

**TOWN & COUNTRY PLANNING APPEALS
(DETERMINATION BY INSPECTORS)
(INQUIRIES PROCEDURE) (ENGLAND) RULES 2000**

APPEAL BY

**Permission Homes (Thames Valley) against the decision of Worthing Borough Council
to refuse planning permission for proposed residential development at Land North
West of Goring Station, Goring-by-Sea, near Worthing**

PINS reference: APP/M3835/W/21/3281813

LPA reference: AWDM/1264/20

PERSIMMON HOMES (THAMES VALLEY)

OPENING STATEMENT



Birmingham · Bristol · London

1. Introduction & Background

1.1 The Appeal Scheme proposes a mixed-use development, including up to 475 residential dwellings, on a 19.96ha site adjacent to the existing built-up area of Goring-by-Sea and its railway station.

1.2 This opening statement will briefly address the issues for this inquiry as identified following the CMC on 24 November 2021¹.

2. Main Issue 1: Acceptable location for the development having regard to local and national planning policy, the need for housing and the Council's emerging local plan

2.1 The Development Plan comprises the Worthing Core Strategy (2011) ('WCS')² and saved policies of the Worthing Local Plan (2003)³. WCS Policy 13 restricts development outside the built-up area. However, the HLS for the district is woeful. On their case, the Council can demonstrate only a 1.81-year supply⁴, although the Appellant considers that to overstate the truly demonstrable supply⁵. Whichever way you slice it, there is a substantial shortfall⁶.

2.2 This deficit engages the tilted balance pursuant to paragraph 11 d) of the NPPF⁷. The Council acknowledges that the exceptions in fn.7 do not apply⁸ and consequently, the most important policies for determining the appeal, including WCS Policy 13, should be considered out-of-date, and permission should be granted unless any adverse impacts of granting planning permission significantly and demonstrably outweigh the benefits.

2.3 That WCS Policy 13 is out-of-date is not solely due to the HLS deficit but also because it is inconsistent with the NPPF⁹. The Built-Up Area Boundary was defined to only accommodate the housing requirement of the WCS as determined

¹ See paragraph 9 of Inspector's letter dated 29 November 2021.

² CD E1

³ CD E8

⁴ See paragraph 2.29, Housing Need SoCG, CD C5 E2

⁵ The Appellant considers it to be closer to 1.49 yrs.

⁶ Accepted by the Council, paragraph 2.29, Housing Need SoCG, CD C5 E2

⁷ CD D1

⁸ Accepted by the Council, paragraph 2.30, Housing Need SoCG, CD C5 E2

⁹ Paragraph 7.18, CD C5 A1 POE of David Hutchison

by the (now revoked) South East Plan. That requirement is significantly less than the OAN and that required under the up-to-date Standard Methodology.

2.4 The strict application of WCS Policy 13 necessarily restricts any meaningful housing delivery. Furthermore, it conflicts with the national policy imperative to significantly boost the supply of housing¹⁰ and manifestly fails to address this acute housing problem.

2.5 The appeal site is enclosed by existing development on three sides in a highly sustainable and accessible location. The Railway to the south, the Ferring Rife and the A259 Littlehampton to the north further reinforce the sense of containment¹¹. The pattern of built development in the area means the site would essentially be a large infill site, logically rounding off this part of the settlement¹². It would not represent a new outward incursion into the open countryside nor encroach any closer to the National Park than the existing pattern of development to which it is well related. In fact it would not even extend as far as the Ferring Rife. It is not within the National Park, has no designations nor is it identified and protected as a strategic or local gap or LGS in the adopted Development Plan. The site is deliverable and capable of immediate implementation thereby making a swift contribution to addressing the acute housing deficit. This is the right development in the right location, at the right time¹³.

2.6 There is not a significant difference between the parties in terms of the demonstrable 5YHLS - it is agreed that the shortfall is substantial. But this issue must be assessed against the need for housing and not simply the requirement when measured against existing and emerging development plan policy. Neil Tiley¹⁴ and James Stacey¹⁵ will give evidence for the Appellant on housing need and affordable housing need respectively along with the human implications that flow therefrom.

¹⁰ See paragraph 60 of the NPPF which makes reference to that Government objective

¹¹ Paragraph 7.62, CD C5 A1 POE of David Hutchison

¹² Paragraph 7.63, CD C5 A1 POE of David Hutchison

¹³ As is Mr Hutchison's view at paragraph 10.4, 1; CD C5 A1 POE of David Hutchison

¹⁴ See CD C5 E1 POE of Neil Tiley

¹⁵ See CD C5 F1 POE of James Stacey alongside appendices at CD C5 F2

2.7 The Council argue that its emerging Local Plan ('eLP')¹⁶ is at an advanced stage and to permit the appeal scheme would be premature¹⁷. It is anything but premature, as will be explained by David Hutchison, who will address planning matters. When national policy is properly applied, there are no grounds for refusal on prematurity.

