

# STATEMENT OF COMMON GROUND


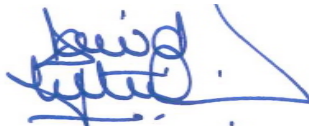
## SECTION 78 APPEAL BY PERSIMMON HOMES THAMES VALLEY

### LAND NORTH WEST OF GORING STATION, GORING BY SEA, NR WORTHING

**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.**

**LPA REF:** AWDM/1264/20  
**APPELLANT REF:** CIR.P.1173  
**DATE:** 17<sup>th</sup> JANUARY 2022

 Signed:..	Signed: 
Name: GARY PECK	Name: DAVID HUTCHISON
On behalf of: Worthing Borough Council (the Local Planning Authority)	On behalf of: Pegasus Group (acting on behalf of the Appellant)
Date: 17 January 2022	Date: 17-01-2022



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## **1. INTRODUCTION**

- 1.1 This Statement of Common Ground (SoCG) has been prepared in conjunction with Worthing Borough Council (the Local Planning Authority).
- 1.2 It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of Land north west of Goring Station, Goring-by-Sea, near Worthing (the Appeal Site).
- 1.3 The purpose of the SoCG is to identify the areas where the principal parties (the Appellant and the LPA) are in agreement and to narrow down the issues that remain in dispute. This will allow the Public Inquiry to focus on the most pertinent issues.

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## **2. THE APPEAL SITE LOCATION AND DESCRIPTION**

- 2.1 The Appeal Site is located at Goring-by-Sea, adjacent to the railway station, approximately 4.5km to the west of Worthing Town Centre.
- 2.2 The Site is 19.96ha and within the wider Chatsmore Farm which covers 30ha (of which 2ha are in Arun District). It is relatively flat and comprises a single gently sloping field which is currently in agricultural use. There are no buildings or structures within the site apart from the overhead power lines which are proposed to be undergrounded.
- 2.3 The southern boundary runs parallel with and is immediately adjacent to the London to Brighton railway line. Beyond the western part of the southern boundary and the railway line is an established residential area at Singleton Crescent which is characterised by 1950/60's development. Beyond the eastern part of the southern boundary and the railway line is a recent development of 3-4 storey apartments (Bluebell Way) and Chatsmore Catholic High School.
- 2.4 To the west the site is bounded by a 2ha field in agricultural use with housing beyond. This comprises the southern portion of the boundary. Housing along Ferring Lane backs on to the site in the northern portion.
- 2.5 Land beyond the western boundary of the site falls outside the administrative area of Worthing and forms part of the neighbouring district of Arun.
- 2.6 The eastern boundary is defined by hedgerows, beyond which is the built-up area of Goring. The railway station is located close to the south eastern corner of the site on the other side of Goring Street.
- 2.7 The northern boundary of the site is defined by the watercourse known as the Ferring Rife. An agricultural field to the north of the Rife separates the site from the A259 Littlehampton Road and the open countryside beyond.
- 2.8 The site is currently served by a single field access off the A259 in the north eastern corner of the site. There are two public rights of way in the southern and south western parts of the site. PROW 2121 is aligned parallel to the railway line at the southern boundary.

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- 2.9 The site lies outside the built-up area as defined in the Worthing Core Strategy and the emerging Submission Draft Worthing Local Plan. It is not subject to any allocation for development in the development plan.
- 2.10 The adopted Development Plan does not identify any landscape, ecology or any other designations within the site itself.
- 2.11 The South Downs National Park lies to the north with its southern boundary running contiguous with the A259 Littlehampton Road. The site lies within the setting of the National Park.
- 2.12 The site does not form part of any local or strategic gap in the adopted Development Plan.
- 2.13 The LPA's emerging Local Plan, proposes to designate the site as a Local Green Gap and Local Green Space.
- 2.14 There are no heritage designations within the site, and it is not located within a Conservation Area. There are designated heritage assets nearby. The site lies within the setting of a Conservation Area. The impact of the proposed development on these heritage assets is no longer a matter in dispute. The level of harm to the significance of heritage assets has been agreed and is set out in a separate Heritage Statement of Common Ground.
- 2.15 The Environment Agency's flood zone mapping shows that the majority of the site lies within Flood Zone 1 (lowest probability of flooding), although small areas alongside the Ferring Rife are within Flood Zones 2 and 3.

