

## **Town and Country Planning Act 1990**

**Appeal by Persimmon Homes Thames Valley**

**Site Address: Land North West of Goring Railway Station,  
Goring-by-Sea, Worthing, West Sussex**

***Proposal: Mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre (uses including A1, A2, A3, A4, A5, D1, D2, as proposed to be amended to use classes E, F and Sui Generis) with associated car parking, car parking for the adjacent railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities (Outline with all matters reserved)***

### **UPDATED STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

**Appeal Reference: APP/M3835/W/21/3281813**

# 1. INTRODUCTION

- 1.1 This is the updated Statement of Case of Worthing Borough Council in respect of the planning appeal submitted by Persimmon Homes Thames Valley relating to the site north west of Goring Railway Station, West Sussex (Appeal Reference APP/M3835/W/21/3281813).

## The original application, appeal and court proceedings

- 1.2 The application which is the subject of this appeal was validated by the Local Planning Authority on 10 August 2020 (Local Authority reference AWD/1264/20). The application sought outline planning permission, with all matters reserved, for the following development:

*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 ('the Appeal Proposal')*

- 1.3 The application was presented to Worthing Borough Council Planning Committee on 10 March 2021 with an officer recommendation for refusal.

- 1.4 The Members of the Planning Committee unanimously resolved to refuse planning permission in accordance with the officer recommendation for the following reasons:

- The proposed development is outside of 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 improvements and off site mitigation for the provision of nesting birds.*
- 1.5 The Appellant appealed the refusal of planning permission under section 78 of the Town and Country Planning Act 1990. Prior to the Public Inquiry into the appeal, concerns in respect of highway safety had been resolved and therefore refusal reason 3 was withdrawn. It was also considered that refusal reasons 5 and 6 could be resolved through planning conditions and obligations and accordingly evidence was not presented on those matters.
- 1.6 A Public Inquiry was held in January 2022 and the Inspector's decision allowing the appeal was issued in February 2022. At the time of the Inspector's decision, the Worthing Local Plan was an emerging document subject to examination and had not been adopted. On the basis that the emerging policies were subject to a number of modifications which would have to be subject to further consultation and given that it was unclear what form the final policy would take, the Inspector afforded the emerging plan only limited weight.
- 1.7 The Council challenged the decision in the High Court on a number of grounds. The High Court accepted that the Inspector had erred in law and quashed the Inspector's decision. The Court of Appeal subsequently dismissed the Appellant's appeal against that decision. It found that the Inspector had concluded that the development would harm the setting of the South Downs National Park but had failed to give any weight to that harm in his planning balance, in conflict with paragraph 176 of the NPPF and the statutory duty in 11A of the National Parks and Access to Countryside Act

1949. As a result, the appeal decision has been quashed and the matter has been remitted to the Inspectorate for redetermination.

### The Worthing Local Plan (2023)

- 1.8 Since the Inspector's original decision, a new Local Plan has been adopted, in March 2023. The Worthing Local Plan constitutes the statutory development plan. It supersedes and replaces the Local Plan that was in place at the time of the original appeal decision.
- 1.9 Relevant policies of the new Local Plan are set out below and will be discussed in further detail in the proofs of evidence. The Council considers policies SS1 (spatial strategy), SS4 (countryside and undeveloped coast), and SS5 (local green gaps) to be of particular relevance.
- 1.10 The Inspector's report into the draft Local Plan made a number of findings that are likely to be of relevance to this appeal. In particular, he found that:
- a. Policy SS1 establishes the broad spatial strategy for development and seeks to direct growth to land within the defined built-up area and a number of allocated edge-of-town sites while protecting the remaining areas of open countryside. It identifies four Local Green Gaps (LGGs) as being strategically important for maintaining the separation of settlements and retaining Worthing's identity (para 46).
  - b. Areas outside the built-up area are relatively scarce and many are subject to other constraints which make them valuable resources for a variety of reasons. On this basis, the Plan also sets out a high level of protection for the remaining areas of countryside. This is appropriate in Worthing's context (para 47).
  - c. The strategy for the countryside is one of protection which is justified given Worthing's context (paras 50 and 51).
  - d. There is insufficient capacity to meet all of the OAHN within the Plan area based on an assessment of a range of constraints and opportunities. The Borough is squeezed between the South Downs

National Park (SDNP) to the north and sea to the south and its boundaries are also drawn tightly to the east and west. The current built form takes up the vast majority of the Plan area and thus the scope for suitable expansion is limited. When considering that much of the land outside the built-up area also forms part of the environmentally sensitive coastline, it is clear that the challenges facing Worthing are both real and significant. These constraints, and the effect they have on development, are long standing and well-rehearsed. There was no serious suggestion by any interested party that Worthing would be able to realistically meet its full OAHN (para 85).

