

## **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)**

**REBUTTAL EVIDENCE BY GARY PECK, BA (Hons), Dip TP, MRTPI  
ON BEHALF OF WORTHING BOROUGH COUNCIL, JANUARY 2022**

**Appeal Reference: APP/M3835/W/21/3281813 Local Authority  
Reference: AWDM/1264/20**

## **1. INTRODUCTION**

- 1.1 This rebuttal proof has been prepared to respond to matters raised in the Planning Proof of Evidence provided by Mr Hutchison on behalf of the appellant.
- 1.2 I have sought to respond to issues where I consider the Inspector would be assisted by a specific written response. The fact that I have not responded to every point raised by Mr Hutchison should not be taken as an indication that I agree with those points.

## 2. POLICY 13 OF THE CORE STRATEGY

2.1 At paragraph 7.27 of this Proof of Evidence, Mr Hutchison contends that policy 13 is 'out of date and also inconsistent with national policy and the weight to be afforded to any conflict with this policy should be very much reduced. His view is that no more than limited weight should be attached to Policy 13.

2.2 I disagree with this view. As explained in my own proof, I consider that significant weight should be afforded to policy 13 on that basis that it continues to serve a useful planning purpose in guiding development to appropriate locations and away from inappropriate locations and is consistent with Paragraph 174 (b) of the NPPF which states that planning policies should recognise '*the intrinsic character and beauty of the countryside*'. In my view, the policy requirement to recognise the intrinsic character and beauty of the countryside must involve some response to that recognition, which is inherently a protective one. I note that this position finds support in the High Court judgment of *De Souza v SSCLG*, which I include in Appendix A.

2.3 I accept that policy 13 is out of date in light of the housing land supply position, but this does not necessarily mean that it should be afforded only limited weight. The NPPF does not prescribe the weight that should be afforded to out of date policies, which is always a matter for the decision-maker. As explained at paragraph 6 in the judgment of *Gladman v Daventry (2016)* (Appendix B), even policies adopted in the context of former structure plans and housing requirements which are out of date may continue to serve a useful planning purpose and so legitimately attract weight in the planning balance. That judgement reaffirmed the principle of the plan lead system stating:

*"A plan-led system of planning control promotes the coherent development of a planning authority's area, allowing for development to be directed to the most appropriate places within that area, and enables land-owners, developers and the general public to have notice of the policies to be applied by the planning authority to achieve those objectives. It is not in the public interest that planning control should be the product of an unstructured free-for-all based on piecemeal consideration of individual applications for planning permission".*

2.4 Paragraph 31 of the judgement notes that "*policies...are not necessarily inconsistent with the NPPF, just because they were adopted years earlier...the reason is that some planning policies by their very nature*

*continue and are not "time-limited", as they are re-stated in each iteration of planning policy, at both national and local levels".*

- 2.5 I consider that policy 13 serves a useful planning purpose, and that the appeal scheme's conflict with that policy carries significant weight. It is highly relevant to note that the emerging Local Plan continues to protect land outside the built up area and that the Local Plan Inspector has not raised any concerns with that approach or suggested that the built-up area should be extended to include the appeal site. His view appears to be consistent with that of the Council, namely that policies protecting land outside the built-up area, such as policy 13 and emerging policy SS4 can serve a useful planning purpose and are justified and consistent with the NPPF notwithstanding the Council's inability to meet its housing needs in a sustainable way which, in large part, is a reflection of Worthing's constrained administrative boundary and geographical characteristics, surrounded as it is by the sea to the south and the South Downs National Park to the north.
- 2.6 From paragraph 7.44, Mr Hutchison references the LPA's approach to Policy 13 on other sites. In particular, Mr Hutchison cites an application for 240 dwellings at land North of West Durrington (Application reference AWDM/1882/16) which was granted permission by the Council in 2017. A copy of the officer report is included at Core Document J49. The point Mr Hutchinson makes is that policy 13 was not determinative in that case. He suggests that the Council's approach to policy 13 is inconsistent between that case and the appeal scheme. I do not agree that is the case.
- 2.7 The West Durrington scheme is different from the appeal scheme in a number of important respects. For example, the appeal site is outside of the built-up area and therefore subject to policy 13 of the Strategy, whereas the site at West Durrington is within the built-up area and was identified as a potential site for early release for housing land during the preparation of the emerging Local Plan. Indeed, I understand that the site was originally included for allocation in the draft Core Strategy and only removed part way through the process because it was not required to meet the Council's housing needs.
- 2.8 As explained in Mr Duckett's and Mr Moody's Proofs of Evidence, all potential opportunities around the Borough, including the West Durrington land, were assessed as part of the Council's evidence base for the emerging Local Plan. The 2014 SHLAA noted (at paragraph 7.3.11) that "*The other two sites within the built up area (Land North of West Durrington (PFDA) and Fulbest Avenue) may provide an opportunity to contribute to, and consolidate the sustainable mixed community which is approved for the wider West Durrington urban extension*". The 2015 Landscape and Ecology Study noted that parcels B and C of the West Durrington site had 'medium/high' and 'high' suitability for

development while parcel A had 'low' suitability for development. In response, the developers removed parcel A from its proposed development and the scheme approved in 2017 does not include development on that parcel. By contrast, the same 2015 study found that the appeal site had a 'negligible/low' to 'low' suitability for development. The 2016 Issues and Options Consultation on the Local Plan specifically invited comments on whether Land North of West Durrington should be brought forward in advance of the adoption of the Local Plan and the subsequent Consultation Report noted that "*The vast majority of those that responded to Q11d agreed (or raised no objection) to the bringing forward of the two sites (Land West of Fulbeck Avenue (site 7) and Land north of West Durrington (site 8) in advance of the new Local Plan*".

- 2.9 Furthermore, while the appeal scheme has attracted significant objection from local residents (as borne out by over 1200 objections to the planning application), the planning application at West Durrington attracted just 4 objections. The evidence base underpinning the emerging Local Plan; consultation responses to the draft Local Plan and minimal objection to the planning application support the view that the land North of West Durrington was a logical extension to the previously allocated site immediately to the south. I do not consider that the Council's approach to these two very different sites reveals any inconsistency in its position.