

OPENING SUBMISSIONS

ON BEHALF OF WORTHING COUNCIL

Introduction

1. This Inquiry is concerned with an application made by Persimmon Homes Thames Valley (“the Appellant”) seeking outline planning permission for up to 475 dwellings, a local centre and associated development (“the Appeal Scheme”) on a greenfield site of approximately 20 hectares at Chatsmore Farm (“the Appeal Site”). The Appeal Site is currently in active agricultural use, it lies between the settlements of Goring and Ferring and it is within the setting of the South Downs National Park, which lies some 225 metres to the north. The Appeal Site is not allocated for residential development in the existing or emerging Local Plans, it lies outside the built up area boundary as defined by policy 13 of the Worthing Core Strategy 2011 (“WCS”) and so is within the countryside. It is also designated as countryside, a local green gap and a local green space in the draft Worthing Local Plan 2020-2036 (“the eLP”).¹
2. Worthing Borough Council (“the Council”) resolved to refuse planning permission for six reasons. Reason for Refusal (“RfR”) 3 concerning highway safety, RfR 5 concerning nesting birds and RfR 6 concerning contributions and obligations have been addressed through the submission of additional information and are no longer pursued by the Council.

Context

3. The Council is working to deliver a new local plan for the area, which is now at an advanced stage. The eLP has been the subject of several rounds of consultation and examination hearings. The scheduled hearing sessions finished on 17 November 2021, following which

¹ See draft policies SS4-SS6.

the Local Plan Inspector (“LP Inspector”) has written to the Council to identify the further Main Modifications and steps needed to make the eLP legally compliant.²

4. During the course of the consultation and the hearing sessions, the Appellant, who has been professionally represented throughout, submitted comprehensive responses to the Regulation 19 consultation³ and to the Inspector’s matters, issues and questions.⁴ These representations included a range of technical documents including a design and access statement, a landscape and visual impact assessment, a built heritage statement and a transport assessment, all of which made the case for residential development on the Appeal Site. The Appellant’s representatives attended several of the examination hearings and have taken every opportunity to make the case to the LP Inspector that the Appeal Site should be allocated for development to address the housing shortfall in Worthing.
5. While it is correct to say that the Inspector did not hold any oral sessions on “omission sites”, he did make it clear that representations promoting sites that had not been allocated would, in effect, constitute objections to the site selection process; the housing requirement; the deliverability of to the Plan for further consideration and consultation.⁵ In that context it is highly significant that the Inspector’s post-hearing advice letter does not ask the Council to identify any additional or alternative sites for housing, notwithstanding his recognition of the Council’s housing delivery issues and difficulties in meeting housing needs.⁶
6. Had the Inspector considered that the pressing housing or affordable housing needs in Worthing justified the allocation of additional sites, he would undoubtedly have told the Council that in his post-hearing advice letter, the very purpose of which was to inform the Council of any further Main Modifications or steps needed to make the eLP sound and legally compliant.⁷
7. In its submissions to the LP Inspector, the Appellant has consistently sought to argue that the overwhelming need for housing in Worthing means that the eLP’s spatial strategy and

² See the Inspector’s post-hearing advice letter, dated 9 December 2021, para 1 (**CD E6**)

³ Ian Moody, Rebuttal Proof, Appendix 1 (submitted by Pegasus on behalf of the Appellant) and Appendix 2 (submitted by the Appellant itself).

⁴ Ian Moody, Rebuttal Proof, Appendix 3 (submitted by Pegasus on behalf of the Appellant) and Appendix 4 (submitted by the Appellant itself).

⁵ LP Inspector’s Guidance Notes, para 13 (**CD E16**)

⁶ Which the LP Inspector specifically referred to in his post-hearing advice letter, at para 29 (**CD E6**)

⁷ LP Inspector’s initial letter, para 1 (**CD E6**)

protection of the Appeal Site from development through policies SS4 - SS6 is unsound. However, with the South Downs National Park to the north and the sea to the south, the environmental constraints within Worthing mean that there is no realistic prospect that the Council can meet its objectively assessed need (“OAN”). Its housing land supply position needs to be viewed in that context.

8. Through the eLP, the Council has sought to strike a balance between meeting the housing (and other development) needs and the protection of the natural environment. Whether the eLP strikes the right balance is the key issue for the LP Inspector to determine. Notwithstanding that only 26% of the OAN can be delivered through the eLP, and in spite of the Appellant’s detailed and persistent objections, the Inspector has given no indication that the housing needs in Worthing justify the allocation of additional sites or render the eLP or the spatial strategy embedded within the eLP, unsound.
9. The arguments advanced by the Appellant in this appeal are not new. They have been exhaustively explored and thoroughly examined in the context of the eLP process. This is important for the determination of this appeal. It is important because it is through the planned system that the principal decisions on significant issues such as the location of development; the boundaries of settlements; and the existence of green gaps between them should be determined, with the benefit of input from a wide range of stakeholders. Any attempt to rehearse the arguments put forward in the course of the eLP or to usurp the function of the LP Inspector should be resisted.

