

UPDATED

PLANNING PROOF OF EVIDENCE

Prepared by: David Hutchison

SECTION 78 APPEAL BY PERSIMMON HOMES THAMES VALLEY

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

Date 16th January 2024 | Pegasus Ref: P.1173

PINS Ref. APP/M3835/W/21/3281813

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.





Document Management.

Version	Date	Author	Checked/ Approved by:	Reason for revision
RO01v1	16/01/2024	DH		



Contents.

1. PERSONAL BACKGROUND.....	3
2. INTRODUCTION	4
3. THE APPEAL SITE LOCATION AND DESCRIPTION.....	8
4. THE APPEAL PROPOSALS.....	9
5. PLANNING HISTORY.....	10
6. PLANNING POLICY.....	13
7. CASE FOR THE APPELLANT.....	14
8. THE OVERALL PLANNING BALANCE	51
9. PLANNING OBLIGATIONS	68
10. SUMMARY AND CONCLUSIONS.....	70



1. PERSONAL BACKGROUND

- 1.1. My name is David Hutchison. I hold a Bachelor of Science Degree and Diploma in Town Planning from Cardiff University.
- 1.2. I am a Chartered Town Planner and I am employed as a Planning Consultant at the firm of Pegasus Group. I currently hold the position of Executive Director and I am based in the Cirencester Office.
- 1.3. I have worked in the private sector as a Planning Consultant since 1999 (over 24 years). Prior to my appointment at Pegasus (when the company was first established in 2003), I worked for Chapman Warren and the RPS Group.
- 1.4. I have a wide range of experience in all aspects of Town Planning, dealing with both Development Control and Planning Policy. I now work primarily for residential and commercial developers/land promoters, and I am responsible for all aspects of their work ranging from site promotion through the Development Plan process to preparing and submitting planning applications for various scales of development, including large scale strategic urban extensions.
- 1.5. As well as dealing with outline applications for larger developments I am also involved in negotiations on a day-to-day basis in relation to reserved matter applications on behalf of developers.
- 1.6. I have presented evidence on behalf of clients at numerous Public Inquires and Informal Hearings.
- 1.7. My involvement in this project dates to the preparation and submission of the original planning application. I was also the Planning witness at the previous public inquiry.
- 1.8. The evidence that I have prepared and provide for this appeal (PINS Ref APP/M3835/W/21/3281813) is true and has been prepared and is given in accordance with the guidance of my professional institution, irrespective of by whom I am instructed. I can confirm that the opinions expressed are my true and professional opinions.

2. INTRODUCTION

2.1. My Proof of Evidence 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).

2.2. The appeal was lodged following the decision of Worthing Borough Council to refuse a planning application which sought outline planning permission for a proposed development comprising:-

“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.”

2.3. The application was submitted on 10th August 2020 and was allocated the reference number AWDM/1264/20.

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

2.5. Having considered the advice from Officers, the Committee resolved to refuse the application. The decision notice which is dated 11th 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

- 2.6. A public inquiry was held on the dates of 18th to 21st January and 25th to 28th January 2022. The appeal decision was issued on 25th February 2022 [CD.L1]. Inspector Cridland allowed the appeal and granted outline planning permission for the proposed development, subject to conditions and planning obligations.
- 2.7. 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.
- 2.8. The appeal has been remitted back to PINs for it to be redetermined. A Public Inquiry is scheduled to open on 6th February 2024.

The Updated Reasons for Refusal

- 2.9. Officers took a report to Committee on 23rd August 2023 to seek a resolution on how they should proceed with the remitted appeal, and to consider any changes in circumstances since the previous inquiry [CD.A25].
- 2.10. Members resolved that the LPA would continue to contest the appeal, but the reasons for refusal have now changed. They 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)."

- 2.11. It is agreed that the issues identified in RfR 3 are now capable of being resolved through planning conditions and or planning obligations following the submission of the updated BNG Assessment [CD.M6].

My Evidence

- 2.12. This Proof of Evidence replaces my original Proof of Evidence in its entirety. My original evidence will obviously remain part of the library of inquiry documents. However, given the changes to the Development Plan, the need to address the findings of the previous Inspector, the LPA's unjustified departure from the original SoCG in relation to the tilted balance and the worsening position with regards to housing need I felt that it would avoid confusion if I was to present all my updated evidence as part of a single updated Proof of Evidence.
- 2.13. My Proof of Evidence deals with the planning policy matters raised in updated RfR 1 and 2 as well as the objections raised by third parties. In particular, it focuses on the principle of residential development in this location, policy relating to the setting of the South Downs



National Park and policy relating to the effects of the proposals on the Local Green Gap designation.

2.14. I also deal with the overall planning balance which draws together the evidence presented by the other witnesses that have prepared evidence on behalf of the Appellant.

2.15. I reserve the right to add to or amend my evidence on receipt of the evidence submitted by the LPA and other parties.

Other Proofs of Evidence submitted on behalf of the Appellant

2.16. My evidence should be read alongside the other Proofs of Evidence that have been prepared on behalf of the Appellant. This includes:-

- a. Mr Clive Self – Landscape and Visual Impact
- b. Mr Neil Tiley – Housing Need and Supply
- c. James Stacey – Affordable Housing

2.17. The evidence that was previously presented on heritage and transport matters is no longer contested¹ but obviously remains part of the case for the Appellant and feeds into the overall planning balance.

Statements of Common Ground

2.18. My evidence should also be read in conjunction with the following updated Statements of Common Ground (SoCG):-

- a. Planning (including the Appendix relating to heritage)
- b. Housing Need and Supply
- c. Landscape and Visual Impact
- d. Biodiversity Net Gain

¹ The heritage evidence was agreed at the last inquiry. The LPA's objections on highway grounds were not supported by the previous Inspector and the LPA has withdrawn its objections in this regard



3. THE APPEAL SITE LOCATION AND DESCRIPTION

- 3.1. A description of the appeal site and its surroundings is set out in section 2 of the Appellant's Updated Statement of Case [CD.M3].
- 3.2. It is agreed that the Appeal Site on the ground remains unchanged since the original Public Inquiry. To avoid unnecessary duplication, I do not repeat the full description again here.

4. THE APPEAL PROPOSALS

- 4.1. A description of the appeal proposals is provided at Section 3 of the Appellant's Updated SoC.
- 4.2. The proposed development itself remains unchanged from that which was considered at the last inquiry. It comprises the following:-
- "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."**
- 4.3. Again, to avoid unnecessary duplication I do not intend to repeat the full description of development again here.
- 4.4. For completeness I should however highlight that the planning obligations and/or conditions would secure the following additional benefits that were not proposed previously:-
- a. Commitment to enhanced internal accessibility standards
 - b. Homes built to Carbon Zero standard
 - c. A cascade to prioritise market homes for local people
 - d. The transfer of land at Manor Farm
- 4.5. These additional benefits are described in more detail in Section 8 of my evidence.

5. PLANNING HISTORY

- 5.1. The planning history that is of most relevance to this appeal is set out in Section 6 of the original SoCG.
- 5.2. It is not necessary for me to rehearse the historic applications that relate to the site. I will however provide some commentary on the previous appeal decision and the legal challenge that led to that decision being quashed.

The relevance of the previous appeal decision [CD.L1]

- 5.3. It is agreed that the current appeal should be considered on its own merits and in the context of the planning policy framework that exists now.
- 5.4. 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 struck down by the courts may be material considerations for subsequent decision makers. I will draw out relevant conclusions from the previous appeal decision later in my evidence where appropriate.
- 5.5. The weight to be afforded to individual planning considerations is obviously a matter of judgement for individual decision makers and the new Inspector will need to reach her own conclusions in this regard. Consistency in decision making is however an important foundation of the planning system.
- 5.6. It is agreed that those parts of the decision where the Inspector was found to have erred are to be disregarded, as they could infect subsequent decisions.

The legal challenge

The Judgement of the High Court [CD.L2]

- 5.7. The LPA challenged Inspector Cridland's decision to allow the appeal in the High Court. The judgement sets out the LPA's grounds of challenge at §3 as follows:-
- i) In his treatment of the impact of the development on the gap between the settlements of Goring and Ferring, specifically in failing to provide adequate reasons in respect of those impacts or consequent assessment of the development against Policy SS5 of the emerging Local Plan ("eLP").**
 - ii) In failing to take account of the conflict with Policies SS1 and SS4 of the eLP and/or failing to provide adequate reasons as to the**

assessment of the development against those policies or the weight to attribute to any conflict.

iii) In failing to take account of a material consideration, namely the reasons for the absence of a specific gap designation in the adopted development plan.

iv) In his treatment of the impacts of the development on the South Downs National Park (“the National Park”), specifically in failing to comply with his duty in section 11A of the National Parks and Access to Countryside Act 1949 (“the 1949 Act”) and/or paragraph 176 of the National Planning Policy Framework (“the Framework”); and/or in failing to provide adequate reasons and/or reaching an irrational conclusion in respect of the impact of the development on the National Park.

- 5.8. The Grounds that did not succeed in the High Court were Ground 1 [see §72] and Ground 3 [see §121] both of which related to “Gap” issues and emerging planning policy.
- 5.9. The Grounds that did initially succeed in the High Court were Ground 2 [§107] and Ground 4 which relate to emerging planning policy and the setting of the National Park respectively.
- 5.10. Mrs Justice Lang quashed the appeal decision on these two grounds.

The Judgement of the Court of Appeal [CD.L3]

- 5.11. The Appellant appealed against the judgement in the Court of Appeal. The Court of Appeal did not agree with the judgement of the lower court on Ground 2 and so it fell away. The conclusion on this matter was as follows:-

“43. I therefore disagree with the judge on this issue. I do not think there is any real doubt about the lawfulness of the inspector’s approach to the draft strategic policies of the emerging local plan on which the council relied. In my view he clearly did take those policies into account, gave weight to the proposal’s conflict with them, and provided proper reasons for his relevant conclusions. Those conclusions show a reasonable and lawful exercise of planning judgment on the evidence and submissions he heard.” (my emphasis)

- 5.12. The Court of Appeal did however agree with the lower court on Ground 4 relating to the setting of the National Park. Paragraph 63 of the judgement records the conclusions:-

“63. The level of harm identified by the inspector in paragraph 47 of the decision letter – “moderate adverse and not significant” – was not merely negligible. And it is not obvious how that finding of harm can be squared with the conclusion in the final sentence of paragraph 49 that the setting of the National Park would not be “materially affected”. Even if those two conclusions could be regarded as consistent with each other, it would still be unclear whether the harm identified by the inspector carried any weight in his planning balance, or, if it did, how that amount of weight could be seen as compatible with the “great

weight” principle in the Government’s planning policy for National Parks. That is unclear in paragraph 49 of the decision letter. It remains so in paragraph 57, and in paragraphs 82 to 92. I accept that the inspector did not have to voice the words “great weight”, but he did have to show how he had applied that part of the paragraph 176 policy, and how it had influenced the planning balance, if it did.

64. In my view, therefore, the council’s complaint on this ground is justified. The inspector’s reasons are defective. They leave a substantial doubt that he has lawfully applied relevant national policy to one of the main issues in the section 78 appeal.

65. Like the judge, I am unable to conclude that relief should be withheld on the basis of the principle in *Simplex*. It is, in my view, impossible to say that if the inspector had not erred in the way he did his decision would necessarily have been the same.” (my emphasis)

- 5.13. In summary the planning balance part of the decision was flawed because it was not clear how the Inspector had weighed the harm to the setting of the National Park that he had identified. Furthermore, the Court felt it was impossible to say that the outcome of the decision would have been the same had he not made this error.
- 5.14. As I explain later, there is nothing in the judgements that established a new legal precedent on the approach to be taken when dealing with the setting of a National Park, or the meaning of national policy in this regard. It was simply an omission in the planning balance.
- 5.15. There was also nothing defective about the way in which I dealt with the issue in my original evidence. I am satisfied that my own approach on this matter was correct. I do not therefore need to approach this issue in a different way.

6. PLANNING POLICY

- 6.1. The Development Plan policies and the National Planning policies that are of most relevance to this appeal are identified in Section 7 of the Updated SoCG.
- 6.2. I will refer to relevant policies and guidance and the weight that ought to be afforded to them in the Case for the Appellant (Section 7) and in the Overall Planning Balance (Section 8).

The Development Plan

- 6.3. In summary the Development Plan for the area currently comprises the following:-
- Worthing Local Plan [CD.E38]
- 6.4. The Worthing Local Plan has replaced the Worthing Core Strategy [CD.E1] and saved policies of the previous Worthing Local Plan [CD.E8] that was in place at the time of the previous inquiry, and when the appeal decision was issued.
- 6.5. It is now therefore necessary to consider the appeal proposals in the current planning policy context of the new Worthing Local Plan.

7. CASE FOR THE APPELLANT

7.1. In this section of my evidence, I will explain why I consider that the appeal proposals represent sustainable development, and I will demonstrate that there are still compelling reasons that justify the grant of planning permission.

Background Context

7.2. The housing land supply position and the history of past performance on delivery are of importance in this case because it has a direct effect on the way that this appeal should be determined. The background context for my evidence is as follows:-

- a. It is agreed that the results of the latest Housing Delivery Test (HDT) mean that the tilted balance is engaged through NPPF footnote 8, regardless of the 5YRHLS position.
- b. Notwithstanding the above, the evidence of Mr Tiley indicates that the LPA cannot demonstrate a five year supply of housing land (5YRHLS) and this would have engaged the tilted balance through NPPF footnote 8 in any event.
- c. It was agreed previously that there are no NPPF footnote 7 policies that provide a clear reason for refusal in this case such that the tilted balance is dis-applied [original SoCG §8.22 and 8.23]. I understand that the LPA intend to resile from this position, but I have yet to be given a satisfactory reason as to why that is the case.
- d. The most important policies are out of date. The tilted balance is therefore engaged (and not disengaged for any reason).
- e. Despite the recent adoption of the Local Plan there remains an “exceptionally high” need for additional housing in the Borough with the Local Plan only proposing to meet 26% of the need in the plan period, leaving a shortfall of 10,488 homes. The need for housing has not therefore disappeared with the adoption of the Local Plan.
- f. If anything, the situation has worsened since the last inquiry according to Mr Tiley and the LPA is already unable to demonstrate a 5YRHLS against its new constrained housing requirement that does not address 74% of the objectively assessed need.
- g. Mr Stacey demonstrates that the affordable housing position has also worsened.
- h. There is still no proper solution to the unmet needs arising from Worthing.
- i. There is still no proper solution to the unmet needs of the wider sub region.

