

# **UPDATED PRE-INQUIRY STATEMENT OF CASE**

## **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.**



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## 1. INTRODUCTION

1.1 This Updated Statement of Case has been prepared on behalf of Persimmon Homes Thames Valley (the Appellant). 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).

1.2 The appeal was lodged following the decision of Worthing Borough Council (the Local Planning Authority) to refuse an outline planning application for:-

**“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 (outline with all matters reserved).”**

1.3 The application was submitted on 10<sup>th</sup> August 2020 and was allocated the reference number AWDM/1264/20.

1.4 Following a period of negotiation, it was reported to the Council’s Planning Committee on 10<sup>th</sup> March 2021 with an Officer recommendation for refusal.

1.5 Having considered the advice from Officers, the Committee resolved to refuse the application. The decision notice which is dated 11<sup>th</sup> March 2021 identified 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**

1.6 A public inquiry was held on 18<sup>th</sup> to 21<sup>st</sup> January and 25<sup>th</sup> to 28<sup>th</sup> January 2022. The appeal decision was issued on 25<sup>th</sup> February 2022. Inspector Cridland allowed the appeal on 25<sup>th</sup> February 2022, and he granted outline planning permission for the proposed development.

1.7 The LPA however successfully challenged the appeal decision in the High Court and the decision was quashed. The Appellant took the case to the Court of Appeal but the decision of the lower court was upheld.

- 1.8 The Planning Inspectorate has advised that the case will be redetermined. There is to be a new Public Inquiry but a date for the opening of the inquiry has yet to be scheduled.
- 1.9 In the meantime, the LPA has taken a report to Committee (23<sup>rd</sup> August 2023) to seek a resolution on how Officers should proceed with the case, and to consider changes in circumstances since the original inquiry.
- 1.10 Members resolved that the LPA would contest the appeal but the reasons for refusal have been updated to now read as follows:-

**1.The proposed development is outside of the built-up area as defined by the Worthing Local Plan (2023) and does not comprise development essential to the countryside nor does it comprise development of entry level exception sites. The proposed development [sic] also and would have an adverse impact on the setting of the adjacent South Downs National Park and therefore is contrary to paragraph 176 of the National Planning Policy Framework and policies SS1 and SS4 of the Worthing Local Plan.**

**2. The proposed development comprises development in a designated Local Green Gap which would undermine the physical and visual separation of Goring and Ferring therefore compromising the integrity of the gap. Further, the proposed development by virtue of its scale would fail to conserve and enhance the benefits and services derived from the area's Natural Capital nor maintain the site as part of a cohesive green infrastructure network. The proposal therefore fails to comply with policies SS1 and SS5 of the Worthing Local Plan (2023).**

**3. It has not been demonstrated to the satisfaction of the Local Planning Authority that the scheme can deliver the biodiversity net gain required by policy DM18 of the Worthing Local Plan (2023).**

- 1.11 The Appellant has reviewed the updated reasons for refusal and this Updated Statement of Case explains how the Appellant intends to approach the appeal going forwards. Full Proofs of Evidence will be submitted later once a timetable has been set for the inquiry.
- 1.12 As before, the Appellant will seek to engage with the LPA and other interested parties to narrow down the issues that remain in dispute through updated Statements of Common Ground (SoCG).

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

- 2.1 In physical terms, the Appeal Site remains unchanged since the original Public Inquiry.
- 2.2 It is located at Goring-by-Sea, adjacent to the railway station, approximately 4.5km to the west of Worthing Town Centre.
- 2.3 The site itself is irregular in shape and extends to 19.96ha. 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.
- 2.4 The site is well related to the existing pattern of built development and is closely surrounded by built development on three sides whilst the remaining boundary of the wider land parcel is delineated by the A259 Littlehampton Road.
- 2.5 The southern boundary runs parallel with 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 is a recent development of 3-4 storey apartments (Bluebell Way) and Chatsmore Catholic High School.
- 2.6 The existing housing which lines Ferring Lane backs on to the northern part of the western boundary. The southern part of the western boundary is separated from other housing at Ferring by a single field that is currently in agricultural use. That land falls outside the administrative area of Worthing and forms part of the neighbouring district of Arun.
- 2.7 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.
- 2.8 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.
- 2.9 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.

