



UPDATED STATEMENT OF COMMON GROUND ON HOUSING NEED

SECTION 78 APPEAL BY PERSIMMON HOMES

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

TOWN & COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING AND COMPULSORY PURCHASE ACT 2004

LPA REF: AWD/1264/20
APPELLANT REF: P.1173
PINS REF: APP/M3835/W/21/3281813
Date: February 2024

 Signed:	 Signed:
Name: James Appleton	Name: Neil Tiley
On behalf of: Worthing Borough Council (the Local Planning Authority)	On behalf of: Pegasus Group (acting on behalf of the Appellant)

Date: 01/02/2024

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1. INTRODUCTION

- 1.1 This Updated Statement of Common Ground (USoCG) on the need for housing has been prepared by Pegasus Group and on behalf of Persimmon Homes (“the Appellant”) in conjunction with Worthing Borough Council (“the LPA”).
- 1.2 It relates to a planning appeal made pursuant to Section 78 of the Town and Country Planning Act 1990, in respect of a proposed residential development of up to 475 dwellings along with associated access, internal roads and footpaths, car parking, public open space, landscaping, local centre (uses 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 at Land North West of Goring Station (“the Appeal Site”).
- 1.3 This USoCG replaces the previous Statement of Common Ground on housing need which was agreed on 23rd December 2021. Its purpose is to identify the areas where the principal parties (the Appellant and the LPA) are now in agreement and to narrow down the issues that remain in dispute. This will allow the appeal to focus on the most pertinent issues.
- 1.4 At the CMC on 13 December 2023, the Inspector indicated that her preference was for Statements of Common Ground to focus on areas of dispute rather than areas of agreement. This Statement of Common Ground adopts that approach.

2. MATTERS NOT IN DISPUTE

2.1 This section sets out the matters that are not in dispute between the Appellant and the LPA.

The adopted Local Plan

2.2 The Worthing Local Plan (WLP) was adopted in March 2023.

2.3 Policy SS2 identifies a minimum housing requirement for 3,672 net dwellings in response to the minimum local housing need of the standard method for 14,160 homes over the period 2020-36. The minimum housing requirement therefore provides for a shortfall of 10,488 homes and provides for only 26% of the minimum need.

2.4 Policy SS2 sets a minimum housing requirement, which can be exceeded including through the delivery of unallocated sites. The minimum housing requirement does not cap the levels of development.

2.5 Policy SP1 embeds the presumption in favour of sustainable development within the statutory Development Plan. Accordingly, where the most important policies are out-of-date, providing none of the policies identified in footnote 7 of the NPPF provide a clear reason for refusal and any adverse impacts of granting planning permission do not significantly and demonstrably outweigh the benefits, proposals would accord with the Development Plan and should be approved without delay.

Examination of the adopted Local Plan

2.6 The Local Plan Inspector recognised that national planning policy does not expect the housing needs of the Borough to be met within the Borough at the expense of all other planning matters.

2.7 The Local Plan Inspector endorsed the minimum housing requirement of 3,672 homes in his Final Report. In reaching this conclusion the examining Inspector had regard to the fact that the Borough is squeezed between the SDNP to the north and the sea to the south and that its boundaries were also tightly drawn to the east and west and that in this context there was no serious suggestion by any interested party in the Local Plan examination that Worthing would be able to realistically meet its full housing need.

2.8 The examining Inspector considered the site selection process to determine whether the constrained housing requirement was sound. The Inspector

considered that there was little doubt as to why the Council considered the omission sites it has assessed as not being worthy of allocations. The sites considered by the Council throughout the site selection process were those identified in the Strategic Housing Land Availability Assessment, including Site WBO8152 which was a much larger area of land of which only a part is occupied by the appeal site.