- 7.3. When measured against the constrained housing requirement Mr Tiley finds that the LPA is only able to demonstrate a **4.18 year land supply** and there is now an exceptionally high 5YLS shortfall of either 3,521 or 4,360 homes relative to need.
- 7.4. There is no imminent or even medium-term plan led solution to address this immediate and critical need for market and affordable housing. The LPA knew that the tilted balance would apply immediately after the Local Plan was adopted and so the situation is left to the development management system to resolve.
- 7.5. It is very difficult to overstate the severity of the housing crisis in this borough and the wider sub region. It is therefore unsurprising that all parties agreed at the previous inquiry that the weight to be afforded to the provision of housing was at the uppermost end of the scale. The latest draft of the updated SoCG notes that the parties don't agree on weightings for the benefits of the scheme, but the weight to be afforded to housing is agreed as follows:-

“The weight to be afforded to the following benefits is however agreed:-

- a. Delivery of market housing – at the uppermost end of the scale**
- b. Delivery of affordable housing – at the uppermost end of the scale”**

- 7.6. With the tilted balance engaged, the onus rests with the LPA (or other interested parties) to demonstrate that any residual adverse impacts would significantly and demonstrably outweigh the benefits of granting planning permission.²

The Putative Reasons for Refusal

- 7.7. My evidence will concentrate on the planning policy issues raised in PRfR no.1 and PRfR no.2. The main strands of the LPA's objections can be summarised as follows:-
- a. The proposed development is outside of the defined built-up area.
 - b. It is not development essential to a countryside location nor development of entry level exception sites.
 - c. The proposal would have an adverse impact on the setting of the South Downs National Park.
 - d. Consequent on such matters, it is contrary to paragraph 176 of the NPPF and policies SS1 and SS4 of the Worthing Local Plan.

² NPPF Paragraph 11d (ii)

- e. It involves 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.
- f. The 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.
- g. Consequent on such matters the proposal fails to comply with policies SS1 and SS5 of the Worthing Local Plan (2023).

7.8. Mr Self will present the substantive evidence on landscape and visual impact for the purposes of RfR1 and RfR 2. I will then draw upon his evidence when dealing with the planning balance.

The Main Issues

7.9. The main issues for the inquiry are identified in the Inspector's Case Management Conference Note [CD.M5] and I have adopted these for the purposes of my evidence. I will address the following matters from a planning policy perspective:-

- Issue 1** **Whether the proposed development would be in a suitable location having regard to local and national planning policies**
- Issue 2** **The effect of the proposed development on the setting of the South Downs National Park;**
- Issue 3** **The effect of the proposed development on the Local Green Gap**
- Issue 4** **Other matters raised in third party objections**

7.10. In Section 8, I will deal with the overall planning balance. I will identify the main benefits and other considerations that weigh in favour of the proposals and I will attribute weight to each of these. The same will be done for any potential adverse effects.

Issue 1 Whether the proposed development would be in a suitable location having regard to local and national planning policies

7.11. The starting point for the determination of any planning application or appeal is the Development Plan. The planning system is "plan led" and Planning Law requires that applications for planning permission must be determined in accordance with the Development Plan unless other material considerations indicate otherwise.

The Development Plan

- 7.12. In this case, the Development Plan comprises:-
- The Worthing Local Plan (WLP);
- 7.13. The Local Plan was adopted on 28th March 2023. At §1.4 the Local Plan confirms that it replaces the Council's local planning policies set out in the Core Strategy (2011) and the saved policies from the Worthing Local Plan (2003).
- 7.14. The previous appeal decision was issued on 25th February 2022 and so the Development Plan for the area has been replaced since that decision was issued. This obviously represents a material change in circumstances. The appeal must be considered in the context of the current Development Plan and my evidence has been updated accordingly.
- 7.15. I would however add that the (then) emerging policies were considered in detail at the previous inquiry. Indeed, the LPA sought to challenge the previous appeal decision on the grounds that the Inspector had not taken them properly into account. Those grounds of challenge did not succeed.

Designations

- 7.16. From the Local Plan Policies Map it can be seen that:-
- a. The appeal site is not allocated for housing.
 - b. The appeal site is located beyond defined built up area, although it does adjoin it on three of its four sides.
 - c. As a consequence, it is to be treated as "countryside" in planning policy terms.
 - d. The site along with other land to the north of the Rife (beyond the northern site boundary) is identified as a Local Green Gap to which Policy SS5 applies (the wider tract of land being known as Chatsmore Farm).
 - e. The site is not within or immediately adjacent to the South Downs National Park.
 - f. There are no other landscape, ecology, heritage or other designations directly affecting the site itself.
 - g. The site is not defined as public open space and nor is it defined as Local Green Space.

The Strategic Housing Requirement for Worthing

- 7.17. The Local Plan at paragraph 3.13 identifies that the most up-to-date assessment of objectively assessed housing need (based on the standard method as set out in national planning guidance and the 2014 household projections published in September 2016) is 14,160 dwellings over the Plan period (2020 to 2036). That equates to 885 homes per annum.
- 7.18. However, Local Plan Policy SS2 only establishes a minimum housing requirement of 3,672 homes over the plan period 2020–36, which equates to an annual target of just 230 homes.
- 7.19. That means that the Local Plan does not seek to meet the identified need in full. Instead, it only meets **26%** of the need, leaving a substantial shortfall of 10,488 homes over the plan period. As explained in the evidence of Mr Tiley there is still no still no strategy in place to ensure that the unmet housing need is met elsewhere.
- 7.20. The table on p.49 of the Local Plan explains how the constrained housing requirement figure will be met. It includes 1,753 homes on allocated sites. Five of the allocated sites involve greenfield land adjacent to the built-up area as would be the case with the appeal site.

The Spatial Strategy – Policy SS1

- 7.21. Policy SS1 identifies the Spatial Strategy for Worthing. It explains how new development in Worthing will be managed. In summary:-
- Development will be permitted within the built-up area [SS1(d)(i)],
 - it will also be permitted on the five allocated edge of town allocated sites [SS1(d)(ii)], and
 - The countryside beyond will be “protected” [SS1 (d)(iii)],
- 7.22. Whilst the appeal site is surrounded by residential development and it adjoins the built-up area on three sides, I acknowledge that the site is not located within the built-up area, and it is not allocated for housing (or any other kind of development). Instead, the site comprises land which is defined as countryside in planning policy terms. The proposals do not therefore gain positive support from Policy SS1 with regards to what the policy permits.
- 7.23. However, the housing land supply and HDT positions mean that the most important policies including Policy SS1 are out of date, regardless of the fact that the plan was recently adopted. Given that the LPA say that they have exhausted all opportunities within the built-up area when preparing the Local Plan, the reality is that the strict application of this policy will block and frustrate the LPA from being able to boost the supply of housing.

- 7.24. In such circumstances I consider that the weight to be afforded to any conflict with Policy SS1 should be reduced. The policy will need to flex to allow housing beyond the built-up area to enable the LPA to improve the supply of housing. There is no other plan led mechanism that can address the acute housing problems.
- 7.25. It is also important to recognise that the Development Plan does not limit housing to the sources of supply identified in table on p.49 of the Local Plan. The Plan has a minimum housing requirement and so it is not a cap or a ceiling. When the most important policies are out of date then planning permission can and should still be granted if the adverse impacts do not significantly and demonstrably outweigh the benefits in accordance with Local Plan Policy SP1.
- 7.26. Whilst I recognise that the appeal site is not one of the allocated housing sites, it is still relevant to note that the Local Plan considered it necessary to allocate and permit housing on five greenfield sites on the edge of the town. The supporting text at paragraph 3.18 explains how the proximity of these development sites adjacent to existing urban areas will allow for integration with existing communities and will provide access to nearby facilities, services, and public transport. The appeal proposals would be consistent with the spatial strategy in this regard.
- 7.27. The final limb of Policy SS1 deals with amongst other things, land which is defined as countryside and land which is defined as Gaps (Policy SS1(d)(iii)). It states inter alia that countryside and gaps are to be protected as part of the spatial strategy.
- 7.28. On the matter of “protecting” the countryside, I would make the following observations:-
- a. First and foremost, the policy is out of date due to HDT and 5YRHLS and this can affect the weight to be afforded to the policy in any event.
 - b. The policy is also inconsistent with the NPPF. The NPPF does not include blanket protection of the countryside for its own sake.
 - c. The difference between NPPF Paragraph 180 and former policies for the ‘protection’ of the countryside was a matter dealt with in the Telford Judgement [CD.J95] At Paragraph 47. Mrs Justice Lang DBE made following finding:

“47. In my judgment, the Inspector did not err in law in concluding that Policy CS7 was not in conformity with the NPPF and so was out-of-date. It is a core planning principle, set out in NPPF 17, that decision-taking should recognise “the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”. This principle is reflected throughout the NPPF e.g. policy on the location of rural housing (NPPF 55);

designation of Local Green Space (NPPF 76); protection of the Green Belt (NPPF 79 – 92) and Section 11, headed “Conserving and enhancing the natural environment” (NPPF 109– 125). However, NPPF does not include a blanket protection of the countryside for its own sake, such as existed in earlier national guidance (e.g. Planning Policy Guidance 7), and regard must also be had to the other core planning principles favouring sustainable development, as set out in NPPF 17. The Inspector had to exercise his planning judgment to determine whether or not this particular policy was in conformity with the NPPF, and the Council has failed to establish that there was any public law error in his approach, or that his conclusion was irrational.” (my emphasis)

- d. There was a similar finding in the very recent judgement of *R (Bramley Solar Farm Residents Group) v Secretary of State LUHC* [2023] EWHC 2842 [CD.J89]:-

“140 In my judgment, in the first sentence of DL/18 the Inspector correctly summarised paragraph 174(a) and (b) of the Framework, albeit in a condensed way. I accept the submission of counsel for the Secretary of State and BSL that paragraph 174 of the Framework draws a distinction in respect of the policy applicable to valued landscape and other countryside, at sub-paragraphs (a) and (b). Valued landscapes are to be "protected" and "enhanced" whereas other countryside is to be "recognised" for its intrinsic character and beauty. Whilst the court in De Souza held that "recognise" must have some protective implication, the level of protection afforded to valued landscape is plainly higher. The Inspector was referring to this distinction in DL/18.” (my emphasis)

7.29. On the matter of “protecting” Gaps I would comment as follows:-

- a. Policy SS5 relates specifically to the Local Green Gaps. It does not preclude development within the defined gaps.
- b. Reading the plan as a whole, “protection” of gaps must be that which is provided for by the application of Policy SS5.

Policy SS4

7.30. Policy SS4 relates to land outside of the built-up area boundary which will be defined as countryside and undeveloped coast in planning policy terms.

7.31. Policy SS4(b) identifies the types of development that will be permitted in the countryside. The appeal proposals do not comprise development essential to the countryside nor do they comprise development of entry level exception sites and so I accept that they do not gain any support from this part of the policy.

- 7.32. However, as with Policy SS1, Policy SS4 is out of date for reasons relating to HDT and housing land supply. Any conflict with the policy should again be afforded reduced weight to avoid frustrating the boost to the supply of housing.
- 7.33. Criterion (f) relates to the setting of the National Park. For the reasons set out later in my evidence I do not consider there to be any conflict with this part of the policy, and it does not preclude housing in the setting of the National Park in any event.

The previous appeal decision

Matters of principle

- 7.34. I accept that the Courts concluded that Inspector Cridland fell into error in the previous decision when dealing with the overall planning balance. I do not therefore intend to refer to those parts of the decision that were infected by that error.
- 7.35. However, I would draw attention to the following points from that decision that were either unchallenged or where the challenges did not succeed. I consider that they remain important material considerations for the re-determined appeal:-
- a. Inspector Cridland did not identify any fundamental constraints to development.
 - b. He recognised that the site is well located to the built-up area [§87].
 - c. It was common ground that the site is located in a sustainable location in terms of accessibility to local shops and services and given the opportunities to travel on foot, cycle and public transport. Inspector Cridland did not demur from this.
 - d. No concerns are raised with regard to the amount of development being proposed.
 - e. Built heritage was not a reason to refuse planning permission [§86].
 - f. The Inspector did not consider the traffic impact of the development to be a reason to resist the proposals in principle [§69]. On the contrary he concluded that the overall picture would be one of improvement.
 - g. That were no other site-specific constraints that were identified which could not be overcome eg. flood risk, ecology, archaeology, highways, loss of recreational amenity or loss of BMV agricultural land etc.
 - h. The exceptional need for housing weighed heavily in favour of the proposals.

WCS Policy 13 and the previously adopted spatial strategy

- 7.36. Inspector Cridland’s approach to Core Strategy Policy 13 is particularly important, even though we now have a new Development Plan. The thrust of the spatial strategy of the Worthing Core Strategy was for residential development to take place on land that was both:-
- a. Previously developed land, and
 - b. within the existing built-up area boundary of the town.

- 7.37. As well as generally restricting development to previously developed land within the built-up areas, Policy 13 placed an absolute blanket restriction on housing outside the built up area (with the sole exception of allocated land at West Durrington) until there had been a Local Plan Review. It stated inter alia that:-

“Policy 13

.....

Residential development outside of the existing built up area boundary will only be considered as part of a borough-wide housing land review if there is a proven under-delivery of housing within the Core Strategy period

.....” (my emphasis)

- 7.38. In my original PoE I identified numerous reasons (in some cases relying upon well-established case law) to explain why the Policy 13 was inconsistent with national policy, out of date and should be afforded reduced weight. The housing shortfalls and the absence of any plan led solution to address those shortfalls were further reasons to reduce weight to the policy.
- 7.39. I accepted that the appeal proposals did not accord with the Development Plan when read as a whole in that case, but I explained that only limited weight should be afforded to any conflict with Policy 13. In the absence of any other plan led mechanism, (and an ongoing review that had already established the need to allow development beyond the built-up area) I explained that the policy must give way if the identified housing needs of the area (or at least a proportion) are to be met.
- 7.40. That is exactly what the new Local Plan has now done, albeit it has only addressed a small proportion of the identified need (26%). The requirements of Policy 13 were always going to need to give way as I predicted.
- 7.41. We can also see that there is no longer a requirement for housing to be on previously developed land only and allocations have been made on greenfield land outside the previously defined built-up areas. This reinforces my belief that the policy should have been afforded limited weight (or at the very least reduced weight).

7.42. That said, the Inspector reached a different conclusion on the weight to be afforded to Policy 13 [see §33]. Instead of affording Policy 13 limited weight or reduced weight, it can be seen that Inspector Cridland afforded Policy 13 **full weight** at paragraph 33:-

33. However, I have also found the proposal would be in conflict with WCS Policy 13 due to its location on a greenfield site outside the BUAB. I consider this policy forms one of the cornerstones of the adopted development plan and, as such, I consider it should be afforded full weight. (my emphasis)

7.43. Whilst I had strongly opposing views on this point, it was obviously a matter of judgement. The Inspector did however recognise that the conflict with policy had to be considered in light of the area's exceptionally high levels of unmet housing need:-

"34. Nevertheless, it is clear that the identified conflict with this policy needs to be considered in light of the area's exceptionally high levels of unmet housing need – which I accept will have significant, real-life consequences for residents of the borough. I consider these matters further in the planning balance below."

7.44. Some might wonder why conclusions reached on a policy that has been superseded by a new Development Plan matters now.