### 3. THE APPEAL PROPOSAL

3.1 The planning application that is now the subject of this appeal was submitted to Worthing Borough Council on 10th August 2020 and it was validated on the same day. The description of the development as set out on the application form reads as follows:-

**"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 over overhead HV cables and other supporting infrastructure and utilities."**

3.2 The application was submitted in outline with all matters of detail reserved for subsequent consideration at the reserved matters stage.

#### Density

3.3 The proposals involve a development of up to 475 dwellings on a site that extends to 19.96ha. The net density of the development would be circa 46 dwellings per hectare.

#### Layout, Landscaping and Open Space

3.4 Whilst layout is a reserved matter, an Illustrative Masterplan has been submitted by the Appellant to seek to demonstrate how this scale and form of development might be accommodated within the site and assimilated into the existing built up area.

3.5 The proposed development would not extend as far north as Ferring Rife. Instead the development parcels would be set back from the watercourse. Whilst landscaping is a reserved matter, it is currently proposed that new areas of publicly accessible parkland and an area of biodiversity protection and enhancement which extends over 5ha, in addition to other green infrastructure will be provided.

3.6 The appellant has submitted a Design and Access Statement, which sets out the applicant's proposal to deliver the proposed housing in development parcels with green corridors through the site on a north-south axis.

- 3.7 The appellant intends to provide play areas within the development.
- 3.8 The proposed development includes provision of a local centre, which would be located at the south eastern corner of the site, close to the railway station. It would include parking to serve the railway station. The Appellant says that this will address the existing parking problems around the railways station. The LPA does not consider there to be an existing parking problem that would need to be addressed, but for the proposed development.

#### Access

- 3.9 Access is a reserved matter but the appellant anticipates that the 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. Further details are provided as part of the Transport Assessment.
- 3.10 Pedestrian and cycle linkages are also designed into the Illustrative Masterplan.

#### Housing Mix

- 3.11 The precise housing mix will be agreed at a later stage if planning permission is granted. It is anticipated that the proposals would include a range of house types, including detached, semi-detached, and terraced houses as well as apartments. House sizes are likely to range from 1 to 4 bedroom units.
- 3.12 The proposals would make provision for a range of tenures and this will include a proportion of affordable housing (40%). This will be secured by a section 106 agreement between the parties.

#### Building Heights

- 3.13 Whilst "scale" is a reserved matter, it is assumed that building heights would be predominantly 2 and 2½ storeys with 3 and 4 storey elements at selected locations. Further detail on the distribution of building heights is provided by the Appellant in the Design and Access Statement.



Drainage

- 3.14 As explained in the Flood Risk Assessment and Drainage Strategy, the proposals will incorporate on-site SUDs features which will attenuate the surface water as well as acting as an opportunity for biodiversity enhancements.

#### 4. APPLICATION PLANS AND DOCUMENTS

4.1 The application plans and supporting documents that comprised the planning application were as follows:-

##### **Application Plans**

<u>Drawing Title</u>	<u>Drawing Reference</u>	<u>Revision</u>
1. Location Plan	SLP-02	P5
2. Illustrative Masterplan	CMP-02	P6

##### **Application Forms and Supporting Documents**

3. Application forms, together with the relevant Certificates of Ownership and Agricultural Holdings Declaration, duly completed, signed and dated 7th August 2020;
4. Covering Letter (Pegasus Group, dated 7th August 2020);
5. Design and Access Statement (Thrive Architects, dated August 2020);
6. Planning Statement (Pegasus Group, dated August 2020);
7. Statement of Community Engagement (Pegasus Group, dated August 2020);
8. Built Heritage Statement (Pegasus Group, dated August 2020);
9. Transport Assessment (Milestone Transport Planning, August 2020);
10. Residential Travel Plan (Milestone Transport Planning, August 2020);
11. Flood Risk Assessment and Drainage Strategy (RGP Design, dated July 2020);
12. Hydraulic Model Report (Ambiental Environment Assessment, dated April 2020);
13. Hydraulic Modelling Letter (Ambiental Environment Assessment, dated June 2020);
14. Archaeological Desk-Based Assessment (CgMs Heritage, dated October 2018, revised August 2020);
15. Landscape and Visual Impact Assessment (CSA Environmental, dated July 2020);
16. Arboricultural Opportunities and Constraints Assessment (Barrell Tree Consultancy, dated August 2020);
17. Tree Constraints Plan (Barrell Tree Consultancy, dated August 2020);