- e. There was no evidence to suggest that the Council had failed to understand the importance of housing delivery or the need to maximise capacity and delivery. A local plan must find a balance between providing land for housing and other uses. A local plan must also strive to meet the NPPF's objectives in relation to the quality of the built environment, the recognition of the intrinsic beauty of the countryside, protection of the natural environment and ensuring the residents of the Borough live in well-designed, beautiful and safe places with accessible services and open spaces. Housing delivery is important, but it is not the be-all and end-all of a Plan's role (para 90).
- f. Policy SS4 does not impose a blanket restriction on all development in the countryside given that it is permissive of development that has demonstrated a need to be in the open countryside and for entry-level exception sites (paras 52 – 53).
- g. Policy SS5 identifies four areas as Local Green Gaps, including Chatsmore Farm. They are all designed to help maintain the physical and visual separation of settlements and to preserve the separate characters and identities of Worthing as distinct from Adur and Arun. This is particularly important as there are few breaks in development between Brighton and Chichester and those in Worthing are demonstrated to be fragile. The LGGs are a fundamental part of the Plan's spatial strategy (para 55).

- h. The aims of the LGG reflect a number of different NPPF policies relating to making efficient use of land, which includes recognising the benefits of undeveloped land for wildlife, recreation, food production or improving public access to the countryside. They also support national policy objectives relating to the protection of open land of public value, creating high quality, beautiful and sustainable places and those which seek to protect and enhance the natural and local environment (para 56).
- i. Even with the extensive development pressure in Worthing, maintaining a sense of place and identity remains a justifiable strategic objective. There are few breaks in the built form along the coast and those which exist are not all significant in size. The definition of LGGs is sound (para 59).
- j. While there is already a block of development between Goring and Ferring, Chatsmore Farm (which includes the appeal site) nonetheless provides a break in the built form that helps prevent the sense that the two areas have merged completely or lost their own identities (para 60). This is particularly the case when Chatsmore Farm is viewed from the South Downs National Park and Highdown Hill and when looking north across the Goring-Ferring gap (para 61). The Chatsmore Farm gap is separated from the existing built form by the A259 to the north and east and the railway line to the south. When travelling along the A259, it provides a very obvious break to the settlement pattern and allows for a sense of arrival or departure from Worthing. It also allows the countryside to penetrate into Worthing from the SDNP to the north. This helps to soften the hard edge of the road that currently exists and makes a positive contribution to the setting of the SDNP. The area also provides a degree of recreation value from public rights of way around the edge of the site (para 62).

#### Re-consideration of the application

1.11 Following the Court of Appeal's decision, the application was re-considered by the Council's Planning Committee in August 2023. The Committee resolved to continue to contest the appeal with the following updated refusal reasons:

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 also 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).*



## **2. THE APPEAL SITE AND SURROUNDINGS**

- 2.1 The appeal site is unchanged in physical terms since the consideration of the appeal at the previous Inquiry.
- 2.2 The appeal site is located to the north west of Goring Railway Station, and is bordered by the railway line to the south, Goring Street and the A259 to the east, the Ferring Rife to the north, beyond which is a further agricultural field leading to the east-west section of the A259, and to the west by a smaller field in agricultural use as well as Ferring Lane, both of which are within the boundary of Arun District Council.
- 2.3 The site area is some 19.96 ha. The appeal site is currently in agricultural use and predominantly flat. There are no buildings or structures within the site apart from the overhead power lines (which are proposed to be sited underground as part of the Appeal Proposal).
- 2.4 At present, the site is accessed from the A259 to the north eastern corner of the site. There are two public footpaths on the site, adjacent to the western boundary of the site and the whole length of the southern boundary adjacent to the railway line.
- 2.5 The South Downs National Park (SDNP) lies some 225 metres from the appeal site at its nearest point to the north and is clearly visible since the land within the SDNP rises to the north beyond the A259. Within the National Park is also the Highdown Conservation Area and several listed buildings and non-designated heritage assets, the closest of which are located immediately adjacent to the A259 to the north.