7.45. Firstly, in my experience I cannot think of another case where there was a restrictive policy like this that was out of date and the housing shortfalls were so exceptional yet the Inspector still afforded the policy **full weight** in the tilted balance.

7.46. Secondly, and most importantly, by giving full weight to a policy of absolute restriction it is difficult to see how the policy bar could be raised any higher now.

7.47. So, whilst I disagreed with Mr Cridland's position on this point it is actually something that assists the Appellant's case now and it will form an important background context when analysing the proposals against the more recently adopted Local Plan.

The implications of the recently adopted Local Plan

7.48. The LPA in its SoC identifies the adoption of the Local Plan as an important change in circumstances and a new reason to resist the appeal proposals as a matter of principle.

7.49. However, because of the way that Inspector Cridland dealt with Policy 13, giving it full weight, the adoption of the Local Plan is no "game changer."

7.50. My reasoning for this is as follows:-

- a. This is not a case where the Inspector only afforded limited weight to out of date WCS Policy 13, but we now have a fully up to date replacement policy in the form of Policy SS1 or Policy SS4 that attracts full weight.
- b. Inspector Cridland afforded full weight to an out-of-date policy which placed an absolute restriction on all greenfield land³ outside the built-up area.
- c. It is not possible to attach any more weight than full weight to a policy of absolute restriction.
- d. And yet Inspector Cridland did not dismiss the appeal on this basis because he recognised that the benefits of the development, including the exceptionally high levels of unmet housing need (which have not gone away and, if anything, have worsened), outweighed the policy conflict despite the policy having been afforded full weight.⁴
- e. If anything, Policy SS1 is less restrictive than the policy test that was imposed previously. It does not place an embargo on greenfield development and even some forms of housing are now permitted beyond the built-up area.
- f. In any event Policies SS1 and SS4 are out of date. They are out of date, along with all of the most important policies because of the HDT position and because of the lack of a 5YRHLs.
- g. I remain of the opinion that policies that would block and frustrate the boost in housing supply should be afforded reduced weight to enable the presumption in favour of sustainable development to be effective.

Whether the appeal proposals would undermine the current spatial strategy

7.51. At the previous inquiry, the LPA argued that the proposals were premature and very strong concerns were expressed about the effect that the proposal would have on the strategic balance that the eLP is seeking to achieve [see IR.§28].

³ With the single exception of the greenfield allocation at West Durrington

⁴ The error in the planning balance relating to the setting of the National Park is irrelevant to this point as the appeal would have been dismissed regardless of this if the Inspector had considered the departure from the plan to be unjustified.

7.52. Inspector Cridland did not accept those arguments. He commented that:-

“29. In the present case, while I acknowledge the eLP is at a reasonably advanced stage, it is nevertheless still some way off from adoption. Furthermore, even though the proposed scheme would develop one of the 4 remaining gaps which emerging Policy SS5 of the eLP seeks to protect, I do not consider its effect would be is so substantial, or its cumulative effect so significant, that granting permission would undermine a fundamental aspect of the eLP’s strategic balance as a whole.

30. Likewise, I do not consider the emerging policy SS5, in so far as it relates to the appeal site, is so central to the eLP that granting permission would have a materially undermining effect, particular when viewed in light of the exceptional need for housing in the borough.” (my emphasis)

7.53. Bringing those conclusions forward into the present day, whilst I must accept that the proposals do not accord with Policy SS1 or parts of SS4, it highly material that that Inspector Cridland was satisfied that:-

- a. The proposals were not so substantial, nor was its cumulative effect so significant, that granting permission would undermine a fundamental aspect of the then emerging Local Plan’s strategic balance, and
- b. Even on the gap issue it was not so central to the eLP that granting permission would have a materially undermining effect.

7.54. The same must apply in the present day. It is the same strategy. It did not materially change. The proposal does not therefore undermine a fundamental aspect of the Local Plan strategy now.

7.55. There can be no suggestion that the eLP policies were not properly considered at the previous inquiry. A considerable amount of time was spent discussing the emerging plan in the context of the LPA’s prematurity objections. Furthermore, the LPA pursued that argument in the Courts. That ground of challenge did not succeed [CD.L3 Court of Appeal § 43]

7.56. I would also draw our Inspector’s attention to the letter received from the Local Plan Examining Inspector dated 18th March 2022. This dealt with the implications of the allowed appeal for the then emerging Local Plan [CD.E42].

7.57. From this letter it can be seen that the Examining Inspector, Inspector Lee, did not recommend a pause in the plan making process. He did not suggest that the grant of planning permission fundamentally offended the strategy of the plan. Instead, the Examining

Inspector was keen to press on with consultation on main modifications and to proceed forwards towards adoption.

7.58. That would suggest that the Examining Inspector was satisfied that the allowed appeal proposals were capable of being assimilated into the emerging spatial strategy without causing undue disruption. As I predicted in oral evidence to the previous inquiry, the grant of planning permission was not going to unravel the strategy of the plan such that it would need to go back to the drawing board. If it was not fundamental then, it cannot be fundamental now.

7.59. I would also repeat the point that the spatial strategy includes five greenfield allocations, adjacent to existing urban areas which will allow for integration with existing communities and will provide access to nearby facilities, services, and public transport. The appeal proposals if allowed, would achieve the same objectives.

The fact that the appeal site is not allocated for housing

7.60. I obviously recognise that the appeal site is not allocated for housing in the adopted Local Plan. However, that does not preclude the grant of planning permission if the appeal proposals are on balance acceptable. To suggest otherwise is to suggest that the presumption in favour of sustainable development has no effect in Worthing Borough and / or minimises the weight to be afforded to the provision of housing where the Borough is facing a housing crisis and failing to meet its need.

7.61. Mr Tiley deals with the plan making process and explains why it would be wrong to conclude that the non-allocation of the site as part of the Local Plan means that it must be unacceptable now.

7.62. I would draw out the following key points which are important to my own analysis of the case:-

- a. The Local Plan Examining Inspector did not consider this specific development proposals on this specific site. Omission sites were not considered.
- b. The Examining Inspector did not have the benefit of a public inquiry (or two public inquiries as will be the case now, extending over 5 weeks), with site specific and project specific evidence being tested through cross examination.
- c. The Local Plan site selection process looked at the development of the much wider Chatsmore Farm site. It was therefore a different development proposition on a different area of land.

- d. The Local Plan site selection process identified a number of factors that were considered to be constraints to development which the planning application and appeal process have found to be irrelevant to the appeal site, overstated or capable of being satisfactorily addressed.
- e. Examples of significant constraints identified in the appraisal of sites in the RAG analysis in the Draft Integrated Impact Assessment [CD.K15] that the LPA said meant that the Chatsmore Farm site is unlikely to be developed without significant negative effects included the following (scored as red):-
- (i) The River Rife flows through the site. – That does not preclude development on the appeal site and is not the basis of any RfR. The Appeal proposals are restricted to the land south of the Rife.
 - (ii) Grade 1 Agricultural land – the LPA raise no objection in this regard and other land has been allocated elsewhere that is Grade 1.
 - (iii) Archaeology – the LPA raise no objection in this regard.
 - (iv) Surface Water Flood Risk – the LPA raise no objection in this regard.
 - (v) Groundwater Flood Risk – the LPA raise no objection in this regard.
 - (vi) Greenfield site – not a RfR and the Local Plan went on to allocate 5no. greenfield sites.
 - (vii) Coalescence – as a matter of fact this has already happened over 60–70 yrs ago as recognised in the evidence base and Inspector Cridland.
- f. Other potential constraints that were scored as yellow included:-
- (i) Designated Heritage Assets – the LPA refused the original application on heritage grounds yet later conceded that the impacts would be negligible. The concerns raised in the plan making process were therefore found to have been overstated and do not represent an insurmountable constraint to development.
 - (ii) Proximity to local shops – the appeal proposals include a new Local Centre on site.
 - (iii) Biodiversity – this would actually be enhanced as a result of the proposals.
 - (iv) Air quality, noise, water quality, noise and fluvial flooding – the LPA raises no objection on these grounds

7.63. The LPA also pursued highway objections at the previous s.78 inquiry claiming a severe impact on the highway network which were later found to be unsubstantiated. This would have been another reason why the LPA was not proposing to allocate the site, and yet the proposals were found to represent an improvement rather than causing a severe impact.

7.64. Mr Tiley also draws attention to the planning balance that the Examining Inspector endorsed when considering the potential for other opportunities to deliver housing. Inspector Lee commented that:-

“91 The Council has concluded that identifying the last few remaining opportunities that exist for housing would result in a degree of harm to the overarching spatial strategy and character of the Borough which would significantly and demonstrably outweigh the relatively limited additional benefits. This is a judgement the Council is entitled to make, and I have found nothing unreasonable or irrational in how they reached this conclusion.” (my emphasis)

7.65. Here it can be seen that the delivery of further housing was seen as a relatively limited benefit in the overall balance. No party to this inquiry characterises the benefits of the appeal scheme as “limited.” Inspector Cridland repeatedly refers to the exceptionally high unmet need for housing⁵ and comments that:-

“87..... I concur with the parties that this should be afforded very significant weight and at the uppermost end of the spectrum.” (my emphasis)

7.66. He then goes on to identify the benefits as being substantial:-

“91. On balance, while I consider the proposal would result in a number of adverse impacts, I do not consider they would significantly and demonstrably outweigh the clear and substantial benefits that would arise from the proposed development when assessed against the policies of the Framework taken as a whole.” (my emphasis)

7.67. It is common ground that the weight to be afforded to both market and affordable housing ought to be at the uppermost end of the scale. I would invite our Inspector to adopt the same conclusion in circumstances where the position has not improved since the last decision. If anything, it has deteriorated. It is not a limited benefit. It is a substantial benefit.

7.68. For the above reasons, the fact that the appeal site is not allocated in the (out of date) adopted Local Plan, should have very little bearing on the outcome of this appeal. This s.78

⁵ Paragraphs 17, 30, 34 and 87

appeal is best placed to reach a judgement on whether this particular proposal on this particular site represents sustainable development.

Site Specific Matters

The relationship between the site and the existing built-up area

- 7.69. When considering the individual merits of the appeal site itself, it is immediately apparent that the site is in a highly sustainable and accessible edge of town location.
- 7.70. It is also very well related to the existing pattern of built development in the area. 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.
- 7.71. The pattern of built development in the area is such that the site would represent a logical addition to this part of the built-up area. It would not represent a new outward incursion into the open countryside and it would not encroach any closer to the National Park than the existing pattern of development. Instead, because there would be no built development beyond the Rife, it would actually be set back from the general building line in the area leaving a significant area of open undeveloped land between the Rife and the A259.
- 7.72. In that in that regard, the proposals would be consistent with the overarching objective of the spatial strategy to focus development within and at the edge of the existing built-up area.

Accessibility

- 7.73. The close relationship between the site and the built-up area also means that the site is accessible to a range of key facilities. It would therefore be consistent with national and local planning policies which seek to reduce the need to travel and encourage modal shift.
- 7.74. The Design and Access Statement and the Transport Assessment provide further details and demonstrate that the site is in an accessible and sustainable location. They show that new residents will have access to shops, services and facilities that are within walking and cycling distance and that there will be opportunities to use public transport. The proximity of the site to some of those key facilities is summarised below:-

Shops

Tesco Express	-	600-metres
Tesco Extra	-	1.8km

Royal Mail - 1.1km

Town Centre - 5km

Education

Pre-school - 1.5km

Primary School - 1.3km

High School - 450m

College - 500m

Healthcare

Pharmacy - 550m

Surgery - 1.7km

Hospital - 1.0km

Dentist - 1.3km

7.75. The appeal proposals would also include a Local Centre that would reduce the distances to some facilities.

7.76. The location of the site adjacent to the railway station offers the opportunity to travel longer distances by train. The appeal proposals also include car parking close to the station that would make travel by rail more attractive to existing residents in the area and thus encourage modal shift further still.

7.77. My overall conclusion is that the site represents an excellent location for residential development in terms of accessibility.

Other policies

7.78. 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 3, but this does not represent a bar to development.

7.79. The site is also not within the National Park. As I will explain later (under Issue 2) the proposals accord with local and national planning policy relating to development within the setting of the National Park.

7.80. 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 market and affordable housing deficits.

Summary

1. This is the right development in the right location, at the right time.
2. Local Plan Policy SS2 establishes a minimum housing requirement for only 3,672 homes over the plan period 2020–36. However, it does not seek to meet the identified need in full. Instead, it meets only 26% of the need, leaving a shortfall of 10,488 homes. There is still no strategy in place to ensure that the unmet housing need is met.
3. The site is not located within the built-up area, and it is not allocated for housing (or any other kind of development). Instead, the site comprises land which is defined as countryside in planning policy terms. The proposals do not therefore gain positive support from Policies SS1 and SS4.
4. However, the housing land supply and HDT positions mean that Policies SS1 and SS4 and the other most important policies are out of date. The policies will need to flex to allow housing beyond the built-up area to enable the LPA to improve the supply of housing.
5. There is no other plan led mechanism that can address the acute housing problems. National policy does not protect countryside for its own sake and development beyond the built-up area will be necessary to help address the local housing crisis. The Green Gap policy is also no a bar to development as explained later.
6. The adoption of the new Local Plan is not a game changer because Inspector Cridland afforded full weight to an out-of-date policy of absolute restriction and yet still considered the exceptional need for housing to be overriding.
7. Inspector Cridland did not consider that the proposals would fundamentally undermine the then emerging spatial strategy. Similarly, Inspector Lee did not alter the course of the Local Plan examination when the appeal was allowed.
8. There is no reason to reach a different conclusion now when the appeal site represents a greenfield site on the edge of the built-up area in an accessible location similar to the other five sites that were allocated on the edge of the built up area.
9. I accept that the site was not allocated through the Local Plan, but the Local Plan Inspector did not consider omissions sites, did not consider the appeal site and did not consider the appeal proposal. It was a materially different assessment.
10. In any event, after what will be two public inquiries and five weeks of evidence that has been tested through cross examination I consider that the s.78 inquiry process is better placed to conclude on the suitability of this site, particularly when evidence

that led to the larger Chatsmore Farm being rejected has been found to be unreliable or no longer applicable.

11. The merits of the appeal site are self-evident. It is well related to the built-up area and in that regard, it would be consistent with the general thrust of the spatial strategy which seeks to reduce the need to travel by locating homes in the most accessible places.
12. The proposals represent a logical addition to this part of the built-up area. They would not represent a new outward incursion into the open countryside and would not encroach closer on the National Park than the existing pattern of development in the area. It would in fact be set back behind a significant area of undeveloped land and the Ferring Rife.

Issue 2 – The effect of the proposals on the South Downs National Park

7.81. I do not present any substantive evidence relating to the effects of the proposed development on the South Downs National Park. That evidence is presented by Mr Self. I rely upon his evidence, and I agree with it.

7.82. I will however deal with this issue from a planning policy perspective, particularly as it was this issue that was the root cause of the previous appeal decision being quashed.