18. Biodiversity Net Gain Assessment (Urban Edge Environmental Consulting, dated July 2020);
19. Breeding Bird Survey (Urban Edge Environmental Consulting, dated July 2020);
20. Winter Bird Survey Report (TSA Ecology, dated July 2020);
21. Protected Species Survey (Urban Edge Environmental Consulting, dated July 2020);
22. Environmental Noise Impact Assessment (Sound Advice Acoustic Ltd, dated July 2020).

## 5. THE REASONS FOR REFUSAL

- 5.1 The planning application was reported to the Council's Planning Committee on 10<sup>th</sup> March 2021 with a recommendation from Officers that the application be refused.
- 5.2 Having considered the advice from Officers, the Committee resolved to refuse the application. The decision notice which is dated 11th March 2021 identifies 6no. reasons for refusal and these read as follows:

**1) The proposed development is outside 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**

- 5.3 It is agreed that RfR 3 has now been resolved and will not be contested at the public inquiry.
- 5.4 It is agreed that RFR 5 and 6 can be resolved through planning obligations/planning conditions and therefore there is no need to present evidence on these matters.
- 5.5 It is agreed that the appeal should therefore focus on reasons for refusal 1, 2 and 4.

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## **6. PLANNING HISTORY**

- 6.1 In 1969, an Article 4 Direction was placed on 9ha of the southwest corner of the Goring-Ferring Gap to restrict the scope of permitted development rights. The first application to develop Chatsmore Farm for housing was made in 1969. There followed another application in 1972 for 525 dwellings in the Worthing part of the site, and 55 dwellings on the Arun part of the site. The appeals were dismissed in 1974 on the grounds of loss of agricultural land and the effect of the development on the gap between settlements.
- 6.2 The parties disagree on the extent to which the previous decisions are relevant to the current appeal.

## **7. PLANNING POLICY**

7.1 This section identifies the planning policies and guidance that will be of most relevance to this appeal. All the documents referred to will be included in the list of Core Documents.

### **National Guidance**

#### National Planning Policy Framework

7.2 The revised NPPF (2021) will be a material consideration in the determination of the appeal. Both parties will make reference to the NPPF in support of their case.

#### National Planning Practice Guidance

7.3 The NPPG will be a material consideration in the determination of this appeal. Both parties will make reference to relevant sections of the NPPG.

### **The Development Plan**

7.4 Both parties agree and accept that under the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

7.5 At the time of preparing this SoCG, the Statutory Development Plan covering the appeal site comprised:-

- The Worthing Core Strategy (April 2011)
- Saved Policies of the Worthing Local Plan

#### Worthing Core Strategy (WCS)

7.6 The most up to date part of the Development Plan is the Worthing Core Strategy (WCS) which was adopted in April 2011. The WCS provides the strategic planning policy framework for Worthing for the plan period 2006 to 2026. It contains the spatial vision and policies to guide planning decisions in Worthing.

- 7.7 From the Proposals Map that sits alongside the WCS, it can be seen that the appeal site is identified as Land Outside of Built-Up Area Boundary. As such it will be considered as countryside in planning policy terms.
- 7.8 It is agreed that the site is not located within any landscape, ecology, or heritage designation.
- 7.9 It is agreed that the most important policies for this appeal will include:-
- Policy 7- Meeting Housing Need
  - Policy 8 – Getting the Right Mix of Homes
  - Policy 10 – Affordable Housing
  - Policy 12 – New Infrastructure
  - **Policy 13 – The Natural Environment and Landscape Character**
  - Policy 14 – Green Infrastructure
  - Policy 15 – Flood Risk and Sustainable Water Management
  - Policy 16 – Built Environment and Design
  - Policy 17 – Sustainable Construction
  - Policy 18 – Sustainable Energy Policy
  - Policy 19 – Sustainable Travel
- 7.10 It is agreed that Policy 13 is the only WCS policy expressly identified in the reasons for refusal.