- 2.9 Having assessed the soundness of the site selection process, the examining Inspector found that the Council had applied paragraph 11b(ii) of the NPPF and that the Council had concluded that the adverse impacts of identifying a greater housing requirement would significantly and demonstrably outweigh the benefits in paragraph 91 of the Final Report. The Inspector found in his report that based on the evidence before him, all reasonable alternatives and options for growth had been considered and the overall spatial strategy is sound. The Inspector further recognised that the Borough has significant constraints and that the scope for suitable expansion is limited.
- 2.10 The Council identified that there was a supply of 3,672 homes having taken account of all sustainable development opportunities in their response to the examining Inspector entitled Extending the time period of the Plan from Adoption.
- 2.11 The examining Inspector concluded that based on the evidence before him, the Council had done everything it could realistically do to identify potential sites.
- 2.12 Since the adoption of the Local Plan, the Council has now identified that there is capacity to sustainably deliver at least 449 more homes than identified to the examining Inspector and includes these in the deliverable supply.

Housing Delivery Test

- 2.13 The latest Housing Delivery Test results for Worthing Borough are 33%, which is the sixth lowest result of the 303 LPAs nationally for which such information is available. This is measured against the standard method that the LP Inspector has accepted cannot be achieved because of the physical constraints of the Borough.
- 2.14 A Housing Delivery Test result of less than 75% renders the most important policies out-of-date through footnote 8 of the NPPF and engages paragraph 11d through footnote 8 and paragraph 79c as well as engaging Policy SP1b of the WLP.

The record of delivery

- 2.15 Over the period 2020-23, a total of 623 homes were delivered in the Borough which represents 67 fewer homes than required as a minimum by Policy SS2. It also represents 2,032 fewer homes than were needed as a minimum according to the standard method which the Council suggest is due to the constraints within the Borough as identified in the Inspector's report, notwithstanding the fact that the Council consider that there is unconstrained capacity to deliver 2,059 homes in the next five years.
- 2.16 Paragraph 5.43 of the Local Plan identifies a need for 490 affordable homes per annum. This need is identified in the SHMAA 2020 and is an unconstrained figure.
- 2.17 According to the Annual Monitoring Reports of the LPA a total of 98 affordable homes have been delivered from 2020-23 as compared to the unconstrained need for 1,470 affordable homes over this period, with a shortfall of 1,372 affordable homes relative to need in two years.
- 2.18 For developments of 10 or more homes, Policy DM3 of the Worthing Local Plan requires provision of 20% affordable housing on flatted developments on previously developed land, 30% affordable housing on housing schemes on previously developed land and 40% affordable housing for development on greenfield sites. The appeal proposals would deliver affordable housing in accordance with the 40% requirement for greenfield sites.

The five-year land supply

- 2.19 As the planning application was submitted prior to the publication of the current NPPF, paragraph 76 of the NPPF does not apply. As a result, if a five-year land supply is unable to be demonstrated, set out in footnote 79 of the NPPF, the most important policies will be out-of-date and paragraph 11d and Policy SP1b will be engaged for another reason.
- 2.20 For the purposes of paragraph 77 and footnote 8 of the NPPF, the five-year land supply is to be measured against the adopted housing requirement of 230 dwellings per annum.

2.21 The Council has published a new five-year land supply assessment for the period 2023-28. This is responded to insofar as this is possible within this Statement of Common Ground.

The period of assessment

2.22 For the purposes of this appeal, it is appropriate to assess the five-year land supply over the period 2023-28 which will be the latest published assessment of the LPA by the time the Inquiry takes place.

The need and requirement

2.23 There is a minimum requirement for 1,150 homes over five-years based on the annual requirement for 230 homes per annum.

Taking account of past delivery

2.24 When assessing against the adopted housing requirement it is appropriate to calculate the level of shortfall since the base date of the adopted plan and add this to the requirements for the next five years. As set out above, there has been a shortfall of 67 homes against the minimum housing requirement which in addition to the 1,150 homes identified above provides for a minimum housing requirement for 1,217 homes in five years.