Planning Policy

National Policy – The NPPF

7.83. The NPPF was revised in December 2023 but the substance of national policy on National Parks has not changed since the previous inquiry, or since the previous appeal decision was issued. The only change is the change to the paragraph numbers.

7.84. The most relevant part of the NPPF is §182 and this reads as follows:-

“182 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 Broads⁶³. 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.” (my emphasis)

7.85. The wording of the final part of §182 is important because it relates to development within the setting of the National Park, as is the case here. It should be noted that it does not

preclude development in such locations and indeed it does not even preclude development that might cause harm to the setting of the National Park. Instead, it requires adverse effects to be avoided or minimised. Inspector Cridland agreed that this is how the policy is to be applied [see IR.49].

7.86. Therefore, a simple finding of harm to the setting of the National Park is not of itself, sufficient to cause conflict with NPPF §182. Instead, the harm that needs to be weighed against the benefits of the proposal before one can determine whether the policy test is met. When considering any proposal, it is necessary to give great weight to conserving and enhancing landscape and scenic beauty in National Parks. That is what I did in my original PoE and it is what I continue to do now.

7.87. I recognise that the *Monkhill* Court of Appeal judgement confirms that NPPF §176 (now §182) is capable of being a reason to refuse planning permission if the harm to the National Park is not outweighed by the benefits. However, no such argument was pursued by the LPA at the previous inquiry. That said, I note that the LPA has now changed its position contrary to what is agreed in the original planning SoCG. I will return to the changed position of the LPA later.

Local Policy – The Development Plan

7.88. The recently adopted Local Plan now deals with development within the setting of the SDNP through Policy SS4.

“Policy SS4 – Countryside and Undeveloped Coast

.....

f) The setting of the South Downs National Park and the Designated International Dark Skies Reserve must be respected and opportunities to improve access to the National Park will be sought through joint working with other organisations including the Park Authority, West Sussex County Council, National Highways and landowners. Any development within the setting of the National Park should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”

7.89. It is agreed that Policy SS4 essentially mirrors national policy in the NPPF on this issue. No separate or additional analysis of the policy is therefore necessary.

The previous appeal decision

7.90. At the previous inquiry the LPA sought to argue that the proposals would have an adverse impact on the setting of the National Park. In particular, it was said that the overall effect of the proposal on views from Highdown Hill (which lies within the National Park) would be substantial adverse.

7.91. The Inspector made his position on this very clear at paragraph 46. He said:-

“46. I do not agree.....”

7.92. He went on to form his own judgements, the conclusions which can be found in §47, §49 and §57 and these were as follows:-

“47..... Extensive views towards the sea and the sense of tranquillity within this part of the SDNP would not materially alter and while I accept there would be change to the view, I concur with the appellant that the level of harm would be moderate adverse and not significant.

.....

49 Paragraph 176 of the Framework does not seek to restrict development within the setting of a national park but instead advises that it should be sensitively located and designed to avoid or minimise adverse impacts. In view of its location towards the southern end of the site, and the limited impact on views from within the SDNP, I consider that would be the case with the development proposed and do not therefore consider that the setting of the SDNP or views from within it would be materially affected.

.....

Overall conclusions on landscape

57. Drawing the above threads together, I do not consider the proposed development would materially affect the setting of the SDNP.....” (my emphasis)

7.93. Mr Self considers these findings in more detail in his evidence and our Inspector will obviously need to reach her own conclusions. However, it can be a material consideration that Inspector Cridland disagreed with the LPA with regards to the level of any harm.

7.94. I will also leave it to Mr Self to explain exactly what it was that the Inspector was concurring with at §47 of the appeal decision as this requires further explanation having regard to impacts at the time of completion of the development and the impact at year 15.

The changed position of the LPA

7.95. Reason for refusal 1 outlines the position of the LPA on the setting of the National Park. It states, inter alia, that:-

“.....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.”

7.96. Furthermore, the LPA states at paragraph 8.13 of its Updated SoC that the adverse effects are now a reason to refuse permission and that this disappplies the tilted balance:-

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.”

7.97. Dealing with the updated reason for refusal first:-

- a. A simple finding of harm does not automatically mean there is conflict with NPPF §182 (or §176 as it was then).
- b. The policy requirement when dealing with setting is to avoid or minimise adverse impacts. Inspector Cridland made the same observation at §49.
- c. There is nothing in the previous appeal decision to suggest that Inspector Cridland had concluded that this test to avoid or minimise adverse effects had not been met.

7.98. With regards to whether the impact of the proposals on the setting of the National Park now represents a clear reason for refusal:-

- a. It formed no part of the LPA’s case at the previous inquiry that this was a clear reason for refusal, or an issue that would cause the tilted balance to be dis-applied.
- b. The opposite is true. There is clear and unambiguous agreement on this matter in the original Planning SoCG [CD.C4]. It states:-

“The NPPF Tilted Balance

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

8.22 It is agreed that even on the LPA’s case, the alleged heritage harms would not outweigh the public benefits in the context of NPPF paragraph 202. As such it is agreed that the tilted balance is not dis-applied for reasons related to heritage.

8.23 It is agreed that there are no other NPPF footnote 7 policies that provide a clear reason for refusal in this case such that the tilted balance is dis-applied.”

- c. The LPA’s Opening Statement to the previous inquiry [CD.K2] proceeded on the basis that the tilted balance was engaged [see §23] and that it was not dis-applied [footnote 10].

- d. The LPA's closing submissions [CD.K23] were also made on the understanding that the appeal was to be determined in the tilted balance [see §1 and §103].
- e. The LPA has not explained why it is resiling from this part of the SoCG and why the Case for the LPA has changed so significantly.
- f. I consider this to be unreasonable when the proposed development has not changed in any way.
- g. The site has not changed.
- h. The characteristics of the National Park and its setting have not changed since the last inquiry.
- i. National policy at §182 has not changed (Policy SS4 simply mirrors NPPF §182) and so the policy requirement to give "great weight" is nothing new, and
- j. The legal challenge did not create a new legal precedent or suggest that the Inspector had misunderstood the meaning of the policy. The legal error was simply the failure to clearly address harm to the National Park in the planning balance.

Decision Making

- 7.99. As already noted, national policy does not preclude development in the setting of the National Park and nor does it require nil detriment. The policy requires it to be avoided or minimised.
- 7.100. The *Monkhill* Court of Appeal judgement [CD.J90] explains that even where there is harm, this is capable of being outweighed by other benefits. It also recognises that not all harms are equal. These remain matters of judgement for the decision maker:-
- "30. If the effects on the AONB would be slight, so that its highly protected status would not be significantly harmed, the expectation might – I emphasise "might" – be overcome. Or it might be overcome if the effects of the development would be greater, but its benefits substantial. This will always depend on the exercise of planning judgment in the circumstances of the individual case."** (my emphasis)
- 7.101. The decision maker must weigh the harm to the National Park against all the benefits of the proposals to reach a judgement as to whether the test in paragraph 182 is met.
- 7.102. I have reviewed the LPA's SoC and Officer Report and I am unable to find any such test being applied. It would seem that the LPA approach is to simply identify harm, afford it great weight

and then conclude that it is a clear reason for refusal without any regard to the level of harm or the benefits of the development.

7.103. In circumstances where the LPA accepted at the previous inquiry that the benefits of housing alone (both market and affordable) should be afforded the highest possible weighting it was of no surprise that the LPA agreed that the tilted balance continued to apply. I cannot understand why the LPA has changed its position when nothing else has changed in the LPA's favour. It is an unjustified evolution of its case.

7.104. NPPF §182 states that "great weight" should be given to conserving and enhancing landscape and scenic beauty in National Parks. That does not mean that all harms no matter how slight or how substantial should be afforded the same uniform weight. Weight remains a matter of judgement albeit paragraph 182 will increase the weight to be afforded to any harm.

7.105. The *Bayliss* judgement [CD.J91] (which is supported in *Monkhill*) considers the meaning of "great weight" and explains that it does not take one very far:-

"18. ... Moreover, that national policy guidance, very brief in nature on this point, has to be interpreted in the light of the obvious point that the effect of a proposal on an AONB will itself vary: it will vary from case to case; it may be trivial, it may be substantial, it may be major. The decision maker is entitled to attach different weights to this factor depending upon the degree of harmful impact anticipated. Indeed, in my view it would be irrational to do otherwise. The adjective "great" in the term "great weight" therefore does not take one very far. Here the Inspector found that the impact on the adjacent part -- and I stress the fact that this was the adjacent part -- of the AONB would be "limited"."
(my emphasis)

7.106. This issue was also considered in the recent *Protect Dunsfold* judgement [CD.J92]. This was a case involving a development for minerals exploration in the setting of the AONB.

7.107. At §37 of the judgement we see the planning balance undertaken by the SoS. There would be harm to the setting of the AONB, the proposals would not minimise adverse impacts and the SoS collectively affords these harms moderate weight. Ground 1 of the claim was the alleged failure to give "great weight" to harm to the AONB [§38-58]. This ground and all other grounds were dismissed.

7.108. Paragraph 56 of the judgement supports my contention that weight will vary depending upon the circumstances of the case:-

"56. The fact that harm is to the AONB increases the weight to be attributed to it. But the harm to the AONB from a temporary development such as this clearly can, in principle, attract moderate

weight in the overall planning balance: see Bayliss, [18] and Monkhill, [31]–[32] (paragraph 48 above). This is not disputed.....”

7.109. I would also refer to paragraph 57:-

“57. Finally, although this point is not necessary to my decision, I agree with Mr David Elvin KC, leading Counsel for UKOG, that reading the Inspector’s Report in a reasonably flexible way, it is apparent that in referring to the “high sensitivity” of the AONB, in assessing the overall planning balance, the Inspector was indicating that he viewed the harm to the AONB as carrying greater weight than would otherwise have been the case given the “limited effects” which he had identified (IR §112: paragraph 31 above).”

7.110. All harms will not therefore automatically attract great weight. It requires consideration of the level of harm. Weight remains a matter of judgement for the decision maker, albeit the policy will increase the weight to be given to any harm.

7.111. I deal with the effects of the appeal scheme and matters of weight in the planning balance in Section 8. My overall conclusion remains that the benefits of the development will clearly outweigh any harm to the National Park arising from development within its setting.

Summary

7.112. To summarise on the policy issues relating to the setting of the National Park:-

1. National policy on National Parks has not changed since the previous inquiry or since the previous appeal decision was issued.
2. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, and development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas [NPPF §182].
3. Inspector Cridland did not conclude that the appeal proposals would fail the test of avoiding or minimising adverse impacts on the National Park.
4. The NPPF does not preclude development in such locations and indeed it does not even preclude development that might cause harm to the setting of the National Park. Instead, it requires adverse effects to be avoided or minimised.
5. The mere finding of harm to the setting of the National Park is not of itself, sufficient to cause conflict with NPPF §182. Instead, that harm that needs to be weighed against all the benefits of the proposal before one can determine whether the policy test is met.
6. At the previous inquiry it was common ground that this appeal should be determined in accordance with the tilted balance as set out in NPPF paragraph 11d (ii) and that there are no NPPF footnote 7 policies that provide a clear reason for refusal in this case such that the tilted balance is dis-applied.

7. The LPA has resiled from that position without any good reason. It is the same development, in the same location, judged against the same policy. There is nothing in the legal judgements relating to this appeal that change the approach to be taken when applying national policy. The LPA has simply evolved its case.
8. There is no assessment of harm against benefits in the LPA SoC or Officer Report that allows me to understand what has changed so significantly such that this now represent a clear reason for refusal when previously it was not.
9. The requirement to “great weight” to conserving and enhancing landscape and scenic beauty does not mean that all harms should be afforded the same uniform weight. Weight remains a matter of judgement for the decision maker albeit paragraph 182 will increase the weight to be afforded to any harm.
10. I am satisfied that my approach to this matter at the previous inquiry was correct and I take the same approach for the purposes of the remitted appeal. My overall conclusion is that the benefits clearly outweigh any harm to the National Park arising from development within its setting.

Issue 3 The effect of the proposed development on the Local Green Gap

- 7.113. Updated Reason for Refusal 2 relates to the impact of the proposed development on the designated Local Green Gap at Chatsmore Farm.
- 7.114. As with the National Park, Mr Self presents the substantive evidence on “gap” issues in landscape and visual terms. I will deal with the “gap” issues from a planning policy/spatial planning perspective.
- 7.115. In the first part of the RfR the LPA alleges that the proposals would undermine the physical and visual separation of Goring and Ferring therefore compromising the integrity of the gap, contrary to Policies SS1 and SS5.
- 7.116. The Core Strategy that was in place at the time of the previous public inquiry did not include any Gap policies. However, the LPA argued strongly that the principle was embedded in the restrictive requirements of Core Strategy Policy 13. The LPA also argued that the eLP did include a draft Gap Policy (SS5) and that this was an important consideration. The gap issue was therefore discussed in great detail at the inquiry. It is not therefore a new issue that was not addressed previously.

Policy SS1

- 7.117. Policy SS1 states that Gaps outside of the built-up Area Boundary are protected, but it says no more than that.

7.118. Policy SS5 provides the policy criteria for development within the designated Gaps. Taken together, the word “protected” when applying Policy SS1 must logically mean protection in accordance with Policy SS5. If there is compliance with Policy SS5, then there should be compliance with this part of Policy SS1.

Policy SS5

7.119. The supporting text to Policy SS5 at paragraph 3.50 identifies the underlying objectives behind Policy SS5 as follows:-

3.50 The designation and protection of ‘Local Green Gaps’ helps to avoid coalescence and preserve the separate characters and identities of different settlements by providing physical and visual breaks. This is particularly important given the compact nature of Worthing and how few and fragile the breaks in development are on the coastal strip between Brighton and Chichester. (my emphasis)

7.120. Dealing first with the issue of coalescence:-

- a. Whether two or more things have coalesced is binary. It is an absolute term. It has either happened or it hasn't.
- b. It is an undeniable fact that Ferring has already coalesced with Worthing immediately to the south of the appeal Site along the route of the railway line and Goring Way. This is nothing new. This has been the case for decades.
- c. Precluding development on the appeal site does not therefore serve to prevent coalescence between Ferring and Worthing. It has already happened on any assessment.
- d. The adopted Local Plan Policies Map shows a continuous defined built-up area between Ferring and Worthing. There is no differentiation. The built development between Worthing and Ferring is not washed over by any countryside designation. The Local Plan treats it as part of the same single built up area.
- e. The LPA's EIP topic paper – Land Outside the Built Up Area Boundary [CD.E17 para 5.5 and 5.7] openly acknowledged that the settlements are already “linked”. Paragraph 5.7 states:-

“The first half of the 20th century saw significant change with housing development and road building expanding both Ferring and Goring. During the 1950s the settlements were linked by a linear strip north of the Goring-Ferring Gap and south of Chatsmore Farm.” (my emphasis)

- f. We must not let the reference to a “linear strip” infer that this was a thin area of ribbon development that joins Ferring to Worthing. It is circa 600m wide. Ferring itself is only circa 800m wide measured east to west.
- g. A person travelling east/west along Goring Way would have no perception of leaving the built-up area of Worthing, passing through open countryside and then entering a physically separate settlement.
- h. Along the route there is development at depth either side of Goring Way and the impression for the person passing through would be that of a single built-up area.
- i. Physical separation is not required to maintain a separate identity. Indeed, the Local Plan at paragraph 1.32 recognises that the historical development of the town has involved the merging of villages but how they retain their own distinctiveness. The same could be said of Ferring and Goring:-

“1.32 Outside of the town centre and seafront area, the borough is more suburban in character. The historic development of the town occurred through the merging of separate villages and centres such as Tarring and Broadwater. The expansion of the town in this way is still evident today with distinct areas centred on the parish church or local shopping areas that each have their own identity and character.” (my emphasis)

- j. It formed no part of the LPA’s case at the previous inquiry that the appeal proposals would in any way be harmful to the character or separate identities of Worthing and Ferring. There was no evidence presented to that effect. There is no mention of this in the RfR.
- k. It cannot be a useful or reasonable test to ask whether the appeal proposals would lead to coalescence. The answer will always be no. It was the development in the 1950’s that caused coalescence.