Saved Policies of the Worthing Local Plan

- 7.11 It is agreed that the majority of the policies in the Local Plan have been superseded by the WCS, however there are some "saved policies" that remain in force and form part of the adopted Development Plan.



7.12 It is agreed that the LPA does not rely upon any of the saved policies for the purposes of this appeal and none are identified in the RFR.

### **Emerging Development Plan Documents**

#### The Emerging Local Plan

7.13 It is agreed that the LPA is working on a new Local Plan (eLP) which, once adopted, will replace the policies in the WCS.

7.14 An Issues and Options Consultation took place between May and June 2016. A Draft Local Plan was then produced and was the subject of a Regulation 18 Consultation between October and December 2018. A Submission Draft Local Plan has been prepared and was the subject of a Regulation 19 Consultation between January and March 2021.

7.15 Those emerging policies which will be relevant to this appeal will include:-

- Policy SS1 – Spatial Strategy
- Policy SS4 – Countryside and Undeveloped Coast
- Policy SS5 – Local Green Gaps
- Policy SS6 – Local Green Space

7.16 It is agreed that the RFR expressly refer to policies SS4, SS5 and SS6. RfR2 also refers to the emerging spatial strategy which is provided for by policy SS1 in the eLP.

7.17 The scheduled Hearing sessions for the examination into the eLP concluded on 17 November 2021. The Inspector issued an Interim Advice letter on 9<sup>th</sup> December 2021.

7.18 It has agreed that the Inspector has not yet reached a final conclusion on whether the eLP is sound or that it meets the tests for legal compliance.

7.19 It is agreed that all eLP polices referred to in RfR 1 (Policies SS4, SS5 and SS6) are expected to be the subject of modifications. The extent to which this affects the weight to be given to these policies is a matter in dispute.

7.20 It is agreed that the EIP Inspector does not consider that the LGS policy for Chatsmore Farm meets the tests for designation in the NPPF.

7.21 The parties disagree about whether the Examination is now complete and whether the eLP is now at an advanced stage.

7.22 The LPA will provide updates in respect of progress on the eLP as and when they become available.

7.23 It is agreed that the Appellant has made objections to the eLP. The extent to which and these remain unresolved is a matter in dispute.

7.24 The weight to be afforded to the eLP for the purposes of this appeal is a matter in dispute.

#### **Neighbourhood Planning**

7.25 It is agreed that there is currently no "made" Neighbourhood Plan which covers the appeal site.

## **8. MATTERS NOT IN DISPUTE**

8.1 This section sets out the matters that are not in dispute between the Appellant and the Local Planning Authority.

### **Format of Planning Application and Supporting Material**

8.2 It is agreed that the format of the outline planning application forms, plans and the supporting documents fulfilled the requirements of the various regulations and validation checklists, applicable at the time of submission.

8.3 It is agreed that the LPA agreed to register the application as an outline application with all matters of detail reserved for subsequent determination.

8.4 It is agreed that the LPA did not exercise its powers to request any of the Reserved Matters to be unreserved.

### **Environmental Impact Assessment**

8.5 It is agreed that on 7<sup>th</sup> December 2016 the Secretary of State issued a Direction confirming that an EIA would not be required to support an application for 475 dwellings and other associated works.

8.6 It is agreed that it is not necessary to provide an EIA for the purposes of this appeal.

### **Housing Requirement and Need**

8.7 It is agreed that the WCS is now more than five years old such that the housing need which prevails for the purposes of both plan-making and decision-making, is that which arises from the "Standard Method," as required by paragraphs 61 and 74 of the NPPF.

8.8 It is agreed that the WCS specified a figure of 200 dwellings per annum (dpa) as a target not a ceiling whereas the Standard Method now requires 885 dpa.