- 2.10 The site itself is not directly affected by any national, regional or local landscape or ecological designations. The South Downs National Park lies to the north with its southern boundary running contiguous with the A259 Littlehampton Road.
- 2.11 In the time that has elapsed since the public inquiry and the appeal decision that followed, the LPA has adopted a new Worthing Borough Local Plan. The site now forms part of a Local Green Gap designation (Policy SS5 – Chatsmore Farm).
- 2.12 The site is not designated as Local Green Space. During the preparation of the now adopted Local Plan the LPA originally proposed to designate the wider Chatsmore Farm (which includes the appeal site) as Local Green Space but this was not carried through into the adopted plan as it did not meet the criteria for designation in national policy.
- 2.13 There are no heritage designations within the site, and it is not located within a Conservation Area. There are designated heritage assets nearby and these are considered in further detail in the Heritage Assessment.
- 2.14 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 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.

3.3 The appeal scheme itself remains unchanged.

#### Density

3.4 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

3.5 Whilst layout is a reserved matter, an Illustrative Masterplan was submitted to demonstrate how this scale and form of development can be accommodated within the site and assimilated into the existing built-up area.

3.6 The proposed development would not extend as far north as Ferring Rife. Instead, the development parcels would be set back from the watercourse to provide new areas of publicly accessible parkland and an area of biodiversity protection and enhancement which extends over 5ha, in addition to other green infrastructure.

3.7 The Masterplan is landscape-led and as explained in more detail within the submitted Design and Access Statement, it is anticipated that the development parcels will be designed to maintain green corridors through the site on a north-south axis.



3.8 Play areas are strategically located throughout the development to be accessible to the new resident population and those from neighbouring residential areas.

3.9 The local centre would be located at the south eastern corner of the site, close to the railway station. This reinforces the railway station as a local focal point and provides an opportunity to deliver a new car park to serve the railway station and address the existing parking problems in the area.

#### Access

3.10 It is anticipated 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.

3.11 Pedestrian and cycle linkages are also designed into the Illustrative Masterplan to improve connectivity in the area and ensure there is appropriate permeability through the new development.

#### Housing Mix

3.12 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. A range of 1, 2, 3 and 4 bedroom family homes will be provided.

3.13 The proposals would make provision for a range of tenures and this will include a significant proportion of affordable housing (40%), in accordance with the Council's adopted Local Plan (Policy DM3).

#### Building Heights

3.14 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 to add variety to the roofscape and to enhance legibility within the layout. Further detail on the distribution of building heights is provided in the Design and Access Statement.

### Drainage

- 3.15 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 and contributing towards the visual amenity of the site.

#### **4. PLANNING HISTORY**

- 4.1 There have been no recent planning applications or appeals that relate to the appeal site itself, apart from the current appeal scheme.
- 4.2 Details of more historic proposals affecting the land will be set out in an updated SoCG.

## 5. PLANNING POLICY

5.1 The planning policy position has changed since the last inquiry with the adoption of the Worthing Borough Local Plan. The Appellant's evidence will be updated to respond to the changed policy position.

5.2 The planning policies and guidance that are of most relevance to this appeal are summarised below and will be expanded upon in an updated SoCG. It is anticipated that the main planning policy issues will be agreed with the LPA prior to the re-opening of the Public Inquiry.

### National Guidance

5.3 The Appellant will refer to the latest national policy set out in the National Planning Policy Framework (NPPF) and guidance in the National Planning Practice Guidance (NPPG).

