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## Appeal Decision

Inquiry held on 17-18 and 24-26 September 2024 and 1 and 3 October 2024  
Site visits made on 16 and 19 September 2024

**by Y Wright BSc (Hons) DipTP MSc DMS MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> March 2025**

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

**Land North West of Goring Station, Goring-By-Sea, Worthing**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Persimmon Homes Thames Valley against the decision of Worthing Borough Council.
  - The application Ref AWDM/1264/20, dated 7 August 2020, was refused by notice dated 11 March 2021.
  - The development proposed is 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.
  - This decision supersedes that issued on 25 February 2022. That decision on the appeal was quashed by order of the High Court dated 1 August 2022.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. This appeal is a redetermination following the quashing of the previous appeal decision (dated 25 February 2022) by order of the High Court dated 1 August 2022. The Court determined that the Inspector had erred on two of the Council's four grounds:

Ground 2 - In failing to take account of the conflict with Policies SS1 and SS4 of the emerging local plan 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; and

Ground 4 - In his treatment of the impacts of the development on the South Downs National Park, specifically in failing to comply with his duty in section 11A of the National Parks and Access to Countryside Act 1949 and/or paragraph 176 of the National Planning Policy 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.

3. The appellant appealed this decision at the Court of Appeal in 2023. This Court disagreed with the judgement on ground 2 but agreed on ground 4. As the appellant did not succeed on both grounds the Court of Appeal dismissed the appeal on 30 June 2023. Nevertheless, this judgement remains a material consideration. The main parties have referenced both of these Court judgements within their submissions and referred to them during the Inquiry.
4. Whilst I have had regard to the previous Inspector's decision insofar as it forms a material consideration, I have determined the appeal afresh on its own planning merits. In doing so, I have taken into account further submissions made at the redetermination stage and determined it in accordance with the current policy framework, which is different to that which was in place at the time the previous Inspector considered the appeal. I refer to this further below.
5. The planning application was submitted in outline with all matters (access, appearance, landscaping, layout and scale) reserved for subsequent consideration. A concept masterplan was submitted with the planning application, showing a layout and access point, but it was confirmed at the Inquiry that this was for illustrative purposes only.
6. The Council, in its 2021 decision notice, identified six reasons for refusal. It was confirmed at the original Inquiry that concerns relating to access, highway safety, ground nesting birds and infrastructure requirements had either been resolved or could be resolved through relevant planning obligations or the imposition of planning conditions. The main parties have confirmed that this is still the case and based on the evidence I have no reason to disagree. Furthermore, the reason for refusal relating to prematurity and the plan-making process is no longer relevant as the Worthing Borough Council Local Plan 2020-2036 (LP) has since been adopted (March 2023).
7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (1990 Act) places a statutory duty on decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, when considering relevant development proposals. Section 72 of this 1990 Act also places a statutory duty on decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area when considering development proposals. One of the Council's original reasons for refusal raised concerns about the impact of the proposal on designated heritage assets. However, since then both the Council and appellant have agreed that the resultant negligible harm to the significance of designated heritage assets would be less than substantial and would be outweighed by the public benefits of the scheme. I refer to this later within my reasoning.
8. Since the issuing of the original appeal decision and the judgements of the two Courts, both legislative and planning policy changes have been made. In relation to the former, section 245 of the Levelling Up and Regeneration Act 2023 has introduced amendments to the statutory duty in respect of section 11A of the National Parks and Access to the Countryside Act 1949 (1949 Act). This is relevant because the appeal site lies within the setting of the South Downs National Park (SDNP). Relevant authorities must now 'seek to further' the statutory purposes of Protected Landscapes, which includes National Parks. This replaces the previous duty to 'have regard to' the statutory purposes.

Guidance on the Protected Landscapes duty was published by the Department for Environment, Food and Rural Affairs in December 2024. Matters on landscape and the effect of the appeal proposal on the setting of the SDNP, as well as the amendments to the statutory duty were fully discussed by both main parties at the Inquiry. My consideration of this matter is set out within my reasoning.