8.9 It is agreed that the Council cannot demonstrate a five year housing land supply against their housing need as derived from the Standard Method.

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- 8.10 It is agreed that the absence of a 5YRHLS would normally engage the 'tilted' planning balance under paragraph 11d of the NPPF and Footnote 8 and would render the most important policies out of date.
- 8.11 The parties disagree on the extent of the five-year land supply shortfall and will call evidence in respect of this issue.
- 8.12 It is agreed that the weight to be attributed to out of date development plan policies in light of the shortfall in housing land supply is a matter of planning judgement.

### **WCS Policy 13**

- 8.13 It is agreed that Policy 13 is out of date due to the 5YRHLS position.

### **Adopted Development Plan Designations**

- 8.14 It is agreed that the appeal site is not located within the National Park, an AONB or the Green Belt. However the Site lies within the setting of the National Park
- 8.15 It is agreed that there are no landscape designations within the site.
- 8.16 It is agreed that there are no ecological designations directly affecting the site.
- 8.17 It is agreed that the site is not located within or adjacent to a Conservation Area. However the site lies within the setting of a Conservation Area.
- 8.18 It is agreed that the site is not designated as Local Green Space or of Local Gap or Strategic Gap in the adopted Development Plan.
- 8.19 It is agreed that the site is not located within a defined built up area or within the settlement boundary. It will therefore be considered as "countryside" in planning policy terms.
- 8.20 It is agreed that the appeal site is not allocated for any development purpose in the adopted Development Plan.

### **The NPPF Tilted Balance**

- 8.21 It is agreed that this appeal should be determined in accordance with the tilted balance as set out in NPPF paragraph 11d (ii).

- 8.22 It is agreed that even on the LPA's case, the alleged heritage harms would not outweigh the public benefits in the context of NPPF paragraph 202. As such it is agreed that the tilted balance is not disapplied for reasons related to heritage.
- 8.23 It is agreed that there are no other NPPF footnote 7 policies that provide a clear reason for refusal in this case such that the tilted balance is dis-applied.
- 8.24 It is agreed that the site cannot be considered as LGS for the purposes of NPPF footnote 7 if it is not designated as LGS in an adopted Development Plan.

### **The Emerging Local Plan**

- 8.25 It is agreed that the eLP plan period shortfall would be 10,488 dwellings.
- 8.26 It is agreed the site is proposed to be designated as Local Green Space and Local Green Gap under the eLP, but these draft designations are the subject of unresolved objections and have yet to be found sound.
- 8.27 It is agreed that in his Interim Advice letter the EIP Inspector has indicated that he does not consider that Chatsmore Farm meets the tests for designation as LGS by virtue of it constituting an 'extensive tract of land'.
- 8.28 It is agreed that draft Policies SS4, SS5 and SS6 may change following the Examination and the changes will need to be the subject of further consultation. The extent to which any modifications affect the weight to be afforded to these emerging policies is a matter in dispute.
- 8.29 It is agreed that the LPA only afforded limited weight to the eLP at the time that the application was refused. Since then the eLP has been subject to further consultation; hearings have been held as part of the independent examination and the Inspector has issued an Interim Advice note. The weight to be attributed to the policies of the eLP is a matter in dispute between the parties.

### **Accessibility**

- 8.30 It is agreed that the site is located in a sustainable location in terms of accessibility to local shops and services and given the opportunities to travel on foot, cycle and public transport.

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### **Master Planning**

- 8.31 It is agreed that the planning application was submitted in outline with access, layout, appearance, scale and landscaping of the development reserved for future consideration.
- 8.32 It is agreed that conditions can be used to require future RM applications to be in general accordance with the Illustrative Masterplan to ensure that the main design principles are secured at the outline stage (if considered necessary).

### **Heritage and Archaeology**

- 8.33 The parties now agreed on the likely effects of the development on the significance of nearby heritage assets. The level of harm is identified in the heritage Statement of Common Ground.
- 8.34 It is agreed that the public benefits would outweigh the identified harms in accordance with NPPF paragraph 202.