### The Development Plan

5.4 The Appellant will explain that the Development Plan for the area now comprises the following:-

- Worthing Borough Local Plan (adopted 28<sup>th</sup> March 2023)

### Neighbourhood Planning

5.5 There is currently no "made" Neighbourhood Plan which covers the appeal site. This is unlikely to change before the appeal is heard.

### Supplementary Planning Guidance

5.6 Where relevant, reference will be made to supplementary planning guidance, documents and advice.

## 6. APPEAL PROCEDURE AND PRESENTATION OF EVIDENCE

- 6.1 The Appellant agrees that a **Public Inquiry** would be the most appropriate appeal procedure in this case.
- 6.2 It is hoped that the issues in dispute can be narrowed down in Statements of Common Ground (SoCG). However, given the scale and nature of the development proposals and the reasons for refusal it is anticipated that a significant number of complex issues will remain unresolved.
- 6.3 It will be necessary for the inquiry to now consider the proposals in the context of the now adopted Local Plan. It will also need to consider the findings of the previous appeal Inspector and the Judgements of the High Court and Court of Appeal that followed that decision.
- 6.4 The main issues are expected to include the housing land need and supply, landscape and visual impact and the related planning policy issues, including the overall planning balance. All of these topics will require the submission of detailed evidence.
- 6.5 Despite the recent adoption of the Local Plan, this is an appeal that will still need to be considered in the context of NPPF Paragraph 11(d).
- 6.6 The need for housing (market and affordable) is beyond doubt. The Appellant will explain that the tilted balance is engaged as a result of LPA's performance against the Housing Delivery Test (HDT). The Appellant will also present evidence to show that the LPA is unable to demonstrate a five year housing land supply.
- 6.7 The housing land supply shortfalls in neighbouring authorities will remain a material consideration and attention will need to be given to the absence of any solution to the sub regional housing crisis in the short to medium term.
- 6.8 The Landscape evidence will, as it did before, address the potential impact of development on the setting of the National Park as well as the immediate surroundings of the site.
- 6.9 These issues all give rise to complex legal and planning policy considerations for the decision maker. The issues can only be properly tested through formal questioning of Expert Witnesses by an Advocate, which would not be permissible under the Informal Hearing procedure. It is also anticipated that there will be a

need to make legal submissions particularly given the background history of this appeal which again are best dealt with through the Inquiry procedure.

- 6.10 The application also generated considerable public interest and this is a further reason why a public inquiry is most appropriate.
- 6.11 This appeal will take more than 2 days to be heard (which exceeds normal practice for an informal Hearing). The Appellant considers that the evidence will take at least **4 to 6 days** to be heard.
- 6.12 This already assumes that it will not be necessary to recall witnesses to deal with formal evidence on the heritage and highways issues that formed component parts of the previous inquiry but have not been pursued in the updated reasons for refusal by the Council. These issues should be capable of being addressed mainly through updated SoCG rather than updated proof of evidence.

## 7. PROOFS OF EVIDENCE

7.1 The Appellant will prepare written evidence in advance of the Inquiry to address the updated reasons for refusal and the more recent changes in circumstances. The evidence will also consider any other valid issues raised by Third Party objectors or Statutory Consultees.

7.2 At this stage it is anticipated that evidence will be presented as follows:-

### Housing Land Supply and Need

- Neil Tiley

### Affordable Housing Need

- James Stacey

### Landscape and Visual Impact

- Clive Self

### Planning

- David Hutchison

7.3 With regards to Built Heritage, the likely impacts were agreed ahead of the previous inquiry and the LPA did not call a witness on this topic. The Appellant considers that heritage is capable of being dealt with through a SoCG. The planning evidence can deal with the weight to be afforded to any heritage harm in the overall planning balance.

7.4 Highway evidence was presented by the Appellant and the County Council (on behalf of the LPA) at the previous inquiry. However, the Inspector found in favour of the Appellant on this matter [§58-70]. The LPA did not challenge any of the findings of the previous Inspector on highway matters.

