy conflict which arise in the present case also justify the refusal of permission.

9.30 Taking the adverse impacts identified above together, my view is that the adverse impacts of the proposal demonstrably outweigh the benefits and indicate that the appeal should be dismissed.

APPENDIX 1 - LOCATION OF PUBLIC FOOTPATHS ADJACENT TO THE APPEAL SITE (MARKED IN RED)



APPENDIX 2 - 1963 APPEAL DECISION

Land North of Marine Drive, Goring-by-Sea.

1. I am directed by the Minister of Housing and Local Government to say that he has considered the report of the Inspector, Mr. P.H. Meered Young, B.A., B.Sc., A.M.I.C.E., on the local inquiry into the appeal by your client, Mr. P.M. Wilcock, under section 16 of the Town & Country Planning Act, 1947, (now section 35 of the Town & Country Planning Act, 1962) against the decision of the Worthing Borough Council, to refuse planning permission for the residential development of land described in the heading to this letter.

2. The Inspector in his report, concluded that there was continuous development along so much of this south coast that in order to relieve the monotony of this development, if for nothing else, it was most desirable to preserve the breaks there were in it, such as this one. Because there was so much pressure to live in this coastal strip, this should not, in his view, be an excuse for destroying these gaps or be a reason for finding room in this coastal area for all who sought it. He considered that all of this particular gap should continue to be preserved as a public open space and agricultural land. He recommended that the appeal be dismissed.

3. The Minister agrees with the Inspector's conclusions as to the desirability of preserving open gaps along this part of the South Coast and with his recommendation and for that reason he hereby dismisses your client's appeal.

I am, Gentlemen,
Your obedient servant,

APPENDIX 3 - 1974 APPEAL DECISION

Gentlemen

Open with ▾

TOWN AND COUNTRY PLANNING ACT 1971 - SECTION 36
APPEALS BY GALLIFORD ESTATES LTD
APPLICATION NOS WE/665/72 & FG/93/72

1. I am directed by the Secretary of State for the Environment to say that consideration has been given to the report of the Inspector Mr K G Robbins MREPI who held a local inquiry into your clients' appeals against the decisions of the former Worthing Borough Council and the Worthing Rural District Council, acting on behalf of the former West Sussex County Council, to refuse planning permission respectively for (a) the construction of 525 houses, garages and estate roads on about 68 acres of land west of Goring Street, and (b) the construction of 59 houses, garages and estate roads on about 6 acres of adjoining land east of Green Park, Ferring. A copy of the report is enclosed.

2. At the inquiry it was pointed out on behalf of your clients that owing to typing errors there had been some confusion over the numbers of dwellings and acreages of land involved in their proposals. The intention was to develop 68½ acres of land in the Borough of Worthing with 525 houses, not 625 as stated in some references to the proposal. The total scheme, therefore, was for 580 houses on an area of 74½ acres, partly in the Borough and partly in the Rural District. These figures, it appears, were accepted by the Council. The Inspector incorporated them in his findings of fact and the appeals will be determined accordingly.

3. The Inspector said in his conclusions:-

"The reasons for refusal which relate to main drainage no longer apply, those former difficulties having been solved since the applications were determined.

As to highway considerations, the parties are agreed that it would be wrong to provide access from Littlehampton Road, the fast dual-carriageway principal route which bounds the land on the north. Nor has it been suggested that access should be obtained from the west in view of the characteristics of Herring Lane and the inadequate visibility obtaining at the Green Park junction. I do not quarrel with those conclusions.

Since access from the south is precluded by the railway and existing housing development, Coring Street remains as offering the prospect of an access least open to objection. The ability of the dual carriageway section to handle the likely additional traffic is not in question, the inhibiting factors being the length of single carriageway and the level crossing. But in view of the very limited number of existing accesses hereabouts I am inclined to think that the present practical capacity is relatively high for a 2-lane road and that this capacity could be improved by the imposition of 'No Waiting' restrictions. The longest traffic queue observed at the level crossing during the 1971 count extended for about 500 ft i.e. about half the distance between the level crossing and the suggested access point to the estate, opposite The Strand.

Bearing these considerations in mind, and that the proposed development could be phased over a 5-10 year period, I do not consider that additional traffic congestion and delay would, in the short term, be aggravated to such an extent that the appeals should fail on highway grounds. Moreover, there is a long-standing improvement scheme, approved by the present highway authority, for removing the bottleneck. The contribution offered by the appellants would seem to be entirely in accord with the philosophy of Circular 102/72 (Paragraph 10), and in my view present doubt about the attitude of the post-April 1974 highway authority should not prejudice the prospect of such mutually helpful co-operation.