RfR1: Policy 13 WCS, Policies SS4-6 eLP and landscape and heritage harm

10. The Appeal Site lies outside the boundary of the built up area as defined by policy 13 of the WCS. That policy, whilst technically ‘out of date’ by virtue of the shortfall in the Council’s housing land supply, continues to play an important role in directing development towards suitable locations and away from unsuitable ones. The Borough faces significant environmental constraints, and policy 13 is key to the spatial strategy of the WCS, which, in recognition of these constraints, seeks to direct development towards brownfield sites within the built up area and to protect areas of countryside which are important to the character, appearance and landscape and visual amenity of Worthing.
11. The eLP maintains this spatial strategy. Policy SS4 places the Appeal Site outside the built up area and in the countryside. Policy SS4 is consistent with policy 13 in seeking to direct

development towards suitable locations within the built-up area boundary. The continuation of this approach serves to reinforce the importance of WCS policy 13. The housing requirement in the WCS may have been informed by a different planning context, but the importance of recognising the intrinsic character and beauty of the countryside and of protecting those parts of the natural environment which are important to the character of the area remain key features of national policy. As such, it is unsurprising that there has been no indication from the LP Inspector that this aspect of the eLP is unsound.

12. As to draft policy SS5, the purpose of the green gap designation is to retain the separate character and identity of Goring and Ferring, recognising the long-standing role that the Appeal Site has played as an area of open, undeveloped land which represents a physical and visual break between the settlements⁸ and fosters a lively sense amongst the residents of both Goring and Ferring, of being separate communities. The effect of introducing a substantial quantity of residential development onto the Appeal Site would undermine its function as a green gap, compromising the integrity of the gap in both physical and visual terms. The apron of undeveloped land proposed by the Appellant to the north of Ferring Rife will not be sufficient to retain the separation of the settlements.
13. Under draft policy SS6 of the eLP, the Council sought to designate the Appeal Site as a local green space. Although the Inspector, in his post-hearing letter, agreed that the Appeal Site was in reasonably close proximity to the community, was demonstrably special to the local community and held a particular local significance, the Council acknowledges the LP Inspector's concerns that Chatsmore Farm constitutes an extensive tract of land. At present, the Council is considering whether it would be possible to amend the boundaries of the proposed designation in order to identify a smaller site for designation as local green space. However, the fact remains that the Appeal Site and the wider area of Chatsmore Farm of which it forms a part, are well-used and highly valued by the local community. This local feeling is reflected in the over 1200 objections that were received to the Appellant's application. Even if the Appeal Site is not ultimately designated as a local green space, the protection afforded by policies SS4 and SS5 will remain.
14. As the landscape evidence of Mr Duckett will show, the Appeal Site makes a significant contribution to the landscape setting of the South Downs National Park by providing an

⁸ Which forms part of the wider area of Chatsmore Farm. As explained by Mr Peck in his Proof of Evidence, the Appeal Site was designated as a strategic gap in the West Sussex Structure Plan (2004).

opportunity for wide views from public footpaths, roads and the railway line towards the National Park. Similarly, from Highdown Hill and local footpaths within the National Park, the undeveloped nature of the Appeal Site forms an important part of the middle ground in views from the National Park towards the sea.

15. The Appeal Scheme would significantly extend built form across the site and closer towards the National Park, adversely affecting views of the National Park from within the Appeal Site as well as views towards the Site from the National Park. In so doing, it would remove the opportunity to appreciate the agricultural landscape as it lies within the setting of the Park, connecting the Park with the coast beyond.
16. The Appeal Scheme would result in significant harm to landscape and visual amenity from within and around the Appeal Site itself and in views from the National Park and would adversely affect the setting of the Park. The landscape harms, conflict with Policy 13 WCS and conflict with eLP policies SS4 and SS5 weigh significantly against the appeal. It is agreed that the Appeal Scheme would also cause less than substantial harm to the Conservation Area and Grade II Registered Park and Garden of Highdown Garden and the Grade II listed Jasmine and Clematis Cottages and North Barn, which further weighs against the scheme.