7.121. If it is the objective of the proposed gap policy to retain separation between Worthing and Ferring then I consider that the proposed Chatsmore Farm gap and the Goring–Ferring gap must be treated together as part of the same gap. Indeed, in the LPA’s response to IL01 – (Initial Letter from the EIP Inspector) dated August 2021 it repeatedly refers to them as being parts of the same Goring Gap [CD.E14 pages 75 and 76].

7.122. That being the case, my analysis against the objectives of the policy would be as follows:-

- a. The two undeveloped areas extend to approximately 104ha in total (30ha in the northern part and 74ha in the southern part, as illustrated below).

- b. The broad footprint of the development area that forms part of the appeal proposals extends to approximately 13.5ha and that is ignoring the north-south green corridors that have been designed into the masterplan.



- c. If the appeal is allowed then circa 13% of the overall gap would be occupied by built development. 87% of the undeveloped area between Ferring and Worthing would remain unaffected.
- d. The vast majority of what the LPA refers to as the Goring Gap would therefore remain undeveloped and I consider this to be a very important material consideration when considering the integrity of the gap if the appeal is allowed.
- e. The policy does not preclude development within the gap. It is the effect of the proposed development on the gap that is important.
- f. Whilst the extent of the gap will reduce, it would not be to the extent that it would undermine the physical and/or visual separation of settlements and therefore it would not compromise the integrity of the gap.

7.123. Mr Self deals with criterion (iii) Natural Capital; and Criterion (iv) green infrastructure networks. He also considers the separate identities and character of the settlements concerned and finds no conflict with Policy SS5.

The Previous Appeal Decision

7.124. The findings of Inspector Cridland are very important because he addressed the gap issues and did so in the context of the same draft policy criteria [see CD.E18 which was presented to him]. The courts found no error in his approach to the gap issues.

7.125. At paragraph 42 of his decision, Inspector Cridland states that:-

“42. However, while it is clear that the introduction of the proposed scheme would have an urbanising effect on the site itself and would diminish the sense of separation between Goring-by-Sea and Ferring, the illustrative masterplan indicates that most of the built form would be located towards the southern end of the site, in a location where it is clear, both from the aerial photographs submitted and on the ground that a merging of the settlements has already taken place. This would limit the overall visual impact and with around 14ha of land remaining open and undeveloped, I do not consider the physical or visual separation of the settlements would be undermined.” (my emphasis)

7.126. At paragraph 43 he goes on to state that:-

“43 Accordingly, while I acknowledge the appeal site is of landscape and amenity value to the local community, and that its loss would result in some harm in this respect, I am not persuaded that the proposed development would materially undermine the landscape value of the ‘gap’.” (my emphasis)

7.127. During discussions on the draft SoCGs the LPA has sought to distance themselves from the findings of Inspector Cridland because it is suggested that there is a contradiction between his finding that (a) the sense of separation would be diminished and (b) his finding that the physical or visual separation of the settlements would not be undermined.

7.128. The LPA pursued this very same argument in the High Court and it was rejected [see CD.L2 Ground 1 at §57-72]. Mrs Justice Lang concluded that:-

“69. I accept the Defendants’ submissions that the Inspector’s reasons on this issue did meet the standard in the South Bucks case. The Inspector gave two express reasons why the physical and visual separation of the settlements would not be “materially undermined”. First, the location of the built form towards the southern end of the Site where a merging of the settlements has already taken place. Second, the remainder of the Chatsmore Farm site would remain open and undeveloped. Whilst the Council may disagree with the Inspector’s assessment, the Inspector’s reasoning is sufficiently clear.”

7.129. I would add that the word “diminish” simply means reduce. The policy does not preclude development within the gap. Logically, when applying the policy, development may in

principle be accommodated within the gap without undermining the physical and/or visual separation of settlements and therefore the integrity of the gap.

7.130. There would be a tipping point at which a further reduction or diminution could undermine the physical and/or visual separation of settlements. It is evident from the conclusions of Inspector Cridland that he did not consider that the tipping point had been reached in this case and so the proposals did not undermine the physical or visual separation of the settlements in his considered opinion. I agree with him and see no reason to depart from his findings.

7.131. I would also draw attention to two recent appeal decisions in Arun (Angmering and Walberton) which considered proposals for housing in a gap against the same tests (ie whether it would undermine the physical and/or visual separation of settlements and the integrity of the gap). Whilst both schemes would reduce the gap, both were found to be policy compliant [see CD.J93 and CD.J94]

The 1974 Appeal decision [CD.J14]

7.132. The LPA referred to the earlier 1974 appeal at the previous public inquiry.

7.133. For completeness I will repeat the points that I made previously with some minor additions:-

- a. The appeal scheme must be considered on its individual merits and in accordance with the policies and circumstances that apply now and not those that applied to a materially different scheme in 1974.
- b. It is not unusual to see planning permissions granted on application or at appeal following earlier unsuccessful appeals where there has been a material change in circumstances or indeed a significant change to the scale and form of the proposal as is the case here.
- c. The appeals do not even relate to the same area of land. The 1974 scheme involved 580 dwellings on 74.5 acres (30ha). It was a larger number of houses on a larger site. It would have included all of the land between the railway and the A259. That would include the land in Arun to the west and more importantly it would take development well beyond the Ferring Rife. The current appeal scheme intentionally stops well short of the Rife and it excludes the Arun land. The impact on openness/separation would have been very different.
- d. The decision was made over 47 years ago. Much has changed in terms of planning policy including the publication of the NPPF which represented a major shift in national planning policy, as held by the courts.

- e. The SoS was also considering the proposals in the context of a very different need for housing and at a time when housing was also much more affordable.
- f. Whilst housing requirements are calculated very differently today, the appeal decision records that there was 5.7 year supply of housing at the time. Whatever way it is assessed there is a beyond desperate need for housing now.
- g. The SoS seemed content about the availability of alternative land in 1974. Indeed, the LPA has evidently provided housing in the area without this site for almost half a century. However, there are no alternatives left in Worthing even on the LPA's case.
- h. Loss of Agricultural Land (BMV) figures heavily in the decision. This forms no part of the LPA's case at this appeal. The decision refers to Various Circulars and a White Paper to say that at the time this was an exceptionally compelling argument regardless of housing land supply. This is not reflected in the current NPPF.

7.134. For all these reasons I would afford very limited weight to the 1974 appeal decision and would instead reiterate that the current appeal proposals would be consistent with the objectives of the adopted Local Green Gap Policy SS5 in any event.

Summary

7.135. To summarise on the Local Green Gap:-

1. The Appeal proposals would not have an unacceptable impact on the Local Green Gap and there would be no conflict with Policy SS5.
2. Policy SS5 does not preclude development within the gap. It is the effect of the proposed development on the gap that is important.
3. 87% of the undeveloped gap between Goring and Ferring would remain if the appeal is allowed.
4. Whilst the extent of the gap will reduce, it would not be to the extent that it would undermine the physical and/or visual separation of settlements and therefore it would not compromise the integrity of the gap.
5. Inspector Cridland agreed with the appellant and concluded that he did not consider that the physical or visual separation of the settlements would be undermined. I consider that significant weight should be attached to those findings.
6. The LPA sought to challenge the approach and conclusions of Inspector Cridland in the High Court, but that ground of challenge was rejected.
7. Mr Self deals with criterion (iii) Natural Capital; and Criterion (iv) green infrastructure networks. He also considers the separate identities and character of the settlements concerned and finds no conflict with Policy SS5 overall.

Issue 4 Other matters raised in third party objections

7.136. As requested by the Inspector at the CMC I will now deal briefly with the other objections raised by third parties. I will only deal with the issues that are not addressed already in my evidence or in the evidence prepared by other witnesses to avoid unnecessary duplication.

Ecology and wildlife

7.137. The application was supported by a suite of ecological assessments which included surveys of protected species [CD.A9] Breeding Bird surveys [CD.A6], Wintering Bird Surveys [CD.A7] and a Biodiversity Net Gain (BNG) Assessment [CD.A8]. The BNG assessment has also now been updated as part of the remitted appeal [CD.M6].

7.138. The survey of protected species report identifies that the proposed development will result in negative impacts to breeding birds, foraging and commuting bats, water vole and reptiles. However, long-term adverse effects on the conservation status of these species are not predicted.

7.139. Mitigation methods are recommended to reduce and offset the predicted impacts on a proportionate basis. Measures to enhance the ecology of the site post-construction which are conducive to being shown spatially are depicted on the Ecological Mitigation Plan at Appendix X of the report. A biodiversity net gain assessment has been carried out separately to demonstrate the overall value of the site for ecology after development.

7.140. The BNG SoCG records the following as being matters that are agreed in relation to the updated BNG assessment:-

“6. The current development proposals would deliver a calculated net gain of +7.10 BU for area habitats within the red line boundary, equivalent to +14.50%.

7. The current development proposals would deliver a calculated net gain of +8.82 BU for hedgerow habitats within the red line boundary, equivalent to +810.95%.

8. The current development proposals would deliver a calculated net gain of +0.83 BU for watercourse habitats within the red line boundary, equivalent to +11.95%.

9. The Proposed Development therefore complies with the current requirements for the achievement of net gain, including compliance with the trading rules.”

- 7.141. With regard to birds it is notable that the Sussex Ornithological Society did not object [CD.B4] and commented that they believed that the Breeding Bird and Winter Bird surveys have been carried out to a high standard. They have no additional records of birds to add any worthwhile information to that contained in the two reports. They agreed with all 10 recommendations and would like to see them all implemented. It is agreed with the LPA that the s.106 can secure suitable mitigation for birds off site as well as other measures on site.
- 7.142. The LPA raise no objections on ecology and no longer raise any concerns regarding BNG such that RfR3 is now overcome. Inspector Cridland was also satisfied with regards to the impact on ecology. His conclusions are at §74 of his decision and they read as follows:-

“74..... while I acknowledge there would be some impact on wildlife, overall, the evidence indicates that suitable measures can be secured which would adequately protect nesting birds and result in an overall biodiversity net gain.”

- 7.143. The BNG position has obviously improved since that decision was made.
- 7.144. The BNG SoCG also notes that the BNG Assessment is based on an ecological walkover survey of the site undertaken in October 2023 which concludes that the ecological baseline remains unchanged.

Flood Risk and Drainage

- 7.145. The application is supported by a Flood Risk Strategy and Drainage Strategy [CD.A16].
- 7.146. It explains that the site is located in Flood Zones 1 to 3, although development will be restricted to areas falling fully within Flood Zone 1.
- 7.147. Surface water will be dealt with via sustainable means with attenuated storage being provided through permeable paving and above ground features including pond(s) and wetland(s). Flows will discharge to Ferring Rife as infiltration has been found to be unviable following on-site investigation and testing. Shallow infiltration testing is to be undertaken to verify whether infiltration is viable at shallow depths.
- 7.148. Betterment will be provided in terms of run-off rates; which will be less than existing ‘pre - development’ greenfield run-off rates. The on-site drainage proposals will accommodate a 1-in-100-year storm event, inclusive of an allowance (40%) for climate change as well as urban creep (10%).
- 7.149. Additional, independent flood modelling has been undertaken to fully establish and consider the predicted flood extents and levels in view of a 1-in-100-year storm event, inclusive of

climate change allowances. The initial masterplan avoids the areas of the site indicated as being 'at risk' of flooding in view of all mapping and modelling assessed.

- 7.150. It is proposed that foul water will outfall to the Southern Water public sewer network, via gravity connections to the public sewers located in Green Park (west) as well as in Goring Street (east). In conclusion, this development is suitable with regards to flood risk and surface water drainage.
- 7.151. West Sussex County Council (WSCC), in its capacity as the Lead Local Flood Authority (LLFA) and the Environment Agency have been consulted and they raise no objections subject to conditions. Southern Water also raise no objections [see CD.B5, B8 and B6 respectively].
- 7.152. The previous appeal decision dealt with flood risk at §75–76 and Inspector Cridland commented that there was no robust evidence to support the objections from local residents:-

"75. Furthermore, there is nothing to indicate that the proposal would result in increased flooding, either on site or elsewhere and I note that the Council has not raise any concerns in this respect. Likewise, while I acknowledge the numerous concerns of local residents in relation to the impact on existing infrastructure and services, there is no robust evidence to indicate these would be detrimentally affected by the proposed development." (my emphasis)

Pressure on local amenities

- 7.153. No evidence is presented to demonstrate why any local amenities could not cope if the appeal is allowed and there are no outstanding objections from any statutory consultee on this matter.
- 7.154. Inspector Cridland raised no concerns in this regard and nor does the LPA in its RfR.

There are plenty of previously developed sites available to meet the need

- 7.155. This is simply not the case. No party presents any evidence to substantiate this claim.
- 7.156. The fact that the LPA has only been able to identify enough land to deliver 26% of the homes that are needed (and in doing so relies upon greenfield allocations) indicates that there is not enough PDL land available.

Loss of amenity land

- 7.157. Whilst there are two public rights of way within the site, there is no other public access.
- 7.158. However, local residents would have greater access to the site and the extensive areas of proposed public open space if the appeal is allowed.

Residential amenity of neighbouring residents and the effect on house prices

- 7.159. Matters relating to residential amenity can be addressed at the Reserved Matters stage. There is no reason why this cannot be achieved.
- 7.160. The effects on house prices is not a planning consideration as the planning system operates in the public interest.
- 7.161. Inspector Cridland dealt with these issues at paragraph 76 of his decision and was satisfied in these respects:-

"76 Moreover, I consider potential impacts to residential amenity during construction, including noise, can be adequately safeguarded against by means of a suitable condition. Concerns in relation to the impact of the proposed development on local house prices, developer profit and the impact on private views are not material planning considerations."

Air and Noise impacts

- 7.162. These issues were addressed by Inspector Cridland at paragraph 74 of his decision and were not a concern.