### 3. THE APPEAL PROPOSAL

- 3.1 The Appeal Proposal is in outline, with all matters reserved and seeks permission for a mixed use development comprising up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre commercial and community uses with associated car parking, car parking for the Goring railway station, undergrounding of overhead HV cables and other supporting infrastructure and utilities.
- 3.2 In the supporting information, the appellant indicates that the site area extends to just under 20 hectares and that the proposed net density of the development would be around 46 dwellings per hectare.
- 3.3 Whilst layout is a reserved matter, an Illustrative Masterplan was submitted to set out an indicative layout of the development. This showed that development was not anticipated to extend as far north as the Ferring Rife. The proposed local centre would be located at the south-eastern corner of the site, closest to the railway station along with a new car park to serve the railway station and address the existing parking problems in the area.
- 3.4 In respect of housing mix, it was stated that the precise housing mix will be agreed at a later stage if planning permission is granted. It was anticipated that the proposals would include a range of house types, including detached, semi-detached, and terraced houses as well as apartments. House sizes were likely to range from 1 to 4 bedroom units. The appellant had also stated that the proposals would make provision for a '*range of tenures*' and would include 30% of affordable housing in accordance with Policy 10 of the Core Strategy. Since the adoption of the Worthing Local Plan, the relevant threshold is the provision of 40% affordable housing on greenfield sites as set down by policy DM3. The affordable housing proposed by the appellant falls short of that policy requirement albeit the Council is hopeful that the applicant will secure a policy-compliant level of affordable housing through an amended section 106 obligation.

- 3.5 In terms of building heights, while a reserved matter, the application documents indicate that building heights would be predominantly 2 and 2½ storeys with 3 and 4 storey elements at selected locations.
- 3.6 A Landscape and Visual Statement was also submitted with the application which stated that the development would extend onto land between the settlements, but considered that there would still be a spatial break with the built-up area.
- 3.7 In respect of drainage, the supporting information stated that while the wider area falls within Flood Zones 1-3, the appeal site itself is solely within Flood Zone 1.
- 3.8 In respect of access, the appeal 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 to the south eastern corner of the site.
- 3.9 The submitted Transport Statement states that the development proposals would have the potential to generate in the order of 309 and 316 two-way vehicular traffic movements during the weekday AM (08:00 – 09:00) and PM (17:00 – 18:00) peak hour periods.

## 4. PLANNING HISTORY

- 4.1 There have been two previous applications for the development of the Appeal Site, both of which were refused.
- 4.2 In 1963 an Inspector refused permission for residential development within the Goring-Ferring gap. His decision explained that *“there was continuous development along so much of this south coast that in order to relieve the monotony of this development, if for nothing else, it was most desirable to preserve the breaks that were in it, such as this one. Because there was so much pressure to live in this coastal strip, this should not, in his view, be an excuse for destroying these gaps”*.
- 4.3 In 1974, the Secretary of State refused permission for a proposed residential development on land including the Appeal Site. He recognised that there had been development between Goring and Ferring in the 1950s to the south of the railway line but found that made the remaining open land even more valuable as an extension of the wider landscape into the urban area. The maintenance of the gap fostered a lively sense of being part of a separate community, rather than an anonymous part of the larger Goring/Worthing amalgam.

## **5. PLANNING POLICIES**

- 5.1 The planning policy position has materially changed since the previous Inquiry. Worthing Borough Council formally adopted the Worthing Local Plan 2020-2036 on 28th March 2023.
- 5.2 The Worthing Local Plan (2023) now forms the statutory development plan, which sets the strategic development and land-use priorities for Worthing (outside the South Downs National Park) up to 2032, and contains the policies against which planning applications must be assessed. The Local Plan supersedes the Worthing Core Strategy (2011) and the saved policies from the Worthing Local Plan (2003), both of which formed the development plan at the previous Inquiry.
- 5.3 As before, the Council will refer to the relevant parts of the National Planning Policy Framework (NPPF) at the Inquiry.
- 5.4 The Council considers the most important policies to comprise SS1 (Spatial Strategy), SS4 (Countryside and Undeveloped Coast), and SS5 (Local Green Gaps). The Council are hopeful that non-compliance with policies DM3 (affordable housing) and DM18 (biodiversity) will be resolved through the submission of an updated s.106 obligation.