7.5 The recent Officer Report also explains that the LPA no longer intend to contest this issue. Paragraph 2.10 states:-

**“2.10 Although there was a reason for refusal on highways grounds submitted to the previous appeal, the Inspector did not uphold this reason for refusal and this aspect of the appeal was not challenged subsequently. Accordingly, West Sussex County Council has confirmed**

**that they will not pursue the highways reason for refusal any further. There is no reason for Officers to dispute this.”**

- 7.6 Members accepted the advice of Officers and highways does not form part of the updated RFR. This issue can be dealt with in a SoCG.
- 7.7 The Appellant reserves the right to introduce additional witnesses as necessary to address any other issues that may be raised by the LPA and/or any other Third Parties. It may be the case that the Appellant will still call highways and heritage witnesses to respond to 3<sup>rd</sup> party objections and to assist the Inspector with any questions that he or she might have.



## **8. CASE FOR THE APPELLANT**

8.1 It is anticipated that an updated SoCG will record that the Appellant and the LPA are in agreement on various issues which can help narrow down the focus for the public inquiry.

8.2 The Case for the Appellant will focus on the issues that are likely to remain in dispute.

### **The relevance of the previous appeal decision**

8.3 The Appellant considers that the appeal should be assessed on its own individual merits and in the context of the planning policy framework that exists now.

8.4 The new Inspector is not bound by the content of the quashed appeal decision, but those parts of the decision which involve planning judgments which were not part of the decision to quash may be material considerations for subsequent decision makers. The Appellant will draw out relevant conclusions from the previous appeal decision in its evidence on the various topics.

8.5 Those parts of the decision where the Inspector was found to have erred are to be disregarded.

8.6 The weight to be afforded to individual planning considerations will remain a matter of judgement for decision makers and the new Inspector will need to reach his or her own conclusions in this regard.

### **The Main Issues**

8.7 The Appellant sets out below the main issues that are expected to be in dispute at the Inquiry.

**Issue 1                      The need for housing**

**Issue 2                      The principle of development in this location having regard to the development plan's spatial strategy and national policies;**

**Issue 3                      Landscape and Visual Impact including the effects on the setting of the South Downs National Park**

**Issue 4                      Local Green Gap**

**Issue 5                      Biodiversity Net Gain**

**The Overall Planning Balance**

**Issue 1    The Need for Housing**

- 8.8    The Applicant will present updated evidence which continues to identify an exceptionally high need for housing in Worthing and the wider sub region. This will form the very important background context for this appeal.
- 8.9    There has been a substantial under-delivery of housing over the preceding three years, such that there are already a substantial number of households without access to the housing they need. The LPA now has the 3rd worst HDT result of the 310 LPAs in the country.
- 8.10   This has a direct consequence for the decision-making framework as it means the tilted balance in NPPF paragraph 11d is engaged and the most important policies are out of date.
- 8.11   The adoption of the Local Plan will do little to respond to the need for housing in the borough and the sub region. It will be explained that only 26% of needs in the Borough are proposed to be addressed through the now adopted Local Plan leaving a shortfall of 10,488 homes. In addition, there is a substantial unmet need for housing across the sub-region, and there is now no prospect of either of these being remedied through an emerging Local Plan that can be afforded any weight.
- 8.12   The Appellant will present evidence to demonstrate that even against its recently adopted housing requirement, the LPA is already in a position where it cannot demonstrate a minimum 5 year housing land supply.
- 8.13   There has also been a chronic under-delivery of affordable housing in recent years. Since the last inquiry, a number of affordable housing indicators have worsened in Worthing Borough, including:-

- A 9% increase in the number of households on the housing register from 1,419 households at 31 March 2021 to 1,551 households at 31 March 2022<sup>[1]</sup>;
- a 15% increase in lower quartile private rents, from £695pm in 2020/21 to £800pm in 2022/23<sup>[2]</sup>; and
- a 46% increase in homelessness prevention duty<sup>[3]</sup> from 123 households in 2020/21 to 179 households in 2021/22<sup>[4]</sup>.

