

## **Examination of the Worthing Local Plan 2020 - 2036**

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Dear Mr Moody,

### **Inspector's Initial Advice**

1. I write further to the examination hearing sessions, which concluded on 17 November 2021. At the close of the hearing, I committed to writing to the Council regarding any further Main Modifications or steps needed to make the Worthing Local Plan 2020-2036 (WLP) sound and legally compliant. These are in addition to potential Main Modifications discussed at the hearing sessions, which are not repeated here.
2. I have considered all the representations made to the WLP including the oral contributions at the hearing sessions. My final conclusions regarding soundness and legal compliance will be given in my report to be produced following consultation on the proposed Main Modifications. Nevertheless, having regard to the criteria for soundness and to assist for now, I shall give brief explanations for my initial advice below.

### ***Sustainability Appraisal / Strategic Environmental Assessment (SA/SEA)***

3. The Environmental Assessment of Plans and Programmes Regulations (2004) require sustainability appraisals to identify, describe and evaluate the likely significant effects on the environment of reasonable alternatives. I am generally satisfied that the evidence base as a whole provides a clear, proportionate and robust basis for the preparation of the WLP. Overall, the justification for the Plan is reasonably clear. However, in terms of legal compliance, I am concerned that the Submission version of the

SA [document CD/H/14] is not as clear as it might be in identifying why certain options were selected and others rejected.

4. In addition, in places there is also arguably a 'missing link' between the Draft Integrated Impact Assessment (DIIA) [CD/F/8] and the Submission version of the SA. The Submission SA does not always fully explain how alternatives or policies evolved or had been refined between the two documents. Table 6 in the SA sets out how changes between the Draft and Submission plans might have affected the DIIA assessment. However, the SA is not always clear about what changes have taken place or the reasons for them, why the resulting options have been selected or why there has been no change in the likely significant effects. While there are some cross-references to the DIIA, it can be difficult to follow the 'story' of how the policies have been appraised.
5. One example is the evolution of the housing requirement. The DIIA assessed three potential options, the lowest of which was for 4,232 dwellings. The WLP proposes a requirement of 3,672. The SA assesses the effects of this figure in its own right. However, the document does not explain in any detail why none of the DIIA options have been taken forward, what has precipitated the change or why this has become the 'preferred' option. While the Council did not consider this would make any material difference to the conclusions of the DIIA, the reasoning for this assertion is quite brief and may benefit from further explanation.
6. The SA would therefore benefit from clearer cross referencing to specific elements of the DIIA and/or other parts of the evidence base to assist readers. The Council may also consider whether it would be beneficial for the DIIA to form an appendix to the SA. In addition, the Council should ensure that the final SA document clearly sets out the reasons for selecting and rejecting options, as required by the relevant regulations.
7. I therefore recommend that the Main Modifications consultation is accompanied by an updated SA which draws together existing evidence on the identification and selection of preferred options and why some alternatives were rejected or not considered 'reasonable' for assessment. This should also include any updates that are necessary to reflect Main Modifications or other issues discussed, such as the assessment of the Worthing Leisure Centre site.
8. This will help to ensure the SA meets the regulations. It should not however result in the need to prepare new evidence or alter any of the justifications that already exist in the evidence base. Nevertheless, if this work highlights the potential for further changes to the Plan, then the Council should let me know as a matter of urgency.