Apart from the detailed treatment of the site, essentially the other reasons for refusal all relate to agricultural and amenity considerations which are reflected in the intention, embodied in the development plan, that the land should be kept in its present state. As I understand the advice given in various Circulars and the White Paper (Cmd. 5280), the fact that land is good agricultural land remains an "exceptionally compelling planning objection" whether or not less than 5 years' supply of housing land is available in a particular district. Indeed, it seems to me that this would still be an intrinsic, compelling objection even if no other housing land were available in the area. In that event the issue then to be decided would be whether alternative outlets for housing pressures could be found which were preferable.

Including land at West Durrington which, being in local authority ownership, should ensure flexible programming and remove any suspicion of land hoarding, at June 1973 there was 5.7 years' supply of housing land within the Borough. Although this supply may not be as generous as has been advocated it does not persuade me that a substantial acreage of first class agricultural land should be released. Nor does the choice of future accommodation appear to be unduly restricted; the notional density at West Durrington has been quoted as 10 dwellings per acre which contrasts with the higher densities expected with blocks of flats etc in the inner areas.

The argument that, historically, the best farmland in these parts has always been taken for development strikes me as more a condemnation of past practices than a precept to be followed, particularly in the context of the country's economic problems and the current massive balance of payments deficit. Nor do I think it likely that the Minister (in 1959) thought

that a precedent was being established by granting permission for the Goring Green estate. The effect of that permission was to narrow the wedge of open land between Ferring and Goring, making, in my judgement, the remaining open land even more valuable as an extension of the wider landscape into the urban area. Among the people of Ferring the maintenance of this break also fosters a lively sense of being a separate community rather than an anonymous part of the larger Goring/Worthing amalgam. I do not consider that the roadside amenity strip and other landscaping envisaged by the appellants would compensate for the loss of this important element in the overall structure of the urban areas.

The foregoing paragraphs relate for the most part to the larger site within the Borough which is the subject of the strong agricultural objection. I have carefully considered whether the smaller site within the Rural District could be released independently, but in my opinion the potential access (Green Park) would not be satisfactory even for development on a limited scale."

The Inspector recommended that both appeals should be dismissed.

4. The Secretary of State agrees with the Inspector's conclusions and accepts his recommendation. Therefore he hereby dismisses both appeals.

I am Gentlemen
Your obedient Servant

Miss J E Collins

Authorized by the Secretary of State
to sign in that behalf.

APPENDIX 4: Heads Of Terms for Planning Obligation

<p>Affordable Housing</p>	<p>30% Affordable</p> <p>70% Rented Accommodation (based on lower Local Housing Allowance)</p> <p>30% Intermediate Housing</p>
<p>Play Space and Open Space</p>	<p>Play areas</p> <p>Transfer of open space and payment of commuted sum</p>
<p>Highways</p>	<p>To be advised upon submission of required information</p>
<p>Nesting Birds</p>	<p>Off site mitigation</p>

APPENDIX 5 - DRAFT LIST OF PROPOSED CONDITIONS (TO BE AGREED WITH APPELLANT)

01 Details of access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.

Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.

The development hereby permitted shall not begin later than two years from the date of approval of the last of the reserved matters to be approved.

02 Prior to first occupation of the development hereby permitted, the improvement works at the A280/A27/Titnore Lane Roundabout shall be completed and open to the travelling public as shown on i-Transport's drawing number "ITB9105-GA-024 – Proposed Improvement Scheme to A280/A27/Titnore Lane Roundabout" (or other such scheme of works substantially to the same effect, as may be approved in writing by the local planning authority (who shall consult with National Highways)), including any necessary transfer of lands to enable the construction and maintenance of the scheme.

03 No part of the development hereby permitted shall be occupied until completion of the highway improvement works as shown on SYSTRA's drawing

number “103800_D011 REV.A – A27/The Causeway (Arundel) Minor Works on A27 (EB and WB)” (or other such scheme of works substantially to the same effect, as may be approved in writing by the local planning authority (who shall consult with National Highways)), including any necessary transfer of lands to enable the construction and maintenance of the scheme.

04 No works shall commence on the site hereby permitted (including site clearance or preparation) until the details of a Construction Management Plan have been submitted to and approved in writing by the local planning authority (who shall consult with National Highways). Thereafter the construction of the development shall proceed in strict accordance with the approved Construction Management Plan unless otherwise agreed in writing by the local planning authority (who shall consult National Highways).

Informative applicable to recommended conditions 2 and 3 The Highways Act 1980 (as inserted via the Infrastructure Act 2015) requires those proposing works affecting the public highway to enter into an agreement with the Strategic Highway Authority (National Highways). This development involves work to the public highway that can only be undertaken within the scope of a legal agreement between the applicant and Highways England. Planning permission in itself does not permit these works. It is the applicant’s responsibility to ensure that before commencement of any works to the public highway, any necessary agreements under the Highways Act 1980 are also obtained. Advice on this matter can be obtained from the Spatial Planning Team, National Highways, Bridge House, 1 Walnut Tree Close, Guildford, Surrey GU1 4LZ. Email planningse@highwaysengland.co.uk.