Buffers

2.25 Given the record of substantial under-delivery as recorded by the Housing Delivery Test it is appropriate to apply a 20% buffer.

The five-year requirements

2.26 Applying the 20% buffer provides for a five-year requirement for 1,460 homes for the purposes of paragraph 74 and footnote 8 of the NPPF.

The definition of a deliverable site

2.27 In order to be considered deliverable a site must be available now, offer a suitable location for development now and be achievable with a realistic prospect that housing will be delivered on site within five years. Sites in Category A should be considered deliverable until planning permission expires unless there is clear evidence that homes will not be delivered within five years, and sites in Category

B should only be considered deliverable where there is clear evidence that completions will begin on site within five years.

2.28 As set out in the PPG Reference ID: 68-007-20190722 the definition of a deliverable site within the NPPF sets out the sites which require further evidence to be considered deliverable, namely those which have outline planning permission, those which are allocated in the development plan, those which have a grant of permission in principle or those identified on a brownfield register.

2.29 When considering the deliverability of sites, it is appropriate to take account of the latest evidence including that which has arisen since the base-date of the assessment.

The five-year land supply for the purposes of paragraph 74 and footnote 8

2.30 The respective positions of either party are set out under matters in dispute below.

The need for housing

2.31 It is agreed that there was an exceptionally high need for housing in Worthing Borough as set out in the LPA's Response to IL01 and that this would remain the case once the Local Plan was adopted as set out in the LPA's closing submissions to the previous sitting of this appeal.

2.32 It is agreed there are also substantial unmet housing needs in other LPAs in the housing market area and sub-region.

2.33 It is agreed that the duty to co-operate was complied with in the preparation of the Local Plan.

2.34 The Strategic Housing Market Assessment of 2020 (SHMA) identifies a need for 490 affordable homes per annum. It is agreed that this is more than twice as great as the total number of homes proposed to be delivered under Policy SS2 of the WLP. There will be substantial shortfall in the provision of affordable housing as set out in the LPA's Response to IL01.

2.35 At the time of the examination of the Local Plan it is agreed that the standard method identified a minimum local housing need for 885 homes per annum. It is agreed that the uncapped minimum local housing need of the standard method

has increased since the Local Plan was prepared from a minimum need for 885 homes per annum in 2020 to a minimum need for 930 homes per annum in 2023.

- 2.36 It is agreed that additional housing to that proposed in the WLP will contribute to addressing this need for housing and affordable housing. It is agreed that as set out by the examining Inspector, every house delivered is important and substantial weight should be given to delivering as much housing as possible. The appeal proposals would increase the proportion of the minimum need for 14,160 homes over the plan period that would be met by 3.35% from 25.9% to 29.3%. Assuming the scheme provides 40% affordable housing (190 units), the appeal proposal would increase the proportion of affordable needs that would be met by 2.42% over the plan period.
- 2.37 It is agreed that any additional housing that can be delivered on sustainable sites would help to meet housing needs and reduce the shortfall in delivery.

Plan led solutions to address the unmet needs

- 2.38 The shortfall of 10,488 homes and the substantial shortfall of affordable housing are cross-boundary strategic matters. The LPA and its partners intend to undertake work to prepare Local Strategic Statement 3 to address these unmet needs but to date no draft of this document has been published and as such there is no solution to which one can afford any weight.
- 2.39 The Local Plan Inspector found that the Council had submitted comprehensive and robust evidence of the efforts it has made to cooperate, and the outcomes achieved and that it had done everything they realistically could to gain assistance from other authorities and thus comply with the expectations of national guidance, albeit there remains no planned solution to address the 74% of the minimum housing needs of Worthing. The Inspector further concluded that there is no evidence that the Council has failed to understand the importance of housing delivery or the need to maximise capacity and delivery.
- 2.40 Local Strategic Statement 3 is proposed to cover the period 2030-50 and so will provide no solution to address these unmet needs for at least 6 years.
- 2.41 The Local Plan Inspector considered at paragraph 92 of his report that the housing sites allocated in the adopted Local Plan have a good prospect of being delivered in the Plan period.