8.14 The Appellant will explain that there will be a real life human cost in both social and economic terms if this appeal is dismissed. This means that the provision of housing and provision of affordable housing should be afforded the highest possible weighting (as was previously accepted by the LPA and indeed the previous appeal Inspector). It is important that the updated evidence is heard in full.

8.15 The Appellant will acknowledge that the tilted balance can be dis-applied if the proposals would conflict with one or more of the restrictive policies listed in NPPF footnote 7.

8.16 However, it was agreed previously that there are no footnote 7 policies that would cause the tilted balance to be disapplied in this case. The evidence will show that nothing has changed in this regard and the appeal proposals do not conflict with any of those policies (including those relating to the setting of the National Park) and that the tilted balance should apply in the normal way.

## **Issue 2 The principle of development in this location having regard to the development plan's spatial strategy and national policies**

8.17 Policy SS1 of the Local Plan sets out the spatial strategy of the plan. In summary, development will be permitted within the built-up area, it will also be permitted on five allocated edge of town sites and the countryside beyond will be protected.

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<sup>[1]</sup> DLUHC Live Table 600

<sup>[2]</sup> Valuation Office Agency ("VOA") and Office for National Statistics ("ONS") data

<sup>[3]</sup> The Prevention Duty places a duty on housing authorities to work with people who are threatened with homelessness within 56 days to help prevent them from becoming homeless. The prevention duty applies when a local authority is satisfied that an applicant is threatened with homelessness and eligible for assistance.

<sup>[4]</sup> DLUHC Statutory Homelessness Data

- 8.18 It will be acknowledged that the site is not located within the built-up area and it is not allocated for housing (or any other kind of development). The proposals do not therefore gain support from Policy SS1.
- 8.19 It will be explained that the appeal site is in a highly sustainable and accessible edge of town location, and it is well related to the existing pattern of built development in the area.
- 8.20 It is closely surrounded and enclosed by existing development on three sides. The Railway to the south, the Ferring Rife and the A259 Littlehampton to the north further reinforce the sense of containment. It would not represent a new incursion into the open countryside and would not encroach any closer to the National Park than the existing pattern of development.
- 8.21 Moreover, the housing land supply position means that the most important policies are out of date including SS1 and the strict application of this policy will prevent the LPA from boosting the supply of housing.
- 8.22 As such, it will be explained that reduced weight should be afforded to conflict with Policy SS1. The policy would need to flex to enable the LPA to improve the supply of housing in the area, given the absence of any other mechanism that can address this acute problem. The same would apply to parts of Policy SS4 insofar as it seeks to preclude general market housing beyond the built-up area.
- 8.23 It will be explained that there are no other policies that are directly applicable to this site that represent a major policy constraint (the issue of the Local Green Gap is dealt with separately below under Issue 4). It is not within the National Park and the proposals would accord with local and national policy relating to its setting. There are no other landscape, ecology or heritage designations that directly relate to the site. The built parts of the development would avoid areas at risk of flooding. The land is deliverable and capable of immediate implementation following the necessary approvals and can consequently make a swift contribution to addressing the acute housing deficit.

**Issue 3 Landscape and Visual Impact including the effects on the setting of the South Downs National Park**

- 8.24 The Appellant will present updated evidence on landscape and visual matters.