"74 Likewise, there is nothing to indicate that the proposed development would materially affect air or light pollution in the surrounding area....."

- 7.163. Similarly the LPA raises no objections on these grounds.

This surrounding area, is an expensive area to live, no way could todays youngsters, afford to buy here, enabling them to climb on the property ladder

- 7.164. I agree.
- 7.165. The evidence of Mr Tiley and Mr Stacey also support this claim. However, I don't see how it can be used as a reason to object to the appeal proposals. Simple economic theory tells us that high prices are linked to shortages in supply. Refusing planning applications will only



make the situation worse because it will constrain supply and lead to increased house prices. This is a reason to support the proposals. It is not a valid reason to oppose them.

7.166. To summarise on the third party objections:-

1. The planning application provided the necessary information to confirm that there is no evidential basis for objection on any of these grounds.
2. There are no outstanding objections from statutory consultees relating to these matters.
3. Inspector Cridland was satisfied on these matters.
4. The LPA does not object on these grounds.
5. In view of the above and in the absence of any robust technical evidence to the contrary, there is no reason why planning permission should be withheld on these grounds.

8. THE OVERALL PLANNING BALANCE

8.1. The overall planning balance is ultimately a matter of judgement for the decision maker. The Inspector will obviously need to reach her own conclusions, but I will now explain how I believe that the Inspector should approach the determination of this appeal.

The Decision Making Framework

8.2. Section 38 (6) of the Planning and Compulsory Purchase Act 2004, requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

8.3. In this case, my primary position is that the appeal proposals are general accordance with the Development Plan when read as a whole and so they should be allowed in accordance with Policy SP1.

8.4. The judgement in *R (oao William Corbett) v Cornwall Council [2020] EWCA Civ 508* reaffirms the approach to be taken when assessing compliance with the Development Plan. It does not mean that an application must accord with every policy and provision of a Development Plan and it explains that it is not unusual for Development Plan policies to pull in different directions.

8.5. The decision maker has to make a judgment bearing in mind such factors as the importance of the policies which are complied with or infringed, and the extent of compliance or breach. The judgement about compliance is taken when the plan is read as a whole.

8.6. In this case it is important to note that the NPPF presumption in favour of sustainable development is embedded in Local Plan Policy SP1. We are agreed that the tilted balance is engaged.⁶ If there are no NPPF footnote 7 policies that provide a clear reason for refusal and the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole, then planning permission should be granted. That would then be granting planning permission in accordance with the Development Plan read as a whole, even though there may be conflict with some out-of-date policies.

8.7. Even if the Inspector does not agree with me on general compliance with the Development Plan by virtue of Policy SP1, my secondary position is that it remains the case that planning permission should be granted in accordance with §11d(ii) of the NPPF. Compliance with this part of the NPPF would be an important material consideration that outweighs any conflict with the Development Plan.

⁶ Albeit the LPA now, without good reason, says that it is to be disappplied

- 8.8. The tilted balance does not change the statutory presumption in favour of the Development Plan set out in Section 38(6) of The Planning & Compulsory Purchase Act 2004. It does however mean that some policies may need to be afforded reduced weight in accordance with the Suffolk Coastal Supreme Court judgement. Otherwise, if restrictive out-of-date policies are rigorously applied they will continue to block and frustrate the national policy imperative to significantly boost the supply of housing and in effect neutralise the intended purpose of the tilted balance.
- 8.9. My tertiary position is that even if the tilted balance was not engaged (for reasons relating to HDT and 5YRHLS), the benefits are such that they would still outweigh the harms even in a flat unweighted balance.
- 8.10. Having set out the framework for decision making, I will now go on to consider compliance with the Development Plan in more detail and to also summarise the positive benefits and adverse effects which should be taken into account in the planning balance.

Compliance with the Development Plan

- 8.11. I consider that the appeal proposals are in general accordance with the Development Plan when read as a whole. I accept that there is non-compliance with some policies, but there is compliance with the plan overall by virtue of **Strategic Policy SP1**, as explained above.
- 8.12. The proposals accord with **Strategic Policy SP2** which relates to climate change. It is not necessary to go through all aspects of the policy, but this is a major housing site that is in a highly sustainable location, within walking and cycling distance of the town centre and neighbouring communities, with its own Local Centre and located literally within a stone's throw of a mainline railway station. Delivering housing in a location like this offers an opportunity for people to reduce the need to travel and make more sustainable travel choices. I would refer the Inspector to the evidence of Mr Tiley which explains that the failure to deliver enough housing in Worthing is causing people to travel further with adverse consequences for climate change.
- 8.13. The Local Plan seeks to achieve healthy communities through **Strategic Policy SP3**. It is a well-established fact that the quality of housing can have a significant impact on health and wellbeing [see the evidence from Shelter in CD.I4]. Inadequate housing increases the risk of severe ill health and disability; it can also lead to poor mental health, lower educational attainment, unemployment and poverty. Delivering up to 475 homes in a location where exceptional housing needs are not being met by a very substantial margin, with consequences for affordability and societal structure can therefore make a considerable contribution towards meeting the objectives of this policy. The proposal itself is also in compliance with the criteria of the policy in terms of provision of land for recreation, provision of green infrastructure, active travel routes, high quality energy efficient homes, connections

with surrounding communities and recognising the linkage between income and health and reducing inequalities etc.

- 8.14. I accept that the appeal proposals do not accord with the terms of **Policy SS1**. The site is not allocated for housing, it is beyond the built-up area and it seeks to protect land that is “countryside” in planning policy terms.
- 8.15. However, the policy is out-of-date and it will be necessary to grant permission on land that is outwith Policy SS1 if there is to be a meaningful improvement in the housing land supply position. As noted earlier in my evidence the Local Plan relies upon 5no. greenfield sites beyond the existing built-up area in sustainable locations and so the proposals would be consistent with that aspect of the spatial strategy.
- 8.16. **Policy SS4** relates to land outside of the built-up area boundary which will be defined as countryside and undeveloped coast in planning policy terms. Policy SS4(b) identifies the types of development that will be permitted in the countryside. The appeal proposals do not comprise development essential to the countryside nor do they comprise development of entry level exception sites and so I accept that they do not gain any support from this part of the policy. Criterion (f) relates to the setting of the National Park. For the reasons already set out in my evidence I do not consider there to be any conflict with this part of the policy.
- 8.17. **Policy SS5** relates to Local Green Gaps. I have addressed this issue in detail in my evidence and relying upon the evidence of Mr Self and I consider that there is no conflict with Policy SS5.
- 8.18. It has now been demonstrated to the satisfaction of the LPA that the scheme can deliver the biodiversity net gain required by **Policy DM18**.
- 8.19. Affordable housing (40%) would be provided in accordance with **Policy DM3**.
- 8.20. The proposals would also accord with a wide range of **other policies** in the Development Plan relating to various matters. It is unnecessary to rehearse them all again here because there are no conflicts. The LPA does not rely upon any other policies and if the LPA has not identified those policies in its RfR then it can be assumed that there is no conflict with them⁷.

Benefits that weigh in favour of permission

- 8.21. I consider that the appeal proposals if allowed, would secure a range of important benefits that respond to all three of the Government’s overarching objectives for sustainable development (social, economic and environmental). I have outlined the benefits of the appeal proposals below.

⁷ See Article 35 of the DMPO

The Social Benefits

- 8.22. I consider that very substantial weight should be afforded to the provision of **additional open market homes**. It is extremely rare for me to apply weightings above “substantial” in a Proof of Evidence, but the issues in this case are so exceptional that they justify the very highest weighting.
- 8.23. It is an undisputed fact that this country is in the middle of a housing crisis. The Government accepts that the housing market is broken and the NPPF includes the national policy imperative that requires LPA’s to significantly boost the supply of housing [§60].
- 8.24. At the previous inquiry, the evidence of Mr Tiley demonstrated that the local housing land supply position in Worthing was beyond desperate. The LPA was unable to demonstrate a 5YRHLS against the local housing need. At best, the LPA could claim **1.81 years** of supply and Mr Tiley said it could be as low as **1.49 years**.
- 8.25. In all my experience of dealing with housing schemes I have never faced an LPA with such a low 5YRHLS. This was further compounded by the fact that the then eLP proposed a plan period shortfall of circa 10,500 homes. The shortfalls were very substantial and the LPA conceded that the delivery of housing should be afforded the uppermost level of weight. Indeed, to avoid confusion with different witnesses referring to different weightings against different scales it is agreed in the latest draft of the SoCG that:-
- “The weight to be afforded to the following benefits is however agreed:-**
- a. Delivery of market housing – at the uppermost end of the scale**
- b. Delivery of affordable housing – at the uppermost end of the scale”**
- 8.26. My weighting of very substantial is to be read as meaning the same. It is my highest weighting.⁸
- 8.27. We now have a new Local Plan and the LPA calculates its five year housing land supply against a constrained housing requirement. But this belies the true extent of housing need. The exceptional need has neither disappeared nor gone away. It has still not been properly dealt with elsewhere. The reality is that there is no improvement in the situation. If anything, it has worsened.
- 8.28. Inspector Cridland summarised the issues on housing need in paragraphs 17 to 21 of the previous appeal decision. He recorded, inter alia that:-

⁸ For the avoidance of doubt, the weightings that I will apply are as follows:- Very Limited, Limited, Moderate, Significant, Substantial and Very Substantial

- a. The Council accepted that there was an exceptionally high unmet need for housing and a substantial unmet need for affordable housing within the borough [IR.17]
- b. It is clear that the unmet need for both market and affordable housing in Worthing is considerable [IR.18]
- c. There is also a substantial unmet housing need in neighbouring areas and within the wider sub-region and no such solution has been identified [IR.19]
- d. The most recent Housing Delivery Test results for Worthing had identified a record of considerable under delivery [IR.20]
- e. He agreed with the appellant that the real-life consequences that flow from this unmet need should not be taken lightly [IR.34].

(my emphasis added)

8.29. The Inspector set out his own conclusions on the weight to be given to housing at paragraph 87:-

“87. Nevertheless, it is clear that Worthing has an exceptional unmet need for housing and that that position is unlikely to change in the medium term. Furthermore, the shortfall in its 5-year supply of deliverable housing sites is considerable even on the Council’s own measure. While I acknowledge the efforts of the Council in seeking to ensure that it has left no stone unturned in identifying sites that can sustainably assist in meeting its housing needs, in the present case, the appeal site is well located to the existing built-up area and would make a meaningful contribution to addressing this unmet need. In this respect, I concur with the parties that this should be afforded very significant weight and at the uppermost end of the spectrum.” (my emphasis)

8.30. The updated evidence of Mr Tiley identifies important material considerations for this appeal which go to the weight to be afforded to housing (which will along with the other benefits will be weighed against any adverse impacts):-

- a. Even if the adopted housing requirement is met, there would remain an “exceptionally high” need for additional housing in the Borough with only 26% of needs proposed to be addressed with a shortfall of 10,488 homes.
- b. In addition, there is a substantial unmet need for housing across the sub-region,
- c. There is now no prospect of either of these being remedied through an emerging Local Plan that can be afforded any weight.

- d. The only proposed plan-led mechanism which could possibly address this is not intended to address needs until at least 2030. There is therefore not even proposed to be a plan-led mechanism which can address the needs of many tens of thousands of households for the forthcoming 7 years.
- e. Across the plan period to date, it is now evident that there has been an insufficient supply of housing even to meet the substantially constrained housing requirement, and an under-delivery of 2,032 homes relative to housing needs in just two years.
- f. There is now an exceptionally high 5YLS shortfall of either 3,521 or 4,360 homes relative to need.
- g. The policies of the WLP have already proved to be insufficient to meet even the minimum adopted housing requirement or the objectives of the Development Plan, as is evident from the fact that once national policy is correctly applied the LPA is able to demonstrate only a **4.18 year land supply**.
- h. There has similarly already been a chronic under-delivery of affordable housing with a shortfall of 922 affordable homes to meet the needs of some of the most vulnerable in society just in the last two years.
- i. Some of the significant adverse effects of the continuing chronic under-supply of housing are already evident including the closure of schools, the growing disparity between the need for and provision of care, the worsening affordability of housing, the increasing need for affordable housing, the increasing number of households living in unsuitable accommodation, and those businesses for whom it is possible already having to adopt less desirable working practices.
- j. The available evidence also suggests that as a result of the chronic under-supply of housing there will be a greater demand for healthcare but a lower number of healthcare workers, a reduction of workers which will compromise the ability of some businesses and services to remain operational, a reduction in disposable income which will also compromise the viability of businesses and services, a worsening of health and wellbeing amongst the population, and the potential for the Council's debts to increase yet further.
- k. These numerous and multifaceted significant adverse effects can only be addressed through the provision of additional housing (including affordable housing) such as that proposed.

8.31. In view of the above, I don't expect the need for housing to be a controversial issue at the public inquiry, but it is very important to ensure that the evidence is properly understood when undertaking the planning balance.

8.32. As well as increasing the availability of open market housing, the proposals would also make **provision for a meaningful number of new affordable homes**. The LPA acknowledges that there is an acute need for affordable housing in the town [CD.J49] and again it is agreed that affordable housing should be afforded weight at the uppermost end of the scale. On my weighting scales I afford it very substantial weight.

8.33. Inspector Cridland dealt with affordable housing in the planning balance as follows:-

"88. Likewise, I consider the appeal scheme would make a significant contribution to meeting the area's substantial unmet need for affordable housing. While I also recognise the steps the Council is taking to address this unmet need, I am mindful of the considerable challenges it faces in doing so within the existing BUAB. The consequences that flow from this unmet need are considerable and affect real people, often in urgent need of affordable homes. A failure to meet these needs within the borough can create both social difficulties and affect community cohesion in the wider area. In the present case, the appeal site would contribute 40% affordable housing, which would equate to up to 190 affordable dwellings. This would make a significant contribution to meeting the unmet affordable housing need and would result in tangible benefits for real individuals whose needs may otherwise go unmet. As such, I afford it very significant weight." (our emphasis)

8.34. The updated evidence of Mr Stacey shows that the affordable housing position is now even worse than at the time of the previous appeal. Some notable headline points from his evidence include:-

- i. The 2020 SHMA identified need of 490 affordable homes per annum, in the three-year period between 2020/21 and 2022/23,
- m. The Council has delivered just 99 affordable homes against an identified need for 1,470 homes over the same period. This has led to a shortfall in delivery of 1,371 affordable dwellings, equivalent to an average annual shortfall of -457 affordable dwellings.
- n. There were 1,347 households on the Worthing Housing Register at 31 March 2021. This figure has increased by a concerning **31%** in just two years to 1,771 households at 31 March 2023.
- o. The number of households housed in temporary accommodation increased by **34%** in one year from 262 households at 31 March 2022 to 351 households at 31 March 2023.