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- 2.42 The Local Plan Inspector concluded in paragraph 93 “Clearly, there are very significant strategic matters to address. Progress is being made on these through the LSS3, though perhaps not as expediently as many would wish or would be ideal. Nevertheless, there is no obvious immediate solution to meeting *all* of Worthing’s housing needs or those of other West Sussex Coastal districts”.
- 2.43 The Statement of Common Ground identifying the work programme for Local Strategic Statement 3 has not yet been published.

3. MATTERS IN DISPUTE

3.1 This section sets out the matters that are in dispute between the Appellant and the LPA.

The materiality of the quashed appeal decision

3.2 The Appellant considers that the previous appeal decision was quashed solely on the basis of that it was not clear that the Inspector had weighed any harm to the setting of the National Park in the overall planning balance and that the remainder of findings of the appeal decision on housing need and supply issues, remain material and should be followed in accordance with the principle of consistency unless newly arising material considerations indicate otherwise.

3.3 The LPA considers that matters such as the housing need and supply position and the overall planning balance must be considered afresh. In particular, the adoption of the Worthing Local Plan is a material change in circumstances since the previous Inspector's decision. Insofar as the previous Inspector's conclusions on the overall planning balance are concerned, these were reached in the context of a legal error regarding the treatment of harm to the SDNP, which affected how the planning balance was struck. As such, the Inspector's overall conclusions cannot now be relied on.

Examination of the adopted Local Plan

3.4 The Appellant considers that the examining Inspector did not consider omission sites such as the appeal site throughout the examination but instead considered the soundness of the site selection process as set out in paragraphs 13 and 14 of the Examination Guidance Note. The Appellant considers that, inter alia, because omission sites were not considered throughout the examination, it is now apparent that the Council did not 'unturn every stone'. This is evident from the fact that the Council now include a supply of 449 homes arising from sites which were not presented to or considered by the examining Inspector.

3.5 The LPA disagrees and refer to para 87 of the LP Inspectors decision where the Inspector recognised that the Council had left no stone unturned and considered that when the evidence base is considered as a whole there can be 'little doubt as to why the Council considered the sites not worthy of allocation'. If the LP Inspector had concluded that the Council had not done enough to address housing need, he would have requested that it reconsider the proposed housing allocations, which he did not. The Inspector stated at para 91 of his report: "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.”

- 3.6 The Appellant considers that the adverse impacts arising from the development of the entirety of Site WBO8152 are likely to be greater than those which arise from the development of the appeal site.
- 3.7 The LPA does not disagree but would point out that the land to the south of Ferring Rife is particularly sensitive especially in views from the National Park. It is also relevant that the proposed layout plans and Landscape and Visual Impact Analysis (LVIA) for the development were presented to the LP Inspector.
- 3.8 The Appellant considers that the site selection process of the Council identified issues with the development of Site WBO8152 including air quality, agricultural land, surface water flooding, ground water flooding, and archaeology which do not apply to or will be mitigated through the appeal proposals.
- 3.9 The LPA does not disagree but would point out that there were other reasons for rejecting the site in the selection process.
- 3.10 The Appellant considers that the only consideration of a specific development of up to 475 dwellings and associated works on the appeal site in isolation taking account of the latest evidence on the adverse impacts and benefits arising is found in the quashed appeal decision.
- 3.11 The LPA disagrees and will refer to the documents submitted to the LP Examination. The LP Inspector was asked to amend the boundaries of the Local Green Gap but declined to do so. The LP Inspector did consider the appeal scheme.

The record of delivery

- 3.12 The Appellant considers that there is already a significant pre-existing need and requirement for housing over the plan period as is evident from the unmet need for 2,032 homes and the unmet requirement for 67 homes which has accrued over the period 2020-23.