## ***Local Green Space Designations***

9. The Plan identifies three areas as Local Green Spaces (LGS); Chatsmore Farm, the Goring-Ferring Gap and Brooklands Recreation Area. Paragraph 102 of the Framework establishes three criteria for designating LGS. I am satisfied they are all in reasonably close proximity to the communities they serve, exhibit characteristics that make them demonstrably special to local communities and have particular local significance. Accordingly, they meet the requirements of criteria a) and b) of paragraph 102.
10. I do however have concerns about the extent to which the Chatsmore Farm and Goring-Ferring Gap relate to criterion c). This states that LGS must be local in character and must not be an extensive tract of land. There is no definition of what constitutes an 'extensive tract of land' in national policy. The Planning Practice Guidance (PPG) provides some assistance by stating that a "*blanket designation of open countryside adjacent to settlements will not be appropriate. In particular, designations should not be proposed as a 'back door' way to try to achieve what would amount to a new area of Green Belt by another name*"<sup>1</sup>.
11. The Chatsmore Farm designation is around 30 hectares (ha) and is primarily made up of open agricultural fields. It represents a gap in the built form between the railway line, A259 to the north and east and the built form of Arun to the west. Notwithstanding the presence of the road, the site is well related visually to the South Downs National Park (SDNP) and thus provides an opportunity for the open countryside to penetrate the built-up area. The LGS designation therefore covers a large area of land and has the appearance of an unbroken area of open agricultural countryside. The area also coincides with the proposed Local Green Gap (LGG) designation. The main purpose of this designation is to retain the separate identities and character of settlements.
12. In the context of national policy on LGS, the scale and character of the area is that of a 'blanket designation of open countryside'. Moreover, given the relationship with the LGG, the designation would effectively function as a new area of Green Belt. On this basis, the LGS conflicts with the guidance in the PPG and is thus not appropriate.
13. The Goring-Ferring Gap covers around 33ha in Worthing and extends into Arun. Although again predominantly agricultural, the character of this area is more varied than Chatsmore Farm, with some areas of formal recreation and woodland. The area is also a

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<sup>1</sup> Paragraph: 015 Reference ID: 37-015-20140306

designated wildlife site. These factors all add to its local significance.

14. Nevertheless, apart from the land to the south of Marine Drive, the LGS again covers much the same area as the proposed LGG. This constitutes a sizeable gap between the built form of Worthing and the boundary of the borough. Given its scale and *predominantly* agricultural character, I consider that the majority of the proposed LGS would also fall into the category of a blanket designation of open countryside adjacent to a settlement. Notwithstanding the continuation of the 'gap' into Arun, it would also function largely as *de facto* Green Belt. As such, it would also conflict with the PPG.
15. In coming to these conclusions, I have had regard to the detailed evidence and discussions regarding the landscape, biodiversity and recreation value of the areas, as well as the support of the local population for their designation. My decision does not diminish these characteristics. However, it is necessary for all three criteria in national policy to be met. Owing to their scale, nature and function, both areas would constitute extensive tracts of land in the context of paragraph 102c) of the Framework. Accordingly, they conflict with national policy and do not qualify as Local Green Space. They are therefore unsound and should be removed from the Plan in their current form.
16. The Council argued at the hearings that it would not be possible to sub-divide the designations into smaller or distinct areas. Nevertheless, I would be happy to receive representations from the Council about whether there are amendments to the boundaries that could be considered. This might be particularly the case in relation to the Goring-Ferring Gap which includes several different land uses. If the Council were to take this opportunity then, to assist me, it may be necessary to carry out a focussed consultation with those who previously made representations on the LGS sites. This would be needed prior to any consultation on Main Modifications.
17. While the size of the areas has obviously had a bearing on my decision, it has not been the decisive factor. The Brooklands Recreation Area designation also covers a large area of land, but clearly has a predominantly recreational function and character which sets it apart. Therefore, other than the changes to the boundary already put forward by the Council, I do not consider any further modifications are needed to this designation.

#### ***Policies SS4, SS5 and SS6***

18. I suggested at the hearing sessions that the Council would need to look again at the relationship between Policies SS4, SS5 and SS6. These policies cover the 'countryside and undeveloped coast', LGG

and LGS respectively. It was agreed that Main Modifications would be needed to ensure a clear and internally consistent approach to the three different, but overlapping, designations. I also asked the Council to make modifications to Policy SS6 to better reflect national policy in terms of LGS and their relationship to Green Belt policy<sup>2</sup>.