Informative applicable to recommended condition 4: The CMP shall include details (text, maps and drawings as appropriate) of the scale, timing and mitigation of all construction related aspects of the development. It will include, but is not limited to: site hours of operation; numbers, frequency, routing and type of vehicles visiting the site; travel plan and guided access/egress and parking arrangements for site workers, visitors and deliveries; and wheel washing and other facilities to prevent dust, dirt, detritus etc. from entering the public highway (and means to remove if it occurs). This application has been assessed by the National Highways South East Region Spatial Planning Team. This NHPR form represents National Highways' formal recommendation regarding the application. It is copied to the Department for Transport as per the terms of our Licence.

05 Prior to the commencement of the development details showing the proposed location of the required fire hydrants shall be submitted to and approved in writing by the Local Planning Authority in consultation with West Sussex County Council's Fire and Rescue Service. These approvals shall not be unreasonably withheld or delayed.

06 Prior to the first occupation of any dwelling/unit forming part of the proposed development that they will at their own expense install the required fire hydrants (or in a phased programme if a large development) in the approved location to BS 750 standards or stored water supply and arrange for their connection to a water supply which is appropriate in terms of both pressure and volume for the purposes of firefighting.

07 At Reserved Matters stage full details of the proposed surface water drainage scheme shall be submitted to the Local Planning Authority for approval. The design should follow the hierarchy of preference for different types of surface water drainage disposal systems as set out in Approved Document H of the Building Regulations, and the recommendations of the SuDS Manual produced by CIRIA. Winter groundwater monitoring to establish highest annual ground water levels and winter infiltration testing to BRE DG365, or similar approved, will be required to support the design of any Infiltration drainage. Development shall not commence, other than works of site survey and investigation, until full details of the surface water drainage scheme have been approved by the Local Planning Authority. No building / No part of the extended building shall be occupied until the complete surface water drainage system serving the property has been implemented in accordance with the agreed details and the details so agreed shall be maintained in good working order in perpetuity.

08 Development shall not commence until full details of the maintenance and management of the surface water drainage system is set out in a site-specific maintenance manual and submitted to, and approved in writing, by the Local Planning Authority. The manual is to include details of financial management and arrangements for the replacement of major components at the end of the manufacturer's recommended design life. Upon completed construction of the surface water drainage system, the owner or management company shall strictly adhere to and implement the recommendations contained within the manual.

09 The development shall not proceed until details have been submitted to and approved in writing by the Local Planning Authority for any proposals: to discharge flows to watercourses; or for the culverting, diversion, infilling or obstruction of any watercourse on or adjacent to the site. Any discharge to a watercourse must be at a rate no greater than the pre-development run-off values. No construction is permitted, which will restrict current and future land owners from undertaking their riparian maintenance responsibilities in respect to any watercourse or culvert on or adjacent to the site.

10 Immediately following implementation of the approved surface water drainage system and prior to occupation of any part of the development, the developer/applicant shall provide the local planning authority with as-built drawings of the implemented scheme together with a completion report prepared by an independent engineer that confirms that the scheme was built in accordance with the approved drawing/s and is fit for purpose. The scheme shall thereafter be maintained in perpetuity.

Informatives to conditions 7 to 10:

Infiltration rates for soakage structures are to be based on percolation tests undertaken in the winter period and at the location and depth of the proposed structures. The percolation tests must be carried out in accordance with BRE DG365, CIRIA R156 or a similar approved method and cater for the 1 in 10 year storm between the invert of the entry pipe to the soakaway, and the base of the structure. It must also have provision to ensure that there is capacity in the system to contain below ground level the 1 in 100 year event plus 40% on stored volumes, as

an allowance for climate change. Adequate freeboard must be provided between the base of the soakaway structure and the highest recorded annual groundwater level identified in that location. Any SuDS or soakaway design must include adequate groundwater monitoring data to determine the highest winter groundwater table in support of the design. The applicant is advised to discuss the extent of groundwater monitoring with the Council's Engineers. Further detail regarding our requirements are available on the following webpage

<https://www.adur-worthing.gov.uk/planning/applications/submit-fees-forms>. A surface water drainage checklist is available on this webpage. This clearly sets out our requirements for avoiding pre-commencement conditions, or to discharge conditions"

Under Section 23 of the Land Drainage Act 1991 Land Drainage Consent must be sought from the Lead Local Flood Authority (West Sussex County Council), prior to starting any works (temporary or permanent) that affect the flow of water in an ordinary watercourse. Such works may include culverting, channel diversion, discharge of flows, connections, headwalls and the installation of trash screens.