2.8 The eLP is not yet sound or legally compliant as is clear from the LPI initial advice letter¹⁸. It has significant flaws, has material unresolved objections and there is no realistic prospect that it will be adopted by early 2022. Even when it is ultimately adopted, it is agreed¹⁹ that on the basis of the proposed housing requirement, the Council will still be unable to meet its local housing need figure in full, no solution is suggested for how those significant unmet needs will be met elsewhere²⁰, and the policies will remain out-of-date as a result of the HDT results²¹.

3. Main Issue 2: The effect of the proposed development on local green space

3.1 Though the eLP proposes to designate the appeal site as a Local Green Gap (Policy SS5) and Local Green Space (Policy SS6), that is not currently adopted Development Plan policy.

3.2 Clive Self will explain that on any reasonable assessment against the criteria identified in the NPPF²², the appeal site does not represent a gap between Worthing and Ferring - the built linkage between Goring and Ferring is long-established. In reality, the site represents a visual indentation (which will be preserved) permitting incursion from the countryside. Neither does the appeal site justify designation as a LGS. It is not covered by any designations, is not intrinsically attractive²³, has limited public access and has little wildlife interest. It also has several detracting features²⁴ and whilst valued by local residents, it is not a valued landscape within the meaning of the NPPF²⁵.

¹⁶ CD E2.

¹⁷ NPPF paras 48-50.

¹⁸ See paragraph 39 of CD E6. See also summary at paragraph 3.17, CD C5 E1 POE of Neil Tiley

¹⁹ Paragraph 2.31, Housing Need SoCG, CD C5 E2

²⁰ See paragraph 39 of CD E6. See also summary at paragraph 3.17, CD C5 E1 POE of Neil Tiley

²¹ See paragraph 6.6 CD C5 POE of Neil Tiley.

²² NPPF para 102.

²³ Including a number of detracting features, such as the overhead powerlines and the design contexts of neighbouring development

²⁴ Paragraph 6.24, CD C5 B1 POE of Clive Self

²⁵ CD D1. Note this is acknowledged by the LPA in their Statement of Case at paragraph 8.13, CD C3

3.3 There are still unresolved objections to the proposed designations. Consequently, and in view of the LPI initial advice letter there can be no certainty that the proposed designations will be confirmed²⁶. These emerging policies should therefore be afforded limited weight.

4. Main Issue 3: The effect of the proposed development on designated heritage assets

4.1 There are no significant areas of disagreement between the Council and Appellant regarding heritage matters²⁷.

4.2 It is agreed that the analysis given in the Heritage Statement of August 2020²⁸ is fair²⁹ and that there will only be a negligible level of harm, less than substantial at the very lowermost end of the spectrum, in respect of a) the Grade II Listed Building of Jasmine and Clematis Cottages, b) the Grade II Listed Buildings of North Barn, and c) the Grade II* Registered Park and Garden and Conservation Area of Highdown Garden³⁰. No harm will result to the significance of any other assets including the Scheduled Highdown Hill Camp and Grade II listed Hightiten Barn³¹. These agreed positions will inevitably overlap with the alleged harm to be considered in the context of Main Issue 4 below.

4.3 The public benefits plainly outweigh any identified harm in the context of paragraph 202 of the NPPF³² and the tilted balance would not be dis-applied for heritage related reasons. Nonetheless, Gail Stoten will give evidence for the Appellant³³ to explain this for the benefit of those Third Parties who continue to hold objections and to place the heritage related references in RfR no.1 into their proper perspective.

²⁶ See E6. Paragraph 6.41, CD C5 B1 POE of Clive Self

²⁷ Paragraph 3.1, Heritage SoCG, CD C5 C3

²⁸ CD A10

²⁹ Paragraph 2.1, Heritage SoCG, CD C5 C3

³⁰ Paragraph 2.2, Heritage SoCG, CD C5 C3

³¹ Paragraph 2.2, Heritage SoCG, CD C5 C3

³² CD D1

³³ See CD C5 C1 POE of Gail Stoten alongside appendices at CD C5 C2

5. Main Issue 4: The effect of the proposed development on the landscape setting of the South Downs National Park

5.1 This is a landscape-led development. The proposed layout represents an appropriate landscape and visual response to its edge of settlement location and the DAS shows how a sensitively designed scheme would create an attractive interface with the neighbouring countryside.

5.2 Clive Self will present evidence on landscape and visual matters³⁴ and will explain that whilst the appeal site falls within the setting of the South Downs National Park, it lies within the low lying coastal plain, characterised by development³⁵. The site is visually distinct from the National Park comprising undistinguished farmland compared with the rolling landscape of the South Downs, which is of much higher landscape quality and sensitivity³⁶.

5.3 The landscape character assessment of West Sussex (2003) describes the Littlehampton and Worthing Fringes/Worthing and Adur Fringes, which cover the appeal site as comprising a “Dominant urban fringe with major conurbations of Littlehampton, Worthing, Lancing and Shoreham. Settlement edges often sharply contrast with adjacent open countryside.”³⁷

5.4 The appeal site’s character is heavily influenced by its proximity to the surrounding urban area of Goring-by-Sea and Ferring, which border it on three sides. Albeit that coalescence has already occurred between those settlements, a permanent indentation will be preserved by keeping the land to the north of Ferring Rife free from development.