19. The Council produced a note relating to these issues [WBC-E-17]. I have now had the opportunity to reflect on this and the discussions at the hearing sessions. The comments provided here are intended to assist in the production of the Main Modifications schedule.
20. I note under Policy SS4 that the Council has sought to reflect the potential for entry-level exception sites. The submitted plan makes no reference to this and thus would be inconsistent with paragraph 72 of the Framework. A modification rectifying this omission is therefore necessary. I also note that the suggested policy would alter the designation of 'open countryside and undeveloped coast' to exclude LGS. The policies as submitted would have added additional tiers of control on LGS areas which would not be justified given that LGS policy should reflect that for Green Belt. A modification differentiating between these and other areas of open countryside is therefore necessary in terms of effectiveness.
21. The requirement in Policy SS5 to demonstrate 'exceptional circumstances' within LGGs is unnecessary given the criteria set out the circumstances in which development would be acceptable. The Plan is also unclear as to what would constitute an exceptional circumstance and is thus ambiguous. This requirement is unjustified and ineffective and thus should be removed. The suggested changes to criteria i) and ii) also better reflect the perceived purpose of the LGG designation and are more consistent with similar policies in neighbouring areas. They also remove reference to coalescence and openness, which are akin to Green Belt policy. I agree that modifications are necessary to these criteria to be justified and ensure effectiveness.
22. Policy SS6 does not properly reflect paragraph 103 of the Framework insofar as it is not consistent with Green Belt policy. The suggested modifications to Policy SS6 seek to address this deficiency. In particular, reference is now made to 'very special circumstances'.
23. The suggested modification does not however resolve the soundness issue. As set out in paragraphs 147 to 151 of the Framework, 'very special circumstances' are not necessary in all cases. In addition, what constitutes a 'very special circumstance' is not defined in national policy and is not necessarily limited to the

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<sup>2</sup> As set out in paragraph 103 of the Framework.

public benefits of development outweighing any harm caused. Indeed, this balance may not necessarily reach the high bar of a 'very special circumstance' in all cases. There are therefore aspects of Green Belt policy that are not reflected in the suggested modifications. I do agree however that criteria i.-iv. should be deleted as they are inconsistent with national policy.

24. I therefore invite the Council to revisit this policy and provide alternative wording for me to consider in the forthcoming modifications schedule.

## **Allocations**

### ***Site A13 –Titnore Lane***

25. This site is bordered on three sides by Ancient Woodland which is also designated as the Titnore and Goring Woods Complex Local Wildlife Site (LWS). An element of this also runs roughly through the middle of the site. The site is also subject to other constraints, including surface water flooding and the setting of the SDNP. It also has an attractive countryside character, which is enhanced significantly by the woodland.
26. These constraints are not entirely unusual for sites allocated in the Plan. However, the extent of the cumulative issues facing this site are substantial. Moreover, the specific relationship between the LWS and developable area gives rise to significant concerns about direct and indirect harm to this feature. This is particularly the case as any internal distributor road would need to cut through the LWS. While this would be in the gap created by existing pylons, it is nevertheless still part of the designated wildlife site. Notwithstanding any potential issues relating to construction, a distributor road would have a very different and potentially harmful character and impact to the pylons.
27. Although the site is within the defined built-up area, any development would also be visually and physically separate from the existing built form and settlement pattern. Even with the policy's requirements for improvements to public rights of way, it remains likely that any development would appear and function as a disjointed adjunct to the settlement. This sense of separation would be exacerbated by accessing the site from Titnore Lane, which is not associated with existing residential development in this location. Several allocated sites would result in encroachment into the countryside. Nevertheless, the distinct characteristics of this site give rise to concerns that the impacts on character and appearance would be particularly significant and harmful.
28. Development of this site therefore raises significant risks and concerns about the impact on ancient woodland, the integrity of the LWS and the character of the area. I acknowledge that the proposed

policy sets out many requirements that seek to mitigate the impacts. However, I am not persuaded that these would be sufficient to ensure a satisfactory form of development. Indeed, these tend to highlight the difficulty in which a suitable form of development could be achieved. Moreover, there are no modifications that could be made that would make the site acceptable. In my view, development here would therefore conflict with the Framework's policies on conserving and enhancing the natural environment.

29. I am clearly very conscious of the Council's housing delivery issues and the difficulties that exist in meeting needs. Nonetheless, as the Council have also argued, this does not mean that all forms of development are acceptable in principle. In this instance, I consider that the risk of adverse impacts from developing the site would significantly and demonstrably outweigh the benefits. Consequently, the allocation is not justified or consistent with national policy. It should therefore be deleted with necessary changes made to the housing requirement, housing trajectory and Policies Map.