- p. The average lower quartile monthly rent in Worthing in 2022/23 was £800 pcm. This statistic represents an alarming **15%** increase in just two years from 2020/21 where average lower quartile monthly rents stood at £695 pcm.
- q. The ratio of lower quartile house price to incomes in Worthing now stands at 10.33, a notable 5% increase since the start of the Worthing Local Plan period in 2020 when it stood at 9.87.
- r. The lower quartile house price across Worthing has risen by a concerning 10% over the Local Plan period from £218,000 in 2020 to £240,000 in 2023.
- s. Within Castle Ward (within which the appeal site is located), it is clear that the lower quartile local house prices are rising at an alarming rate with a **35%** increase observed from £165,000 in 2020 to £223,000 in 2022.

- 8.35. It is generally true that the planning system has a technocratic character which requires abstract policy to be applied to objective evidence usually expressed in statistical terms. Occasionally, however, a human face emerges, and this is particularly true when considering the real problems facing real people in need of affordable housing. With a planned shortfall across the plan period, affordable housing needs will simply go unmet meaning that more people will be forced to live in unsatisfactory housing with all the social, and economic consequences that flow from that.
- 8.36. It is not just any other material consideration, and the evidence of Mr Stacey reinforces my view that it warrants very substantial weight in the overall planning balance. The appeal proposals would deliver a meaningful number of affordable homes for real people that are in real need of those homes now.
- 8.37. The Appellant is committed to delivering 40% affordable housing in accordance with Policy DM3(a)(iii) of the adopted Local Plan. That is 190no affordable homes for households that are in need now.
- 8.38. I should also highlight at this juncture that the site is owned by the Appellant, a national housebuilder and there are no impediments to its delivery. It is immediately available for development and capable of implementation following the necessary approvals. In other words, it is capable of assisting with the LPA's housing needs and obligations now.
- 8.39. The scheme would also deliver a mix of housing including much needed open market family housing at a time where the LPA's current sites are heavily weighted towards flats.
- 8.40. It is not my evidence to this inquiry that every blade grass on open undeveloped land in Worthing should be developed for housing. However, this is a sustainable site for development, and it could very well be the last strategic scale opportunity in the Borough.

- 8.41. In view of the above limited future supply, it is important to note that the Appellant is now offering to deliver the proposed **housing with elevated levels of accessible homes** ie. M4(2) and M4(3). 3% of market housing will be Part M4(3) compliant to match policy of affordable homes. All the units (market and affordable) will be M4(2) compliant. This will be an important benefit for people with disabilities and to also embed adaptability of homes for people as they age or as their personal mobility needs change. I would afford this moderate weight.
- 8.42. The evidence of Mr Tiley highlights the difficulties that local people have in accessing the local housing market and the implications that this has for the local economy and the social fabric of the area. It is therefore a benefit of the development that the Appellant is proposing a **cascade mechanism that prioritises the open market housing to local people** (applicable to 40% of the market housing). I would afford this significant weight.

Economic Benefits

- 8.43. I consider that significant weight should be afforded to **expenditure on construction and investment** and its effect on the economy.
- 8.44. The NPPF states that “significant weight” should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development [NPPF §85]. Housing development has a significant role to play in supporting economic growth.
- 8.45. New development has a significant role to play in supporting economic growth. Following the last recession, the Government placed a major emphasis on the construction industry to ‘kick start’ the economy. There has been a clear push on planning for growth through national policy initiatives including the NPPF which were intended to stimulate growth in the economy. More recently we have been faced with the legacy of the severe economic impact of the Covid 19 pandemic and we now have the cost of living crisis with spiralling inflation which threatens a deepening downturn in the economy.
- 8.46. It is widely recognised that house building has knock-on effects upon other sectors which leads to increased demand for building materials and equipment at the building phase as well as domestic furniture and carpets etc. following completion. This generates/sustains employment in other sectors.
- 8.47. The construction industry stimulates lending in financial markets, another important sector in the UK economy. The Secretary of State in his foreword to the White Paper, “Planning for the Future” emphasises the importance of the construction sector. He states that:-

“Millions of jobs depend on the construction sector and in every economic recovery, it has played a crucial role” (my emphasis)

- 8.48. The likely economic benefits of the residential element of the scheme alone can be summarised as follows (see Appendix 1 of my original Proof of Evidence):-
- **Development costs – £53.3m**
 - **Direct job creation – 62 to 140 jobs**
 - **Indirect and induced job creation – 123 to 279 jobs**
 - **GVA – £33.6m to £58.1m pa during the construction phase**
 - **Annual Household expenditure £16m pa**
- 8.49. Mr Tiley also presents evidence which highlights the importance of providing homes to house the workers that the LPA relies upon to drive and sustain the local economy. He explains how the LPA has failed to appreciate that its economic strategy for the area is seriously undermined by its failure to provide for a sufficient number of homes.
- 8.50. The proposals would deliver **a new local centre** which will serve the day to day needs of the development and existing residents nearby. It would also provide an element of permanent employment. This should be afforded limited/moderate weight.
- 8.51. The appeal proposals will also provide **financial contributions** towards off-site infrastructure. I recognise that these payments are essentially required to mitigate the impact of the development, however they do still represent new investment in infrastructure which will also be used by existing residents living in the surrounding area. In this case there would be highway improvements as a result of financial contributions. I deal with the weighting below under environmental benefits to avoid double counting.
- 8.52. Overall, it can be seen that the proposal derives significant weight in support of the economic role of sustainable development.

Environmental Benefits

- 8.53. The Appellant is committed to delivering all of the proposed houses as **Carbon Zero Homes**. This is a high standard which is rarely achieved on new large scale housing developments and can be secured by condition. It not only responds to climate change objectives but it also provides an exemplar scheme which shows what can be achieved. I would afford this moderate weight.
- 8.54. The proposals would provide **additional car parking next to the railway station**. This is not just mitigation for the development as it also addresses existing problems of on-street car parking in the area and makes travel by rail a more attractive proposition, with all the related benefits that this would have in terms of reducing car use. This should be afforded moderate weight.

- 8.55. The scheme would also deliver significant amounts of **public open space, green infrastructure and biodiversity enhancements** particularly on the northern edge of the development. Public open space on residential schemes is often only that which is required to serve the new resident population, but in this case the proposals go well beyond this and provide a new publicly accessible resource on the edge of the built-up area. This, in conjunction with the additional native planting and demonstrable biodiversity enhancements (which are greater than at the time of the previous inquiry) should be afforded **moderate weight** in the planning balance.
- 8.56. The proposals also provide for the **undergrounding of the high voltage cables** and removal of pylons which currently impact on the character and appearance of the site. This should be afforded **limited/moderate weight**.
- 8.57. The proposals would deliver **off site highway improvements**. At the previous inquiry the LPA sought to argue that the appeal proposals would result in a severe cumulative impacts on the highway network. This was said to be a significant harm that weighed heavily in the planning balance. Inspector Cridland rejected those arguments and in fact found that there would be overall highway benefits as is recorded at paragraph 69 of the appeal decision:-
- “69..... I do not consider the residual cumulative impact would be severe. Indeed, I consider the overall picture would be one of improvement. As such, I find no conflict with Paragraph 111 of the Framework in this respect.”**
- 8.58. I would afford these benefits **moderate weight**.
- 8.59. The Appellant is also prepared to transfer land in the Ferring gap (located to the south of the appeal site) to the LPA in perpetuity along with a Green Infrastructure Strategy Plan that can establish a long term framework for the land.
- 8.60. This could also have other wide ranging social, economic and environmental benefits including:-
- a. An opportunity to enhance biodiversity in the area beyond that which the site is required to deliver.
 - b. It becoming a BNG donor site could help unlock other housing sites in the borough (allocated or windfall) or help maximise their development potential to help address the local housing crisis
 - c. Provision for public access to the land where appropriate to increase its recreational role.
- 8.61. I would afford the transfer of Manor Farm **moderate weight**.

8.62. Overall, it can be seen that the proposals would deliver a range of social, economic and environmental benefits which taken together, weigh very heavily in its favour.

The Adverse Effects to be Weighed in the Planning Balance

8.63. I accept that there will also be adverse effects that ought to be weighed in the planning balance.

Partial conflict with the Development Plan

8.64. I accept that there would be a partial conflict with the Development Plan, but I still consider that the proposals would accord with the Development Plan when read as a whole.

8.65. The proposals do not accord with Policies SS1 and SS4 insofar as this would be residential development beyond the built-up area that does not qualify as an exception, but those policies are out of date and should be afforded reduced weight.

8.66. I would afford the partial conflict with out-of-date policies no more than limited weight in this case.

Effects on the character and appearance of the area

8.67. The evidence of Mr Self deals with the likely effects of the development on the character and appearance of the area including the setting of the National Park. He accepts that that the appeal scheme will give rise to a certain level of landscape harm, as a result of developing a greenfield site for housing.

8.68. However, even the LPA itself contends that there are no alternative locations on PDL or within the built-up areas which means that such losses are unavoidable if we are to see any meaningful reduction in the scale of unmet need in Worthing. The Local Plan itself relies upon a number of greenfield sites on the edge of the existing urban area.

8.69. In terms of weight, I would afford limited weight to the loss of countryside and the impact of development on the site itself. When developing greenfield sites there will be inevitable and unavoidable harm to the site itself when it changes from undeveloped land to residential

8.70. Mr Self explains that the appeal proposals have been carefully crafted to respond to both its landscape and townscape setting in a sensitive manner and it creates a more appropriate boundary to the urban area than presently exists. It will also deliver ecological and recreational benefits. He explains that it will not introduce a form of development that is at odds with the prevailing character of the coastal plain and will not materially impact on the setting of the South Downs National Park.

8.71. Importantly, there is no objection from the National Park Authority [CD.B17] and this lends support to the evidence and conclusions of Mr Self. The position of the National Park Authority contrasts with its position on the West Durrington site [see CD.J49] which was

released for development by the LPA in December 2019 despite there being unresolved objections and recognition of harm to the setting of the National Park.

8.72. Consistent with my evidence to the previous inquiry, I attach great weight to conserving and enhancing landscape and scenic beauty in National Park as required by NPPF §182. However, in reaching a judgement about weight it is necessary to calibrate the level of harm in a particular case. Here Mr Self explains that the proposed scheme could be carried out without any significant harm.

8.73. Mr Self explains that from the photomontages it can be seen that the Appeal Scheme will be visible but it will not appear out of scale or out of character with neighbouring development; it will not block any views of the sea; and that a localised gap in the urban area will be maintained, albeit reduced in depth. He then goes on to state that:-

“Overall the visual impact was considered to be moderate adverse at completion of the development and slight adverse at year 15.”

8.74. A slight adverse impact at year 15 is the overall conclusion.

8.75. Inspector Cridland agreed that the Appeal Scheme would not materially harm the setting of the SDNP. At paragraph 57 he states:-

“57 Drawing the above threads together, I do not consider the proposed development would materially affect the setting of the SDNP, the wider landscape or undermine the existing physical or visual separation between the settlements of Goring-by-Sea and Ferring. However, I acknowledge the appeal site is valued by the local community and that its loss would result in some harm in this respect. I have also found that the proposal would adversely impact on a number of visual receptors which would result in some further harm. I consider these further as part of the overall planning balance below.” (my emphasis)

8.76. The development would not therefore conflict with national or local policy (NPPF §182 or Policy SS4(f)) relating to the setting of the National Park.

8.77. Even though Mr Self concludes that the proposals would not materially impact on the setting of the South Downs National Park. I have once again adopted a precautionary approach in light of NPPF §182 and would be prepared to afford up to moderate weight to any other adverse effects of the development on the wider area including the setting of the National Park. This elevated weighting reflects the status of the National Park consistent with the legal judgements that I referred to earlier in my evidence.

8.78. As I have already explained, national policy in NPPF paragraph 182 does not establish a requirement for nil detriment in all cases, even for sites within the National Park. When dealing with development in its setting schemes should be designed to avoid or minimise adverse impacts. Even if there is harm, this is to be weighed against the benefits of the

development. I consider that the benefits would outweigh the harm when applying NPPF §182 and recognising that the policy requires harm to be afforded increased weight.

- 8.79. In light of the legal judgements that I referred to earlier I do not accept the contention that the decision maker is compelled to afford “great weight” to any residual harm (regardless of the level of harm in that case). However, for the avoidance of all doubt, even if that was the case, it would not change my conclusion on the outcome of the internal NPPF §182 balance or indeed the overall planning balance.

Best and most versatile agricultural land

- 8.80. Some parts of the site are understood to include Best and Most Versatile agricultural land and this would be lost through development. The remainder of the site is not BMV.
- 8.81. The BMV areas that would be lost would not be “significant” for the purposes of NPPF Footnote 62 and there has been no objection from Natural England in this regard. The LPA is obviously unable to identify any areas of lesser agricultural quality where the development could take place on areas of poorer quality because it has no alternative sites at all. I would also highlight that the land released at West Durrington included BMV. The LPA has also allocated land at Beeches Avenue (Allocation A1) and Upper Brighton Road (Allocation A14) on BMV.
- 8.82. It should be noted that the issue of BMV is not a RfR and it is not referred to in the LPA SoC. In fact the issue did not register at all in the Officer Report. The latest draft SoCG also states that the LPA does not object on these grounds. In view of the above I would afford the partial loss of agricultural land (BMV) only limited weight.

Built Heritage

- 8.83. The uncontested evidence of Mrs Stoten deals with the impact of the development on the heritage significance of nearby designated heritage assets. It concludes that the proposals would give rise to “less than substantial harm” to the heritage significance of the following assets:-
- a. Clematis and Jasmine Cottages (Grade II Listed building) – negligible less than substantial harm at the very lowermost end of the spectrum.
 - b. Highdown Gardens RPG/Conservation Area – negligible less than substantial harm at the very lowermost end of the spectrum.
 - c. North Barn two Grade II Listed buildings – negligible less than substantial harm at the very lowermost end of the spectrum.

- 8.84. There would be no harm to the significance of any other assets through changes to setting, including the Scheduled Highdown Hill Camp, is anticipated.
- 8.85. I recognise the imperative to give considerable weight and importance to harm to the heritage significance of designated heritage assets, but as was held in *Palmer* [CD.J6] and reiterated and quoted in *Bramshill* [CD.J68 §75] the weight to be afforded to the desirability of preserving the asset or its setting is not uniform. Not all harms will be equal. The balance will depend upon the nature of the harm and the value of the asset:-
- “75that the imperative of giving “considerable weight” to harm to the setting of a listed building does not mean that the weight to be given to the desirability of preserving it or its setting is “uniform”. That will depend on the “extent of the assessed harm and the heritage value of the asset in question”. These are questions for the decision-maker, heeding the basic principles in the case law.”** (my emphasis)
- 8.86. I recognise that weighting heritage harms is different to that of other harms. Similar to the approach to be taken with National Parks, it would not be right to just attribute limited weight to a limited harm for example.
- 8.87. Even though the “less than substantial harm” that has been identified is at the very lowermost end of the spectrum in all cases, I have adopted a precautionary approach (recognising that the courts have made it clear that heritage assets are not to be treated as just another material consideration). Having regard to the number assets, their significance and the level of impact in each case, I would afford these harms moderate weight overall in the planning balance.
- 8.88. I consider that my weightings reflect the statutory duty and I consider that I have elevated the weight that I afford to the negligible harms in this case to reflect the legal imperative to afford such matters considerable weight and importance.
- 8.89. It may be argued by others that there is no discretion for the decision maker and no room for judgement such that all harms must be afforded the same “great weight” in the planning balance (even if they were trivial). That would be to suggest that the negligible harms in this case must be treated in the same way as if those heritage assets were to be demolished and lost entirely. Again, I don’t accept that proposition. However even if it was right, it is agreed that the public benefits in this case outweigh the heritage harms.