### **Housing Mix**

- 8.35 It is agreed that the proposals could provide for an appropriate mix of house types, sizes and tenures. This can be agreed at a later stage.

### **Ecology**

- 8.36 It is agreed that subject to securing acceptable mitigation through conditions, the proposals will not have an unacceptable impact on protected species and or habitats within the site.
- 8.37 It is agreed that off site mitigation for nesting birds can be secured through a completed Section 106 Agreement, which would resolve the fifth reason for refusal.
- 8.38 It is agreed that proposals also present opportunities for biodiversity net gain would lead to an ecological enhancement compared to the rural habitats that exist at present.

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### **Affordable Housing**

- 8.39 It is agreed that if the appeal proposals provide policy compliant levels of affordable housing (30%) through a completed Section 106 Agreement, this will partially resolve the sixth reason for refusal.
- 8.40 It is agreed that the Appellants propose to deliver 40% affordable housing. This is consistent with the affordable housing requirement under the emerging Worthing Local Plan.

### **Public open space**

- 8.41 It is agreed that the appeal proposals provide public open space in excess of the LPA's minimum requirements for residential development.
- 8.42 It is agreed that there are currently two public rights of way within the appeal site.
- 8.43 It is agreed that any acceptable management or maintenance of the public open space can be secured through s.106 planning obligations.

### **Public Rights of Way**

- 8.44 It is agreed that there are no objections on the basis of any loss or diversion of public rights of way.

### **Trees and Hedgerows**

- 8.45 The acceptability of the loss of any trees or hedgerows will be considered at the reserved matters stage. No objections are raised at this outline stage.

### **Flood Risk and Drainage**

- 8.46 It is agreed that the majority of the appeal site (and all of the areas of the built parts of the development) is located within Flood Zone 1 (the zone with the least probability of flooding).
- 8.47 It is agreed that there is no objection to the proposal on grounds of flooding and surface water matters, subject to the imposition of conditions.

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8.48 It is agreed that the proposals will incorporate on-site SuDS features which will attenuate the surface water.

**Public Benefits**

8.49 It is agreed that the proposed development would potentially secure benefits. These would include inter alia:-

1. The provision of additional open market housing for which there is an identified need.
2. The provision of affordable housing for which there is an identified need.
3. The construction phase can secure construction jobs in the short term and the related economic benefits of the area.
4. Provision of additional car parking next to the railway station.

8.50 The extent to which there are other benefits that should be weighed in the balance is considered in evidence.



## 9. MATTERS THAT REMAIN IN DISPUTE

Topic or Reason for Refusal	Appellant Comment	Local Planning Authority (LPA) Comments	Status
Areas of Disagreement related to the development proposals			
Core Strategy Policy 13	<p>The Appellant considers that no more than limited weight should be afforded to the conflict with Policy 13.</p> <p>The policy is out of date and inconsistent with the NPPF (in particular paragraph 60).</p> <p>It restricts development to previously developed land (save for the West Durrington strategic allocation). It also places a blanket ban on housing beyond defined settlement boundaries (the Built Up Area) which were drawn to accommodate the much lower and out of date housing requirements arising from the RSS.</p> <p>The LPA would be unable to restore a 5YRHLS if Policy 13 is rigidly applied.</p>	<p>The LPA considers that significant weight should be afforded to policy 13 on that basis that is consistent with Paragraph 174 (b) of the NPPF and continues to serve a useful planning purpose. The conflict of the appeal scheme with the policy therefore carries significant weight</p>	<p>The weight to be attached to this Policy</p>