- 8.25 As there has been no material change to the character of the site or the neighbouring area, the substance of the landscape evidence will be largely as before, with updates concentrating on any changes to policy and guidance where necessary. The evidence will also analyse the findings of the previous Inspector and ensure that the correct policy/decision making approach is applied when dealing with the setting of the National Park (the reason why the previous decision was quashed).
- 8.26 The evidence will explain that whilst the appeal site remains undeveloped farmland it is closely associated with neighbouring urban development in Goring-by-Sea and Ferring, which borders it on three sides, and that the site has clearly defined and defensible boundaries.
- 8.27 The evidence will explain that the proposed development has been landscape led and includes significant areas of open space which address the frontage with the National Park and the surrounding built up area. Housing has been set back from Ferring Rife, which forms the northern boundary of the proposed development and generous areas of green space have been provided to augment the development. New landscaping within the open space alongside Ferring Rife will provide an appropriate setting for the new homes, particularly in views from the north, as well as providing wildlife benefits. The evidence will explain how the proposed layout represents an appropriate landscape and visual response to its location at the edge of the settlement and that the scale and density of development is compatible with that in the surrounding area. It will also explain how the proposals deliver environmental, recreational and ecological benefits.
- 8.28 The evidence 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, an area which is characterised by significant urban development. The evidence will explain that the Site is visually distinct from the National Park and shares none of the landscape characteristics associated with the rolling downland of the South Downs.
- 8.29 It will explain that the appeal site's character is heavily influenced by its proximity to the surrounding urban area, and that the proposed development would be compatible with its surrounding land uses. It will also show that the appeal scheme has been designed to minimise the impact on the setting of the SDNP. It would therefore not be discordant with the character or setting of the National Park. There would be no conflict with NPPF paragraph 176 when considering the effects on the

setting to the National Park. Likewise, there would be no conflict with Local Plan Policy SS4(f) in the same regard.

- 8.30 The evidence will explain that current views south from Highdown Hill and Highdown Conservation Area are of the densely settled coastal plain. It will demonstrate that whilst development at the appeal site will be visible in some of these views, it will not be intrusive and will form a well-considered extension to the existing urban area. It will explain that the proposals will not materially impact on the special qualities identified in the South Downs National Park: View Characterisation and Analysis Study.
- 8.31 The evidence will demonstrate that while the appeal site is likely to be valued by local residents as a tract of undeveloped farmland it displays no characteristics which are demonstrably special and does not represent a “valued landscape” within the meaning of the NPPF, paragraph 174(a).
- 8.32 The evidence will explain that the Site is not covered by any designations for landscape, heritage or ecological value, is not intrinsically attractive, has limited public access, and has little wildlife interest. It also has a number of detracting features, such as the overhead powerlines and the design contexts of neighbouring development.
- 8.33 The landscape evidence will explain how coalescence has already occurred between the settlements of Goring-by-Sea and Ferring and that, as such, the site does not provide a gap or a break between the two settlements. However, the evidence will acknowledge that the appeal site and land to the north of Ferring Rife forms an indentation in the coalesced settlements although it will be demonstrated that by keeping the land to the north of Ferring Rife free of development an indentation will still be retained, albeit reduced in scale.
- 8.34 The evidence will refer to the findings of the previous Inspector highlighting areas of agreement with the Appellants evidence to the previous inquiry and it will respond where necessary to any areas of disagreement.
- 8.35 Overall, the landscape evidence will conclude that through the sensitive design and layout of the proposed development and new landscaping, the proposals will relate well to existing development; can maintain a spatial indentation between Goring-by-Sea and Ferring; and will respect the setting and views from the South Downs National Park.

#### **Issue 4 Local Green Gap**

- 8.36 The Appellant will acknowledge that the site now forms part of the wider area designated as a Local Green Gap at Chatsmore Farm.
- 8.37 It will be explained in the evidence that whilst the policy was still evolving at the time of the last inquiry, the gap issues were well rehearsed. The Inspector reached the conclusion that the physical and visual separation of settlements would not be undermined. He also found that the proposals would not undermine the landscape value of the gap. These findings will be material considerations for the redetermined appeal. They were not challenged in the courts and neither the character of the site nor the neighbouring area have changed in the meantime.