Increased traffic

- 8.90. The evidence of Mr Wares considered matters relating to **traffic and transportation**. He concluded as a matter of judgement that the residual effect of the proposals taking into account proposed mitigation would not be “severe” for the purposes of NPPF paragraph 111. This was accepted by Inspector Cridland and the RfR has since been dropped by the LPA.
- 8.91. I would afford only limited weight to any residual increase in traffic as an adverse impact.

8.92. Indeed, Inspector Cridland found that the overall picture is one of improvement [IR.§69], and this is reflected separately in my benefits section above.

Other Matters

8.93. There are no other grounds to resist development on this site which cannot be avoided, mitigated, or controlled through planning conditions and/or planning obligations.

My Overall Conclusion on the Planning Balance

8.94. My overall planning balance can be summarised as follows:-

1. The appeal proposals are in general accordance with the Development Plan when read as a whole by virtue of the tilted balance and the application of Policy SP1.
2. The tilted balance is not disapplied for reasons relating to heritage or the setting of the National Park, as was agreed in the original SoCG.
3. The proposals would deliver a range of social, economic and environmental benefits which can be afforded varying levels of weight as identified below:-
 - a. Provision of Open Market Housing – Very Substantial
 - b. Provision of Affordable Housing – Very Substantial
 - c. Enhanced accessibility standards – Moderate
 - d. Cascade to give priority to housing for local people – Significant
 - e. Expenditure on construction/investment – Significant
 - f. Creation of construction jobs – Moderate
 - g. Providing homes for economically active people – Moderate
 - h. Provision of a new Local Centre (incl. jobs) – Limited/Moderate
 - i. Provision of car parking for the railway station – Moderate
 - j. Undergrounding of HV cables – Limited/Moderate
 - k. Public open space, Planting and Biodiversity enhancements – Moderate
 - l. Carbon zero homes – Moderate
 - m. Highway improvements – Moderate
 - n. Transfer of Manor Farm (for BNG, recreation, unlocking housing sites and purposes) – Significant

4. The potential residual adverse impacts have been identified and these should also be afforded varying degrees of weight as follows:
 - a. Non compliance with out of date Local Plan policies SS1 and SS4 arising from development beyond the defined built up area – Limited
 - b. Landscape and visual impact on the character and appearance of the area comprising:-
 - i. Loss of countryside and localised impact on the site – Limited
 - ii. Wider landscape and visual impact incl. any harm to the setting of the National Park – Moderate
 - c. Partial loss of BMV agricultural land – Limited
 - d. Negligible, less than substantial harm (at the lowermost end of the spectrum) to designated heritage assets – Moderate
 - e. A marginal increase in traffic on the existing road network – Limited
5. All other identified impacts can be mitigated through Planning conditions, obligations or through reserved matter applications.
6. Overall, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits in accordance with Local Plan Policy SP1 and NPPF paragraph 11d.
7. I would go as far as to say that the benefits outweigh any conflict with the Development Plan even in the flat unweighted balance.
8. As such the proposals represent sustainable development and the appeal should be allowed.

9. PLANNING OBLIGATIONS

9.1. The Appellant will present deeds pursuant to Section 106 of the Town & County Planning Act 1990, before the close of the public inquiry.

The Original s.106 Agreement

9.2. The Appellant remains committed to the obligations in the original agreement which are as follows:-

- a. 40% of the dwellings to be affordable housing (3rd Schedule)
- b. Public open space and play areas (both on site and off site) and Ecological management plan (4th and 5th Schedules)
- c. Transfer of POS (6th Schedule)
- d. Off-site mitigation for nesting birds (7th Schedule)
- e. Scheme of highway works (8th Schedule)
- f. Highways contributions (8th Schedule)
- g. Provision of a car park at Goring Station (8th Schedule)
- h. Travel Plan (8th Schedule)

Supplemental Obligations

9.3. Supplemental planning obligations will include the following:-

- a. A cascade system that prioritises the open market housing to local people (applicable to 40% of the market housing).
- b. Higher levels of provision of accessible homes ie. M4(2) and M4(3). 3% of market housing to be M4(3) compliant to match policy of affordable homes. All units (market and affordable) will be M4(2).
- c. An opportunity to deliver elevated BNG on land at Ferring Gap (Manor Farm) that falls within Worthing Borough:-
 - Green infrastructure Strategy Plan to be provided to establish a framework for the land.



- Provision for public access to the land where appropriate.
- Transfer of the land to the LPA in perpetuity to be used for landscape and biodiversity enhancement only and to give long term certainty over the land in the Gap, and
- Provisions to allow the LPA to use land to deliver BNG to unlock other development sites in the Borough and maximise their development potential.

9.4. Suitably worded conditions will also be used to as necessary, and an agreed list of conditions will be provided before the start of the inquiry.

10. SUMMARY AND CONCLUSIONS

10.1. This Proof of Evidence 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).

10.2. The appeal was lodged following the decision of Worthing Borough Council to refuse a planning application which sought outline planning permission for a proposed development comprising:-

“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.”

10.3. My evidence concentrates on the following issues:-

- | | |
|----------------|---|
| Issue 1 | Whether the proposed development would be in a suitable location having regard to local and national planning policies |
| Issue 2 | The effect of the proposed development on the setting of the South Downs National Park; |
| Issue 3 | The effect of the proposed development on the Local Green Gap |
| Issue 4 | Other matters raised in third party objections |

10.4. My main findings can be summarised as follows:-

Issue 1 Whether the proposed development would be in a suitable location having regard to local and national planning policies

1. This is the right development in the right location, at the right time.
2. Local Plan Policy SS2 establishes a minimum housing requirement for only 3,672 homes over the plan period 2020-36. However, it does not seek to meet the identified need in full. Instead, it meets only 26% of the need, leaving a shortfall of 10,488 homes. There is still no strategy in place to ensure that the unmet housing need is met.
3. The site is not located within the built-up area, and it is not allocated for housing (or any other kind of development). Instead, the site comprises land which is defined as countryside in planning policy terms. The proposals do not therefore gain positive support from Policies SS1 and SS4.

4. However, the housing land supply and HDT positions mean that Policies SS1 and SS4 and the other most important policies are out of date. The policies will need to flex to allow housing beyond the built-up area to enable the LPA to improve the supply of housing.
5. There is no other plan led mechanism that can address the acute housing problems. National policy does not protect countryside for its own sake and development beyond the built-up area will be necessary to help address the local housing crisis. The Green Gap policy is also no a bar to development as explained later.
6. The adoption of the new Local Plan is not a game changer because Inspector Cridland afforded full weight to an out-of-date policy of absolute restriction and yet still considered the exceptional need for housing to be overriding.
7. Inspector Cridland did not consider that the proposals would fundamentally undermine the then emerging spatial strategy. Similarly, Inspector Lee did not alter the course of the Local Plan examination when the appeal was allowed.
8. There is no reason to reach a different conclusion now when the appeal site represents a greenfield site on the edge of the built-up area in an accessible location similar to the other five sites that were allocated on the edge of the built up area.
9. I accept that the site was not allocated through the Local Plan, but the Local Plan Inspector did not consider omissions sites, did not consider the appeal site and did not consider the appeal proposal. It was a materially different assessment.
10. In any event, after what will be two public inquiries and five weeks of evidence that has been tested through cross examination I consider that the s.78 inquiry process is better placed to conclude on the suitability of this site, particularly when evidence that led to the larger Chatsmore Farm being rejected has been found to be unreliable or no longer applicable.
11. The merits of the appeal site are self-evident. It is well related to the built-up area and in that regard, it would be consistent with the general thrust of the spatial strategy which seeks to reduce the need to travel by locating homes in the most accessible places.
12. The proposals represent a logical addition to this part of the built-up area. They would not represent a new outward incursion into the open countryside and would not encroach closer on the National Park than the existing pattern of development in the area. It would in fact be set back behind a significant area of undeveloped land and the Ferring Rife.

Issue 2 The effect of the proposed development on the setting of the South Downs National Park;

13. National policy on National Parks has not changed since the previous inquiry or since the previous appeal decision was issued.
14. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, and development within their setting should be sensitively

located and designed to avoid or minimise adverse impacts on the designated areas [NPPF §182].

15. Inspector Cridland did not conclude that the appeal proposals would fail the test of avoiding or minimising adverse impacts on the National Park.
16. The NPPF does not preclude development in such locations and indeed it does not even preclude development that might cause harm to the setting of the National Park. Instead, it requires adverse effects to be avoided or minimised.
17. The mere finding of harm to the setting of the National Park is not of itself, sufficient to cause conflict with NPPF §182. Instead, that harm that needs to be weighed against all the benefits of the proposal before one can determine whether the policy test is met.
18. At the previous inquiry it was common ground that this appeal should be determined in accordance with the tilted balance as set out in NPPF paragraph 11d (ii) and that there are no NPPF footnote 7 policies that provide a clear reason for refusal in this case such that the tilted balance is dis-applied.
19. The LPA has resiled from that position without any good reason. It is the same development, in the same location, judged against the same policy. There is nothing in the legal judgements relating to this appeal that change the approach to be taken when applying national policy. The LPA has simply evolved its case.
20. There is no assessment of harm against benefits in the LPA SoC or Officer Report that allows me to understand what has changed so significantly such that this now represent a clear reason for refusal when previously it was not.
21. The requirement to “great weight” to conserving and enhancing landscape and scenic beauty does not mean that all harms should be afforded the same uniform weight. Weight remains a matter of judgement for the decision maker albeit paragraph 182 will increase the weight to be afforded to any harm.
22. I am satisfied that my approach to this matter at the previous inquiry was correct and I take the same approach for the purposes of the remitted appeal. My overall conclusion is that the benefits clearly outweigh any harm to the National Park arising from development within its setting.

Issue 3 The effect of the proposed development on the Local Green Gap

23. The Appeal proposals would not have an unacceptable impact on the Local Green Gap and there would be no conflict with Policy SS5.
24. Policy SS5 does not preclude development within the gap. It is the effect of the proposed development on the gap that is important.
25. 87% of the undeveloped gap between Goring and Ferring would remain if the appeal is allowed.

26. Whilst the extent of the gap will reduce, it would not be to the extent that it would undermine the physical and/or visual separation of settlements and therefore it would not compromise the integrity of the gap.
27. Inspector Cridland agreed with the appellant and concluded that he did not consider that the physical or visual separation of the settlements would be undermined. I consider that significant weight should be attached to those findings.
28. The LPA sought to challenge the approach and conclusions of Inspector Cridland in the High Court, but that ground of challenge was rejected.
29. Mr Self deals with criterion (iii) Natural Capital; and Criterion (iv) green infrastructure networks. He also considers the separate identities and character of the settlements concerned and finds no conflict with Policy SS5 overall.

Issue 4 Other matters raised in third party objections

30. The planning application provided the necessary information to confirm that there is no evidential basis for objection on any of these grounds.
31. There are no outstanding objections from statutory consultees relating to these matters.
32. Inspector Cridland was satisfied on these matters.
33. The LPA does not object on these grounds.
34. In view of the above and in the absence of any robust technical evidence to the contrary, there is no reason why planning permission should be withheld on these grounds.

The Overall Planning Balance

35. The appeal proposals are in general accordance with the Development Plan when read as a whole by virtue of the tilted balance and the application of Policy SP1.
36. The tilted balance is not disapplied for reasons relating to heritage or the setting of the National Park, as was agreed in the original SoCG.
37. The proposals would deliver a range of social, economic and environmental benefits which can be afforded varying levels of weight as identified below:-
 - a. Provision of Open Market Housing – Very Substantial
 - b. Provision of Affordable Housing – Very Substantial
 - c. Enhanced accessibility standards – Moderate
 - d. Cascade to give priority to housing for local people – Significant
 - e. Expenditure on construction/investment – Significant

- f. Creation of construction jobs – Moderate
 - g. Providing homes for economically active people – Moderate
 - h. Provision of a new Local Centre (incl. jobs) – Limited/Moderate
 - i. Provision of car parking for the railway station – Moderate
 - j. Undergrounding of HV cables – Limited/Moderate
 - k. Public open space, Planting and Biodiversity enhancements – Moderate
 - l. Carbon zero homes – Moderate
 - m. Highway improvements – Moderate
 - n. Transfer of Manor Farm (for BNG, recreation, unlocking housing sites and purposes) – Significant
38. The potential residual adverse impacts have been identified and these should also be afforded varying degrees of weight as follows:
- o. Non compliance with out of date Local Plan policies SS1 and SS4 arising from development beyond the defined built up area – Limited
 - p. Landscape and visual impact on the character and appearance of the area comprising:-
 - i. Loss of countryside and localised impact on the site – Limited
 - ii. Wider landscape and visual impact incl. any harm to the setting of the National Park – Moderate
 - q. Partial loss of BMV agricultural land – Limited
 - r. Negligible, less than substantial harm (at the lowermost end of the spectrum) to designated heritage assets – Moderate
 - s. A marginal increase in traffic on the existing road network – Limited
39. All other identified impacts can be mitigated through Planning conditions, obligations or through reserved matter applications.
40. Overall, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits in accordance with Local Plan Policy SP1 and NPPF paragraph 11d.
41. I would go as far as to say that the benefits outweigh any conflict with the Development Plan even in the flat unweighted balance.
42. As such the proposals represent sustainable development and the appeal should be allowed.



Concluding Comments

- 10.5. Having undertaken a planning balance in the way that I have outlined, I reach the conclusion that the proposals represent a suitable and sustainable form of development in this location and that there are compelling reasons that justify the grant of planning permission.
- 10.6. In view of the foregoing, the Inspector is respectfully requested to uphold this appeal and to grant outline planning permission, subject to any necessary conditions and planning obligations.

Town & Country Planning Act 1990 (as amended)
Planning and Compulsory Purchase Act 2004

Expertly Done.

DESIGN | ECONOMICS | ENVIRONMENT | HERITAGE | LAND & PROPERTY | PLANNING | TRANSPORT & INFRASTRUCTURE



All paper sources from sustainably managed forests

Pegasus Group is a trading name of Pegasus Planning Group Limited (07277000) registered in England and Wales.

Registered office: Querns Business Centre, Whitworth Road, Cirencester, Gloucestershire, GL7 1RT
We are ISO certified 9001, 14001, 45001



Pegasus_Group



pegasusgroup



Pegasus_Group

PEGASUSGROUP.CO.UK