## **6. APPEAL PROCEDURE AND PRESENTATION OF EVIDENCE**

6.1 The Local Planning Authority agrees with the appellant that a Public Inquiry is the most appropriate method of determining the appeal. The planning application generated a significant amount of public interest with over 1,200 representations received in respect of the proposed development, with all but one objecting to the appeal proposal.

6.2 There are now three reasons for refusal.

- Refusal reason 1 relates to the principle of development, the appeal site being located outside of the built-up area and the impact of the Appeal Proposal on the setting of the South Downs National Park;
- Refusal reason 2 relates to the impact of the Appeal Proposal on the Chatsmore Farm Local Green Gap as designated in the Worthing Local Plan.
- Refusal reason 3 relates to the failure of the Appeal Proposal to demonstrate that it is capable of delivering a 10% biodiversity net gain as required by the Local Plan.

6.3 The main issues are therefore anticipated to include the following:

- (1) The principle of development, including whether the Appeal Proposal is consistent with the spatial strategy identified in the Worthing Local Plan;
- (2) The landscape and visual impact of the Appeal Proposal, including the impact upon the setting of the South Downs National Park and views from within it;
- (3) The impact of the Appeal Proposal on Chatsmore Farm Local Green Gap;
- (4) The ability of the development to achieve 10% biodiversity net gain (it is anticipated that this issue is likely to be resolved through submission of an updated section 106 obligation); and

(5) The overall planning balance

6.4 It will be necessary to consider these matters by the submission of detailed evidence and it is considered that the Public Inquiry is likely to last up to 5 days.

## **7. PROOFS OF EVIDENCE**

- 7.1 The Council will prepare written evidence in advance of the Inquiry to address the updated reasons for refusal in light of the now adopted Local Plan.
- 7.2 It is anticipated that evidence will be presented in relation to planning, landscape and visual Impact and housing land supply.
- 7.3 The Council confirmed in its August report to the Planning Committee that the previous highways reasons for refusal would no longer be pursued at the appeal and accordingly it is not intended that any highways evidence will be presented to the Inquiry.
- 7.4 In respect of Built Heritage, the impacts of the appeal proposal were considered and agreed prior to the previous Inquiry and therefore the Council did not call a witness on this issue. The Council does not intend to call a witness on this topic.



## 8. THE CASE FOR THE LOCAL PLANNING AUTHORITY

8.1 As set out earlier in this Statement of Case, there are three reasons for refusal.

### Reason for refusal 1

8.2 The first refusal reason is 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 also 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.*

8.3 As stated in its supporting text at paragraph 3.10, Policy SS1 of the Local Plan, 'Spatial Strategy', seeks to achieve the right balance between planning positively to meet the town's development needs with the continuing need to protect and enhance the borough's high quality environments and open spaces within and around the town. The overarching objective is therefore to maximise appropriate development on brownfield land and add sustainable urban extensions adjacent to the existing urban area. The policy therefore directs new development to the right locations whilst at the same time helping to protect those areas of greatest environmental value and sensitivity.

8.4 Policy SS1 sets the spatial strategy for Worthing. Part (d) provides that development will be permitted within the built-up-area boundary, as defined on the policies map, and on edge of town sites that have been allocated for development. Open spaces, the countryside and designated gaps will be protected. The Appeal Proposal conflicts with the spatial strategy in policy SS1.

8.5 Policy SS4, 'Countryside and Undeveloped Coast' provides, in parts (a) and (b), that:

*Outside of the Built Up Area Boundary land (excluding sites designated as Local Green Space under SS6) will be defined as ‘countryside and undeveloped coast’... Development in the countryside will be permitted, where a countryside location is essential to the proposed use. Applications for the development of entry-level exception sites, suitable for first time buyers or those looking to rent their first home will be supported where these:*

- comprise of entry-level homes that offer one or more types of affordable housing;*
- are adjacent to existing settlements, and proportionate in size to them; and*
- comply with any local design policies and standards.*

8.6 The explanatory text to policy SS4 explains at paragraph 3.45 that “*Outside the National Park, there are small pockets of countryside that represent a very small and finite resource that is valued for its open space, respite from intense urban activity, and intrinsic character.*”

8.7 As the Appeal Proposal is for non-essential development in the countryside and does not meet the exceptions criteria set out in the policy, it follows that the proposal also fails to comply with policy SS4.