The development layout must take account of any existing watercourses (open or culverted) to ensure that future access for maintenance is not restricted. No development is permitted within 3m of the bank of an ordinary watercourse, or 3m of a culverted ordinary watercourse.

11 Prior to the commencement of development hereby permitted details of full off site mitigation for the loss of breeding Skylark sites, the provision of Swift, House Sparrow and Kestrel nests and plans to protect and enhance the Ferring Rife

corridor for the benefit of birds shall be submitted to and approved by the Local Planning Authority and the approved details maintained thereafter.

12 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.”

13 The development shall be carried out in accordance with the submitted flood risk assessment (ref D1586/FRA/1.3, July 2020) and the following mitigation measures it details:

- The development, including drainage features, shall not extend beyond the plans submitted in the FRA.
- No part of the development shall come within 8m of the banks of the Ferring Rife.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme’s timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Prior to each phase of development approved by this planning permission no development shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby

permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

1. A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors

potentially unacceptable risks arising from contamination at the site

2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.

3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved.

14 Prior to each phase of development being brought into use, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

15 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

16 No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

17 Piling and investigation boreholes using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

18 A scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the local planning authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-development, for monitoring purposes will be secured, protected and inspected. The scheme as approved shall be implemented prior to the occupation of each phase of development.

19 No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority.

Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. The Plan shall provide details as appropriate but not necessarily be restricted to the following matters:-

- the anticipated number, frequency and types of vehicles used during construction - HGV construction traffic routings shall be designed to minimise journey distance through the AQMA's.
- the method of access and routing of vehicles during construction,
- the parking of vehicles by site operatives and visitors,
- the loading and unloading of plant, materials and waste,
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of security hoarding,
- a commitment to no burning on site,
- the provision of wheel washing facilities and other works required to mitigate

the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),

- details of public engagement both prior to and during construction works.
- methods to control dust from the site

The development hereby permitted shall be carried out in full accordance with the noise mitigation recommendations set out in the applicants Environmental Noise Impact Assessment Reference SA-5751, and all works which form part of the noise mitigation scheme shall be completed before the permitted dwellings are occupied.

20 The use hereby permitted shall not be carried on unless and until details of all operational phase air quality mitigation measures have been submitted to and approved in writing by the Local Planning Authority.

21 Prior to commencement of any works on site a phasing programme shall be submitted to and agreed by the Local Planning Authority. Development shall be implemented, and the details required under other conditions of this planning permission shall be submitted and approved, in accordance with that phasing programme.

22 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include matters such as:-

- i) Proposed finished levels and contours;
- ii) Means of enclosure, including full details of the proposed boundary walls, railings and gates to be erected;

- iii) Car parking layouts;
- iv) Other vehicle and pedestrian access and circulation areas;
- v) Hard surfacing materials;
- vi) Minor artefacts and structures (street furniture, play equipment, refuse and other storage units, lighting);
- vii) Proposed and existing functional services above and below ground such as drainage, power; communications cables, pipelines etc (indicating lines, manholes, supports);
- viii) Retained historic landscape features and proposals for restoration where relevant.

Soft landscape works shall include planting plans; written specifications; schedules of plants stating species, sizes and numbers/densities; and the implementation programme. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be completed before any part of the development is occupied or in accordance with the implementation programme approved in writing by the Local Planning Authority.

23 Prior to the occupation of the development hereby permitted, an external lighting strategy and management plan shall be submitted to and approved by the Local Planning Authority and the approved details maintained thereafter.

24 Prior to the occupation of the development hereby approved, details of proposed parking (including electric vehicle charging points) shall be provided in accordance with the approved phasing plan

25 No building shall be constructed above ground level unless and until a schedule of materials and finishes and samples of such materials and finishes to be used for external walls and roofs (including windows and doors) of the proposed building has been submitted to and approved by the Local Planning Authority and the materials so approved shall be used in the construction of the building.

26 No construction work relating to the development, or operational or construction vehicles, shall be undertaken or operated on the site except between the hours of: 08.00 and 18.00 on Mondays to Friday and between the hours of 08.00 and 13.00 on Saturdays and not at any time on Sundays or Public Holidays.

27 No dwelling shall be first occupied until refuse storage / recycling provision for that dwelling have been provided in accordance with plans and details to be submitted to and approved by the Local Planning Authority. The refuse storage / recycling provision shall thereafter be retained at all times for their designated purposes.

28. An archaeological evaluation shall be undertaken and the results of the on-site field survey recording and analysis shall be provided to the Local Planning Authority prior to the commencement of development