5.5 You will form your own assessment but visitors to the SDNP do not seek out views of this undesignated site with its acknowledged detracting features. The current views south from Highdown Hill are of the sea and the densely settled coastal plain. Although the proposed development will be visible in some of these views, it will not be intrusive³⁸. There are expansive views from the higher ground on the edge

³⁴ See CD C5 B1 POE of Clive Self alongside appendices at CD C5 B2, in particular Appendix H summary of landscape and visual effects

³⁵ Paragraph 6.43, CD C5 B1 POE of Clive Self

³⁶ Page 1 of Appendix H, CD C5 B2

³⁷ See CD C6B10 (Appendix 9 to BD PoE).

³⁸ See paragraphs 5.12-5.13, CD C5 B1 POE of Clive Self, regarding when development would be intrusive

of the National Park but the proposed development would be well related to the existing urban area, which is a component of the existing view and would not intrude on the character or setting of the National Park³⁹. Clive Self will demonstrate why the appeal scheme will not materially impact on the special qualities identified in the South Downs National Park: View Characterisation and Analysis Study (2015)⁴⁰.

5.6 It will also be explained how the proposed GIS includes generous areas of open space to augment the development with housing set back from Ferring Rife⁴¹. New landscaping within the open space alongside Ferring Rife will provide an appropriate setting for the development that will soften the existing abrupt urban edge, particularly in views from the north, and provide wildlife benefits.

6. Main Issue 5: The effect of the proposed development on highway safety including on the Strategic Road Network

6.1 The only remaining dispute between the parties on Highway Related Matters relate to RfR⁴². More specifically, the residual impact of the development and mitigation proposed at the Goring Crossroads and the A259 Goring Street/Goring Way/Aldsworth Avenue/Ardingly Drive/Goring Way.

6.2 Mr Wares⁴³ will explain that the TA submitted with the planning application⁴⁴, and Transport Assessment Addendum, demonstrate that the proposal will not result in a severe impact on the local or strategic highway network. Though there will be an increase in travel demand by all main modes of travel, suitable infrastructure provision can be delivered to suitably mitigate the additional demand. In particular, the TA included traffic modelling of key junctions on the surrounding local highway network for the future forecast years of 2024 and 2033, with and without the development, and mitigation for the ‘Goring Crossroads’ and ‘Goring Way’ roundabout junctions.

³⁹ Page 4 of Appendix H, CD C5 B2

⁴⁰ CD G6

⁴¹ Paragraphs 6.11-6.12, CD C5 B1 POE of Clive Self

⁴² See Highways SoCG, CD C5 D3

⁴³ See CD C5 D1 POE of Tony Wares alongside appendices at CD C5 D2

⁴⁴ CD C5 A12

6.3 Further, a VISSIM microsimulation model has been prepared and independently audited by consultants on behalf of WSCC. The proposed mitigation for the Goring Crossroads and Goring Way roundabout junctions has been independently audited and Designer's Responses prepared to address identified issues such that adequate information has been provided to address RFR4⁴⁵.

6.4 There is no evidence to suggest that the development will have an unacceptable impact on highway safety. On the contrary, the creation of a new roundabout junction to serve the Appeal site and Goring-by-Sea railway station, the upgraded and safety audited revisions to the Goring Crossroads and Goring Way roundabout junctions, the elimination of conflicting right-turn manoeuvres at the A259 Goring Street / The Strand junction, and the provision of improved and new crossing facilities for pedestrian and cycle facilities will all contribute to an improvement in overall safety conditions⁴⁶.

6.5 In the context of paragraph 111 of the NPPF⁴⁷ it will be demonstrated that the proposal will not give rise to an unacceptable impact on highway safety, and that the residual cumulative impacts on the road network would not be 'severe'.

7. Conclusion.

7.1 Mr Hutchison will also address the overall planning balance⁴⁸. In short, he will demonstrate that the Appeal Scheme represents an excellent example of sustainable development and brings with it a host of planning benefits which are plainly not significantly and demonstrably outweighed by any adverse impacts⁴⁹.

7.2 This represents the framework to be applied to the issues you have identified and in respect of which we will respectfully invite you to allow the appeal.

18 January 2022

**Paul Cairnes QC
Leanne Buckley-Thomson**

No5 Chambers

⁴⁵ See also a summary of his conclusions at section 4, CD C5 D1 POE of Tony Wares

⁴⁶ Paragraph 4.3, CD C5 D1 POE of Tony Wares

⁴⁷ CD D1

⁴⁸ See CD C5 A1 POE of David Hutchison alongside summary and appendices at CD C5 A2 and A3

⁴⁹ Paragraphs 37-44 on pages 72-73, CD C5 A1 POE of David Hutchison