#### ***Site A9 – Lyndhurst Road***

30. The issue of internal consistency for site specific policies was discussed at the hearing sessions. The Council may already be considering alterations to the development requirements for site A9 in this context.
31. For the avoidance of any doubt, I will expect the policy for site A9 to include specific reference to the need to carry out mitigation of any contamination issues and highlight areas of particular sensitivity, in terms of local character, heritage and the living conditions of nearby residents. Given the nature of the site's surroundings, I consider such detail to be necessary. It would also be appropriate to ensure references to parking and sustainable travel are incorporated into the site requirements. This would provide local residents with a degree of comfort while also ensuring prospective developers are clear about expectations.

#### **Development Management Policies**

32. The comments below are to be considered alongside any modifications suggested during the hearing sessions or in the evidence base.

#### ***Policy DM2: Density***

33. Although this was discussed at the hearing sessions, for the avoidance of any doubt, the reference to the Council's external space standards in criterion d) is not justified or effective. This should be addressed either through reference to a Supplementary

Planning Document or through inclusion of standards as an Appendix.

***Policy DM3: Affordable Housing***

34. In relation to criterion c) the Council agreed to consider the policy in the context of paragraph 65 of the Framework and the requirement for at least 10% of homes to be available for affordable home ownership. In discussions on this, the Council indicated they would provide me with evidence of the effects on viability (albeit in the form of discussions with the relevant consultants). While no concerns were expressed, it would be preferable if this information were placed in the evidence base for completeness. Assuming I have no additional concerns, this should be made available alongside the Main Modifications consultation material.

***Policy DM13 – Retail and Town Centre Uses***

35. Criterion e) of Policy DM13 states that Town Centre Character Areas (TCCA) will help guide development in the town centre by assessing applications against the specific role and function of the character area. The supporting text provides a broad overview of the character and function of each area. However, it is not clear how this information and criterion e) would be used to determine an application, particularly where a proposal might already be consistent with criteria d)i.-iii. The descriptions of TCCAs are also not always necessarily consistent with the 'frontage' policies. This could give rise to a degree of confusion.
36. In my view, criterion e) is unclear and ambiguous and thus inconsistent with paragraph 16d of the Framework. I acknowledge however that the descriptions of TCCAs might be helpful in establishing a broad 'vision' for the town centre. For this reason, the reference to TCCAs should be amended to allow consideration to be given to the 'harm' to the character or vision for each area. This would be a more clear and effective expression of intent and would relate well to criterion b)i. which considers issues of vitality, viability and diversity of a centre. For Policy DM13 to be effective, the TCCAs should also be identified on the Policies Map.

***Policy DM14 – Digital Infrastructure***

37. Criteria b) to d) require development to enable Fibre-to-the-Premises (FTTP) at first occupation, meet or exceed Building Regulations regarding FTTP or, where this is not practical, provide alternative technological options and necessary infrastructure for FTTP in the future. It is not necessary for development plan policies to refer to the Building Regulations. Moreover, there is no clear justification for development to be required to exceed existing Building Regulations in terms of FTTP.



38. I acknowledge that paragraph 114 of the Framework states that planning policies should support and prioritise the expansion of full fibre broadband connections. I therefore invite the Council to suggest alternative wording which achieves this without the superfluous references to the Building Regulations. I note the '*West Sussex Digital Infrastructure - background information for Local Plan Policies*' document includes examples of policies which, albeit not yet adopted, do not refer to the Building Regulations. These may provide a useful starting point for consideration.

### **Next Steps**

39. The Council are now invited to complete a schedule of Main Modifications for my consideration to ensure it reflects my understanding of the discussions and to avoid any soundness issues. As mentioned at the hearing sessions, this should only contain modifications necessary to make the Plan sound or legally compliant.
40. Once the schedule is agreed, it will be subject to consultation. This should take place for a minimum of 6 weeks. All evidence produced during the hearing sessions and the updated SA should be published alongside the modifications and made available for comment. The Council should also consider whether updates to the Habitats Regulation Assessment (HRA) would be necessary. If so, this should also be made available at the same time. A copy of the updated SA and HRA should be sent to me for my consideration prior to the start of the consultation exercise.
41. I have asked the Programme Officer to upload a copy of this letter to the examination website, but I am not seeking any comments from participants at this stage. In the meantime, should the Council have any queries about the content of this letter, or anything discussed at the hearing sessions, then please do not hesitate to contact me through the Programme Officer.

Yours sincerely,

*Steven Lee*

INSPECTOR