8.8 The Appeal Site also lies within the setting of the South Downs National Park (SDNP).

8.9 The SDNP View Characterisation and Analysis explains that the elevated position from Highdown Hill offers “*breathhtaking views*” that represent the first of the SDNP’s special qualities. It notes that threats to these views include intrusive development which affect the sense of tranquillity from within the SDNP. The View Characterisation study further notes that development forms part of many of the views, often in the background. It sets management aims to ensure that the special qualities of the SDNP are retained, one of which is to ensure that development outside the SDNP does not block or adversely affect views towards the sea.

8.10 The Appeal Proposal would adversely affect the key view from Highdown Hill and would harm the setting of the SDNP. Section 11A of the National Parks and Access to the Countryside Act 1949 provides that:

*“In exercising or performing any functions in relation to, or so as to affect, land in a National Park, any relevant authority shall have regard to the purposes specified in subsection (1) of section five of this Act and, if it appears that there is a conflict between those purposes, shall attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park.”*

8.11 The “purposes specified” in section 5(1) are “(a) ... conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection” and “(b) ... promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public”. The “areas specified” are National Parks (subsection (3)).

8.12 Paragraph 176 of the NPPF provides that:

*“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”*

8.13 The Appeal Proposal would harm the setting of the SDNP. This was acknowledged by the appellant in its evidence to the previous appeal and in its submissions to the High Court and Court of Appeal. As such, the Appeal Proposal would not conserve or enhance the natural beauty of the SDNP which is one of the purposes specified in the National Parks and Access to the Countryside Act 1949. Great weight should be attributed to the harm to the SDNP pursuant to paragraph 176 of the NPPF. Indeed, the adverse impact of

the development on the setting of the SDNP provides a “clear reason” for refusing permission within the meaning of footnote 8 to the NPPF and justifies the disapplication of the tilted balance.

## Reason for refusal 2

8.14 The second refusal reason is as follows:

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).*

8.15 Policy SS5 identifies four areas in the Borough of Worthing to be protected under this policy, the second of which is Chatsmore Farm of which the appeal site forms part. The policy goes onto say that:

*all applications for development (including entry level exception sites) within Local Green Gaps must demonstrate that individually or cumulatively:*

*i) it would not undermine the physical and/or visual separation of settlements;*

*ii) it would not compromise the integrity of the gap;*

*iii) it conserves and enhances the benefits and services derived from the area’s Natural Capital; and*

*iv) it conserves and enhances the area as part of a cohesive green infrastructure network.*

8.16 The Council will adduce evidence to demonstrate that the Appeal Proposal, by virtue of its nature and scale would fail to comply with the provisions of policy SS5. The appeal site forms a noticeable break in development along the coastal plain and makes a substantial contribution to the sense of openness and

separation between the settlements of Goring by Sea and Ferring with the site forming a significant part of the extensive open and agricultural foreground setting to the National Park and Highdown Hill. The Appeal Proposal would undermine the physical and visual separation of Goring and Ferring; compromise the integrity of the existing gap and fail to conserve or enhance the benefits of the area's natural capital and cohesive green infrastructure network.

- 8.17 It is relevant to note that the Local Plan Inspector considered the justification for Policy SS5 and the particular parcels of land proposed for designation as LGGs and found as follows, at paragraphs 59 – 67 of his report:

*“The arguments in favour of maintaining this long-standing policy approach and providing a degree of consistency with neighbouring plans is compelling. Even with the extensive development pressure in Worthing, maintaining a sense of place and identity remains a justifiable strategic objective. I saw for myself that there are few breaks in the built form along the coast and those which exist are not all significant in size. I am therefore content that the definition of LGGs is sound.*

*In terms of the specific designations, and with reference to a proposal for housing development not included in the plan [i.e. the Appeal Proposal], it was put to me that the Chatsmore Farm does not function as a ‘gap’ and is rather an indentation in an otherwise continuous pattern of development. It is true to say that between the proposed Chatsmore Farm and Goring-Ferring gaps there is a block of development which already joins Goring and Ferring, with housing estates and a school located either side of Goring Way. Notwithstanding this, the western gaps clearly provide breaks in the built form and help prevent the sense that the two areas have merged completely or lost their own identities*