3.13 The LPA disagrees in relation to the unmet need from the standard method as it has been accepted that this cannot be delivered within the Borough because of the constraints identified through the Local Plan process.

The five-year land supply

3.14 As the adopted housing requirement does not reflect the need for housing, the Appellant considers that the five-year land supply assessed against the adopted housing requirement provides no gauge of the need for additional housing.

3.15 The LPA disagrees as the housing requirement against which the Housing Land Supply is to be assessed is set out in the LP as indicated by the NPPF.

3.16 The Appellant therefore considers that it is appropriate to consider the five-year land supply against the housing requirement to determine whether footnote 8 is engaged for five-year land supply purposes, but also against the minimum local housing need to determine the need for additional housing within the next five years.

3.17 The LPA does not consider it appropriate to assess the housing land supply against the standard method for calculating housing need given that the Local Plan is less than five years old, in accordance with paragraph 77 of the NPPF.

The deliverable supply

3.18 The Appellant considers that sites outside of Categories A and B which gain planning permission after the base-date of the assessment should not be included in the deliverable supply until the assessment is updated to take account of any changes to the supply and requirement which have occurred at the same time.

3.19 The LPA does not disagree, and it will be up to the Inspector to decide whether to take account of any additional information that has arisen since that date (delays or progress since April 2023).

3.20 The Appellant considers that as set out in the definition of a deliverable site, once planning permission expires sites do not benefit from a presumption of deliverability.

3.21 The LPA does not disagree but would state that these sites could still be considered deliverable if there is clear evidence that they will deliver housing over the 5 year period.

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3.22 The respective positions on the deliverable supply are set out in the following table.

Site	The LPA's position	The Appellant's position
40-42 South Street	9	0
HMRC – Barrington Road	350	323
19 Manor Road	0	0
Jupps Garage	0	0
Uncontested sites	896	896
Total	1,255	1,219
Beeches Avenue (A1)	90	0
Caravan Club (A2)	25	0
Centenary House (A3)	50	0
Teville Gate (A12)	60	0
Union Place (A13)	216	0
Upper Brighton Road (A14)	0	0
Former Canteen, Northbrook College	20	0
Total	461	0
Jubilee Hall & 10 Greenland Road	14	0
22 Clifton Road	13	0
Skywaves	21	0
ATC Headquarters	11	0
148-152 Montague Street	9	0
The Montague Centre	42	0
Development Site at 2 to 14 Goring Road	9	0
10-20 Marine Place	9	0
Former Debenhams	80	0
Columbia House	78	0
Total	286	0
Total	124	124

The five-year land supply for the purposes of paragraph 74

3.23 The Appellant considers that the LPA is able to demonstrate a 4.60 year land supply with a shortfall of 117 homes against the minimum housing requirement.

3.24 The LPA considers that it is able to demonstrate a 7.28 year land supply with a surplus of 666 homes against the minimum housing requirement.

The five-year land supply against the minimum local housing need

3.25 The Appellant considers that the LPA is unable to demonstrate a sufficient supply against to meet the minimum housing needs as defined by the standard

methodology over the next five years with a substantial shortfall on the basis of either party's position on the deliverable supply, and that whilst this does not engage paragraph 11d it provides a gauge of the need for additional housing within five years.

- 3.26 The LPA disagrees and considers that the appropriate approach is to assess the HLS position against the requirement in the LP and not the standard methodology, given that the LP is less than five years old.

Policy implications for the current appeal

- 3.27 The Appellant considers that most important policies are out-of-date such that providing footnote 7 policies do not provide a clear reason for refusal and any adverse impacts do not significantly and demonstrably outweigh the benefits, the appeal should be allowed in accordance with Policy SP1 of the Development Plan and paragraph 11d of the NPPF.
- 3.28 The LPA disagrees and considers that it can demonstrate a 5 year housing land supply based on an Adopted Local Plan. However, the Housing Delivery Test results engage the tilted balance but this is disengaged due to the harm to the setting of the National Park.