#### **Issue 5 Biodiversity Net Gain (BNG)**

- 8.38 The Appellant will explain that there is scope to achieve at least 10% biodiversity net gain through a combination of on-site and off-site solutions (involving other land already within the control of the Appellant in the Borough).
- 8.39 BNG is not likely to be a controversial issue. It is a benefit of the scheme and it is anticipated that this is capable of being agreed through SoCG and updated s.106 Planning Obligations. It is highly unlikely that expert witnesses will need to be called on this issue.

#### **The Overall Planning Balance**

- 8.40 The Appellant will acknowledge and accept that planning law and guidance requires that planning applications and appeals should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.41 Whilst there may be some policies that the proposals do not accord with, the overall conclusion will be that the proposals accord with the Development Plan when read as a whole.
- 8.42 The tilted balance is engaged for two separate reasons. Firstly, the LPA has failed the HDT test. Secondly the LPA cannot demonstrate a 5YRHLS. The most important policies are therefore out of date for the purposes of NPPF paragraph 11d.

- 8.43 It was previously agreed that there are no restrictive policies that would cause the tilted balance to be disapplied.
- 8.44 Whilst the setting of the National Park became the central topic for the Courts in this case, it will be explained that it was not part of the LPA's case previously that the alleged harm to the National Park outweighed the benefits such that the tilted balance was to be dis-applied for this or indeed any other reason. The LPA will need to clarify its position as it would appear from the updated RfR1 that its position has changed without justification.
- 8.45 The Appellant will identify the considerable benefits of the proposed development and will attribute weight to each of these for the purposes of the overall planning balance.
- 8.46 Since the last inquiry, the Appellant has been giving thought to other benefits that could be secured as part of the appeal proposals to respond to the acute shortage of housing in the area. These could include inter alia:-
- A cascade system that prioritises the open market housing to local people.
  - A Commitment to Future Homes Standard now
  - Higher levels of provision of accessible homes ie. M4(2) and M4(3)
  - An opportunity to deliver elevated BNG on land at Ferring Gap with scope to consider opportunities to make this available for offsetting that could unlock allocated sites in the Borough along with windfall sites within the built-up area to maximise their development potential.
- 8.47 The Appellant will show that any adverse impacts of granting planning permission would not significantly and demonstrably outweigh those benefits and that overall, the planning balance rests firmly in the favour of the appeal being allowed.
- 8.48 If the proposals pass the test in NPPF paragraph 11d, then the proposals would also be acceptable in the context of Local Plan Policy SP1 which has the presumption in favour of sustainable development embedded within it. Compliance with Policy SP1 means that the proposals would then accord with the Development Plan read as a whole.



8.49 Having considered each of the main issues in turn, the Appellant will conclude that the proposals represent sustainable development and that outline planning permission should be granted subject to the imposition of any necessary conditions and planning obligations.

## 9. DOCUMENTATION

9.1 A set of Core Documents will be agreed with the LPA in advance of the Public Inquiry.

9.2 In addition to the application documents, planning history and consultation responses, it is anticipated that the following will be referred to:

### National Documents

- National Planning Policy Framework (NPPF)
- National Planning Practice Guidance (NPPG)

### Local Documents

- The Worthing Borough Local Plan
- Worthing Local Plan evidence base and the subsequent Inspector's Report

### Relevant Appeal Decisions and Legal Cases

- Various appeal decisions as per the previous Core Documents List
- Various legal judgements as per the previous Core Documents List

9.3 Additional documents will include inter alia

- The previous (quashed) appeal decision
- The Judgements of the High Court and Court of Appeal that relate to the previous decision and other judgements referred to therein

9.4 The Appellant reserves the right to refer to additional documents to those outlined above in preparation of its case and in support of the proposals.

## **10. PLANNING CONDITIONS AND OBLIGATIONS**

### Planning Conditions

- 10.1 An agreed set of Conditions will be provided to the Inspector before the start of the Public Inquiry.

### Planning Obligations

- 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 proposals acceptable.
- 10.3 A bilateral s.106 agreement was provided previously, and this will be updated as necessary to address any changes including biodiversity net gain requirements.