*This is particularly the case for Chatsmore Farm when viewed from the SDNP and Highdown Hill looking down the slope into Worthing. The same applies when looking north across the Goring-Ferring gap. The built form which segregates the gaps is not the dominant feature in these views and is also absorbed to an extent by landscaping. The predominant sense when viewing the gaps is one of relief from the continuous built form running east to west.*

*Based on the evidence before me, my own observations of the area and the overall strategy being proposed, I am satisfied that this land is justified as a LGG. [...]*

*...The break in the built-up sea front is keenly felt here and the obvious link with the 'gap' on the Arun side of the border only adds to its cumulative importance in maintaining Worthing's identity. The Goring-Ferring gap clearly performs the strategic function intended for a LGG.*

*Whether or not the western gaps are called gaps, buffers, wedges, indentations or some other description is somewhat semantic. What is important is their character, role and function, which are clearly consistent with the aims of the spatial strategy. Their definition as LGGs is therefore justified."*

### Reason for refusal 3

8.18 The adopted Local Plan contains a specific policy, DM18, relating to Biodiversity. Part (h) of the policy requires all new developments to provide a minimum of 10% net gain for biodiversity. It is understood that the Appellant believes this matter can be dealt with through the Statement of Common Ground and Section 106 obligations. The Council awaits the draft s.106 obligation and is hopeful that this matter can be resolved prior to the Inquiry.

### Planning Balance

8.19 As acknowledged by the appellant, all planning applications and appeals should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Since the consideration of the appeal at the previous Inquiry, the Worthing Local Plan has been adopted and now forms the statutory development plan. The Appeal Proposal conflicts with policies SS1, SS4 and SS5 of the Worthing Local Plan. In light of the conflict with those strategic policies, the development does not accord with the recently adopted development plan, read as a whole, and the starting point is that permission should be refused.

- 8.20 The Council is currently updating housing figures ready for the updated Annual Monitoring Review (AMR) for the period April 2022 – March 2023. The updated AMR is due to be published at the end of the year (2023) and prior to the Inquiry, which is due to be heard in February 2024. The AMR will calculate the housing land supply against the previous Core Strategy as the Worthing Local Plan (WLP) was only adopted at the end of March 2023. (The Core Strategy set a housing requirement of 200 dwellings per annum compared to 230 in the WLP. The next iteration of the AMR that will reflect the housing requirement of the new Local Plan will be that published in 2024, covering the period April 2023 – March 2024. However, it should be noted that for a number of years the Council has prepared 5 year Housing Land Supply positions which set out the housing supply against the Core Strategy target; the proposed (now adopted) Worthing Local Plan target; and against the Standard Methodology. The AMR to be published at the end of this year will also reflect that approach.
- 8.21 The last published AMR covers the period April 2021 - March 2022. It indicates that as at 31 March 2022, the Housing Land Supply position against the housing requirement of 230dpa in the (then emerging, now adopted) Local Plan was equivalent to 6.5 years.
- 8.22 In terms of the Housing Delivery Test, the Government last published results in August 2022, covering the period 2018 – 2021. During that period, Worthing delivered as 784 dwellings against a requirement of 2,268. i.e. 35%. Based on performance over those three years, the presumption in favour of sustainable development in paragraph 11(d) of the National Planning Policy Framework is engaged.
- 8.23 The effect of the presumption is that planning permission should be granted: (i) unless the application of policies in the Framework provides a clear reason for refusing permission (footnote 7 provides examples of such policies) or (ii) any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework.
- 8.24 In the present case, the Council considers that the tilted balance is disapplied by virtue of the development's impact on the SDNP. The development lies

within the setting of the SDNP rather than within it, but it nonetheless results in harm to the scenic beauty and views from the SDNP which are one of its special qualities. The Council considers that paragraph 176 of the NPPF provides a clear reason for refusing permission.