<p>The emerging Local Plan</p>	<p>There are many hurdles in front of the emerging Local Plan before it can be adopted. It is not yet at an advanced stage for the purposes of NPPF paragraphs 49-50.</p> <p>The EIP Inspector has indicated that the plan is not sound and nor is it legally compliant and final conclusions on these matters are reserved for his final report.</p> <p>Main Modifications and other work will be required in the meantime and the LPA is prejudging the outcome of consultation processes which have yet to take place.</p> <p>Significant objections remain unresolved and further objections are likely to arise from the main modifications process.</p> <p>The emerging plan should only be afforded limited weight at this stage.</p>	<p>The emerging Local Plan has been the subject of examination hearings and the Inspector has issued an advice letter following those hearings. The Inspector has not asked the Council to consider the inclusion of any additional housing sites and the indication is that the emerging Local Plan is likely to be found sound, subject to certain modifications. The preparation of the Local Plan is therefore at an advanced stage. While there have been a number of objections to certain aspects of the draft Plan, including from the Appellant, to the extent that the Inspector has not raised issues in respect of the Plan's soundness in his letter, those objections appear to have been resolved in the Council's favour. In the circumstances, the Council considers that the draft Local Plan attracts significant weight in the determination of this appeal.</p>	<p>Whether the emerging Local Plan is at an advanced stage for the purposes of NPPF paragraph 49 and the weight to be attached to the emerging policies therein</p>
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<p>Prematurity tests in para 49 of the NPPF</p>	<p>The Appellant addresses the matter of prematurity in detail in the Planning Proof of Evidence and this explains why the relevant tests are not met in this case.</p> <p>The LPA has failed to demonstrate how granting planning permission would prejudice the outcome of the plan making process.</p>	<p>The emerging Local Plan is at an advanced stage. It was the subject of examination hearings in November 2021 and the Council has already received a copy of the Inspector’s letter dated 9 December 2021 indicating certain modifications that should be made to the Local Plan.</p> <p>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 balance between meeting housing needs and protecting the natural environment, particularly on gap sites around Worthing, is key to the draft Plan’s spatial strategy and has been the subject of considerable interest and comment as part of the Local Plan process.</p> <p>To allow the appeal in advance of the Local Plan process would be premature and would undermine public confidence in the planning system.</p>	<p>Whether the tests for prematurity have been met</p>
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<p>The relationship of the appeal site to existing built development</p>	<p>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 settlement.</p> <p>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.</p> <p>In fact it will be set further back as built development would not even extend as far north as the Ferring Rife.</p> <p>To the north, is further agricultural land that will be left undeveloped and the A259 which severs the built up area in this part of Worthing from the wider countryside including the National Park.</p>	<p>The appeal site is bordered by the railway line to the south which provides a natural break to the development to the south. A school playing field provides an open area opposite the central part of the southern section of the site while the residential development to its west is generally bungalows and appears unobtrusive from within and beyond the appeal site.</p> <p>To the west, the residential development is low lying, partly screened and does not provide an unbroken ribbon of development adjacent, it also partly being separated by a field outside of the appeal site.</p> <p>To the east of the appeal site, screening to the road and its alignment setting back the closest similarly reduces the impact of surrounding development upon the appeal site.</p> <p>To the north is open countryside with the National Park beyond.</p>	<p>Whether or not the appeal site is closely surrounded by built development on three sides</p>
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<p>Weight to be afforded to the benefits of the appeal proposal</p>	<p>Weight is a matter of judgement for the decision maker.</p> <p>The appellant identifies the benefits and potential adverse effects and attributes weightings to each of these in evidence.</p> <p>The Appellant considers that the provision of market housing and the provision of 190 affordable homes are separate benefits and each should be afforded very substantial weight.</p> <p>It is considered the LPA has downplayed the importance of these benefits notwithstanding the substantial 5YRHLS shortfall and the extent of the unmet need arising from the emerging Local Plan.</p>	<p>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. The harms and policy conflict which arise in the present case outweigh the benefits of the proposal. The Council recognises that the appeal scheme will also bring a number of benefits, including the delivery of housing and affordable housing which attract significant weight in the planning balance. The weight attributed to the benefits of the appeal is summarised in the proof of Gary Peck at paragraphs 9.20 – 9.26</p>	<p>The extent of the weight to be afforded to the benefits of the appeal proposal</p>
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## **10. PLANNING CONDITIONS AND OBLIGATIONS**

- 10.1 An agreed set of conditions will be provided for the Inspector before the start of the Public Inquiry.
  
- 10.2 The Appellant will also present deeds pursuant to Section 106 of the Town and Country Planning Act which will secure any planning obligations that are deemed necessary to make the development acceptable.