RfR2: Prematurity

17. The arguments advanced by the Appellant in this appeal have been fully explored through the eLP process. The effect of allowing the Appeal would be to prejudge decisions on matters that fall squarely within the remit of the LP Inspector. They include the quantum and location of housing that can sustainably be delivered over the Plan period and the designation of green gaps between settlements, both of which are central to the emerging spatial strategy.
18. Having regard to the factors identified in paragraph 49 of the NPPF, while it has not yet been formally adopted, the eLP is at an advanced stage, having been subject to examination hearings and post-hearing advice from the Inspector. That advice has not identified any fundamental flaws which call into question the Council's spatial strategy and the Council's expectation remains that the eLP will be adopted by the summer of 2022.
19. At the very heart of the issues which the LP Inspector has to grapple with is whether the eLP strikes the right balance between the need for development and the protection of the

natural environment. The coastal plain in Worthing is heavily developed. There are only four breaks in the otherwise continuous band of development from Ferring in the west to Lancing in the east, namely the Goring-Ferring Gap and Chatsmore Farm in the west and two sites at the far east of Worthing. The question of whether those gaps should be retained has been a key issue in the development of the eLP and its examination in public. The proposed designation of the Appeal Site as a local green gap has engendered considerable and vocal support from the local community. The effect of allowing this Appeal would be to predetermine the Inspector's conclusions on that issue and to undermine the plan-making process and public faith in that process. As such, the Council's case is that the appeal should be refused on grounds of prematurity.

RfR4: Impact on the Local Highway Network

20. The Appeal Scheme will contribute to the existing congestion on key routes within the local highway network. In particular, it will result in severe cumulative impacts on the Goring Crossways roundabout to the north-east of the Appeal Site and the Goring Way roundabout to the south-east of the Site. Those junctions already operate over capacity and, even with the mitigation proposed by the Appellant, will continue to operate over capacity in both 2024 and 2033 with resultant queuing and delays.
21. The Appellant's assessment of the impact of the development on the Goring Crossways roundabout does not present an accurate picture. It compares two scenarios: (i) the 2033 base scenario with no development and no improvements to that junction with (ii) the 2033 base scenario + development + the Appellant's proposed junction improvements. However, that comparison fails to reflect the fact that improvements to Goring Crossways will take place regardless of whether the Appeal Scheme is delivered. The 2018 Transport Study that informed the Local Plan notes that even without the Appeal Scheme, the Goring Crossways roundabout is forecast to operate above capacity in 2033 and so proposes a scheme of mitigation to accommodate the development envisaged in the eLP,⁹ to be funded through s.106 and CIL contributions from those developments. When the effect of the Appeal Scheme, including the Appellant's mitigation, is compared to the situation in 2033 taking account of the improvements identified in the Local Plan Transport Study, it is clear that the development will result in a severe cumulative impact on the operation of the junction.

⁹ Local Plan Transport Study, section 7.2, p.74 (CB H3)

22. As Mr Gee will explain, the mitigation proposed by the Appellant at Goring Crossways and Goring Way roundabouts falls short of what is necessary to alleviate the queues and delays that the Appeal Scheme will contribute to. The cumulative effects of the Appeal Scheme on junctions which are already at capacity will be severe and justify the refusal of permission in accordance with paragraph 111 of the NPPF.

Planning Balance

23. The Appeal Scheme is in conflict with the adopted development plan, read as a whole. The starting point is therefore that permission should be refused unless there are material considerations of sufficient weight to rebut the statutory presumption in favour of the development plan. In this case, a further material consideration weighing against the grant of permission is the eLP, with which the Scheme is also in fundamental conflict. Set against these considerations, the Council recognises that the Appeal Scheme will deliver a number of benefits, including the delivery of housing and affordable housing, which attract significant weight. However, applying the tilted balance under paragraph 11(d) of the NPPF, the harm arising from the conflict with adopted and emerging policy, the landscape and visual harm, including harm to the setting of the National Park and designated heritage assets,¹⁰ and the severe cumulative impact on the highway network, seriously and demonstrably outweigh the benefits.

Conclusion

24. For the reasons summarised above, and to be explored more fully in evidence, in due course, the Council will invite the Inspector to dismiss this appeal.

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18th January 2022

¹⁰ Albeit it is agreed that the heritage harm alone would be outweighed by the benefits of the Appeal Scheme such that the tilted balance is not dis-applied.

List of Appearances

Isabella Tafur – Counsel, FTB

Daisy Noble – Counsel, FTB

Brian Duckett – BSc (Hons) BPhil CMLI – landscape

Stephen Gee BA MSc CMILT – transport

Ian Moody BA (Hons) MA MRTPI – planning policy and housing

Gary Peck BA (Hons) Dip TP MRTPI - planning