- 8.25 In any event, the Council is satisfied that the adverse impacts of allowing the development would significantly and demonstrably outweigh its benefits. It conflicts with the spatial strategy and key policies of a recently adopted Local Plan – to grant permission would undermine public confidence in the planning system and plan-led approach that it entails. It would also result in harm to the setting and special qualities of the SDNP and would undermine the physical and visual separation of the settlements of Goring and Ferring, compromising the integrity of the Local Green Gap.
- 8.26 While the Council recognises that the delivery of housing and affordable housing are benefits of the Appeal Proposal, as stated in paragraph 3.27 of the Local Plan, it is clear that, despite taking a positive approach to development, which maximises the opportunities for appropriate development, the delivery rate for housing will fall significantly below the levels of housing need identified (14,160 dwellings). The Council recognises that approximately 26% of the objectively assessed housing need will be met and this would result in a shortfall in housing delivery over the Plan period of 10,488 dwellings. Whilst acknowledging that this is a very high level of unmet housing need, the Council has robust evidence to demonstrate that all options to sustainably increase the rate of development have been exhausted. The tightly drawn boundary around the borough and lack of available land means that there is simply no way that objectively assess housing needs could be met in Worthing. While the Appeal Proposal would deliver additional market and affordable houses, which is a benefit of the scheme, it would provide less than 5% of the shortfall
- 8.27 As the Local Plan Inspector reported (at paragraph 89 of his report), *“nobody realistically believes that it would be possible for Worthing to meet the overall need within its own boundaries. Including all omission sites would make a relatively small difference to the overall shortfall. While I acknowledge that every house delivered is important, and substantial weight should be given to*



*delivering as much housing as possible, national planning policy does not expect housing needs to be met at the expense of all other planning matters”.*

8.27 As part of the Local Plan process, the LP Inspector considered lengthy and detailed arguments on behalf of the Appellant that the Appeal Site should be allocated for development and was shown plans for up to 475 houses, as currently proposed in this appeal. It was put to him that the Appeal Proposal would leave part of the Appeal Site undeveloped and would retain a sufficient gap between Goring and Ferring; that the Appeal Site should be excluded from the Local Green Gap designation or its boundaries amended to allow part of the Appeal Site to be developed. Notwithstanding those submissions, the LP Inspector was satisfied that the Appeal Site should be designated as part of a LGG; that the boundaries of the designation should not be amended to allow part of the site to be developed; and that the entirety of the Appeal Site should be subject to the protection afforded by policies SS1 and SS4. In his report of August 2022, the Local Plan Inspector in considering policy SS1 stated at paragraph 47:

*“Areas outside the built-up area are relatively scarce and many are subject to other constraints which make them valuable resources for a variety of reasons. On this basis, the Plan also sets out a high level of protection for the remaining areas of countryside. This is appropriate in Worthing’s context.”*

8.28 The Inspector concluded at paragraph 49 that *‘I am content that all reasonable alternatives and options for growth have been considered and the overall spatial strategy is sound.’*

8.29 Where policies are deemed to be out of date by virtue of footnote 8 to the NPPF, the Framework does not dictate the weight to be afforded to such policies. In the present case, the policies have been rigorously assessed through the Local Plan process and found to be consistent with national policy and sound. The Council considers that significant weight should be afforded to the policies of the recently adopted Local Plan, even if they are deemed to be out of date.

8.31 The Appeal Proposal conflicts with fundamental policies of the newly adopted Local Plan. It does not accord with the development plan overall and therefore there is a statutory presumption against the grant of permission unless there are material considerations of sufficient weight to rebut that presumption. In this case, while the Appeal Proposal will deliver a number of benefits, there are no material considerations of sufficient weight to justify a departure from the development plan.

## **9. DOCUMENTATION**

9.1 A set of Core Documents will be agreed with the appellant prior to the Inquiry.

9.2 In addition to the application documents, it is noted that the appellant will refer to the following documents, which the Local Planning Authority will also refer to.

### National Documents

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

### Local Planning Documents

- The Worthing Local Plan (2023)
- 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

### Additional documents

- The previous appeal decision, now quashed
- The Judgements of the High Court and Court of Appeal that relate to the previous decision and other judgements referred to therein
- Relevant proofs from the previous inquiry

9.3 The Local Planning Authority 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**

- 10.1 It is anticipated that an agreed set of conditions will be provided to the Inspector before the start of the Inquiry.
  
- 10.2 It is understood that the Appellant will also present an obligation 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. The Council anticipates that this will secure a policy-compliant level of affordable housing and biodiversity net gain requirements.