9. As regards changes to national policy, the Government has recently published a revised version of the National Planning Policy Framework (the Framework) dated December 2024. I must determine this appeal against this most recent version. As the December 2023 version of the Framework was in place when the Inquiry was reopened to redetermine the appeal I have given both main parties the opportunity to provide further comments and have taken their responses into account.
10. At the time the planning application was considered, and the previous Inquiry was held, the local planning policy framework was different. Subsequent to both decisions being issued the Council has adopted a new LP which supersedes the previous local plan policies. Both main parties have referred to this LP and its policies within their submissions.
11. In August 2023, following the previous Inquiry, the adoption of the LP and the two court judgements, the Council's Planning Committee reviewed its position for the redetermination of the appeal. The Committee resolved to continue to contest the appeal with updated refusal reasons, focussing on the impact of the proposed development on the setting to the South Downs National Park, its effect on a designated Local Green Gap and that the site forms part of the countryside and undeveloped coast. As regards the issue surrounding the provision of biodiversity net gain, both main parties have agreed that this can be resolved through the provision of planning obligations and the imposition of conditions on any approval.
12. Further to the statements of common ground (SoCG) submitted for the first Inquiry, including on heritage matters (dated 21 December 2021), a SoCG biodiversity net gain (dated 17 January 2024) has been agreed. In addition, the main parties have also submitted updated SoCG on landscape and planning matters (both dated 18 January 2024). I also accepted an updated SoCG on housing need (dated 23 September 2024) during the Inquiry.
13. In July 2024, the Council issued an updated five year housing land supply statement which identified a 6.3 year supply. The appellant disagreed with this assessment and considered the Council was unable to demonstrate a five year housing land supply. Irrespective of this disagreement, the Council's 2022 Housing Delivery Test (HDT) measurement of 33% meant that, at the time of the Inquiry, the main parties agreed that the presumption in favour of sustainable development applied, in accordance with paragraph 11 d) and footnote 8 of the Framework. Since then, the Government has issued the updated 2023 HDT results, which show a measurement of 107% for the Borough Council. Accordingly, the appellant has confirmed that they now agree that the Council is able to demonstrate a five year housing land supply. As such, paragraph 11 d) of the Framework is not engaged. I consider the appeal on this basis.
14. As part of the original Inquiry, a signed and dated (8 February 2022) planning obligation pursuant to section 106 of the Town and Country Planning Act 1990

(S106) was submitted. Following the close of this Inquiry, two additional planning obligations, both signed and dated 9 October 2024, were submitted. The first relates to a supplemental deed and deed of variation (SD) which introduces additional obligations relating to open market housing requirements and a variation on biodiversity net gain, delivery and maintenance. The second document is a unilateral undertaking (UU) which provides for the transfer of the freehold interest in the 'Ferring Gap Land' to the Council.

## **Main Issues**

15. I consider the main issues are:

- The effect of the proposed development on the Local Green Gap;
- The effect of the proposed development on landscape including the setting of the South Downs National Park; and
- Whether the proposed development would be in a suitable location having regard to other local and national planning policies and the need for housing.

## **Reasons**

### Site and policy context

16. The appeal site is a relatively flat and open undeveloped field almost 20 hectares in area and is currently in agricultural use. It lies between the settlements of Ferring and Goring-by-Sea. To the west of the site is a much smaller field, with residential development beyond this. Goring Street runs along the eastern boundary of the site with residential development beyond. The London to Brighton railway line runs along its southern boundary, with built development immediately to the south.
17. Two public rights of way (PROW) cross the site, one partially along the western boundary and the other along the southern boundary. Goring railway station is in close proximity to the south east. Overhead power lines cross the site east to west. The watercourse Ferring Rife forms the northern boundary of the site. Beyond this lies a smaller agricultural field, Littlehampton Road and the rising land of the SDNP which is clearly visible and dominates northerly views from within the appeal site. As previously stated, the appeal site lies within the setting of the SDNP, which is also a Designated International Dark Skies Reserve.
18. There are existing hedgerows, trees and other vegetation along some of the site boundaries, which is sporadic in places. The site is visible to varying degrees from adjacent roads, pavements, the PROW, and from nearby properties. There are also longer distance views of the site from within the SDNP. Though access is a reserved matter, it is proposed that the development would be accessed off Goring Street which would likely result in the loss of some of the eastern boundary hedgerow/vegetation.
19. The LP advises that development within the Borough is tightly constrained by the availability of land, due to the SDNP to the north, the sea to the south and the close proximity of existing development in neighbouring authorities to the east and west. Policy SS1 of the LP, which sets out the Borough's overall spatial strategy, therefore seeks to direct development within the built up area

boundary (BUAB) and allocated sustainable urban extensions, whilst protecting the remaining areas of countryside including important gaps between settlements.

20. There is no dispute that the appeal site lies outside the BUAB and is therefore defined in policy terms as being part of the countryside and undeveloped coast, in accordance with LP Policy SS4. This policy states that 'Development in the countryside will be permitted, where a countryside location is essential to the proposed purpose.' Both main parties agree that the proposed scheme does not fall within the exceptions for development that are set out within the policy.
21. LP Policy SS4 also states that 'Any development in the countryside and undeveloped coast should not result in a level of activity that has an adverse impact on the character or biodiversity of the area.' In referencing the setting of the SDNP and the Designated International Dark Skies Reserve, the policy requires that any development 'should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.'
22. The site is also located within the Chatsmore Farm Local Green Gap (LGG) as designated under LP Policy SS5. This policy states that LGGs 'will be protected in order to retain the separate identity and characters of these settlements.' The supporting text in the LP states that LGGs 'create a sense of travelling between urban areas and form a critically important component of Worthing's landscape setting.' It also identifies that the Chatsmore Farm LGG is contiguous with a smaller gap located in the adjacent district of Arun which is protected through the Arun Local Plan. This relates to the smaller field to the west of the appeal site.
23. Whilst the main parties agree that LP policies do not wholly prevent residential development from coming forward within the countryside and LGGs, the primacy of the development plan means that any such proposals must be determined against the defined policy criteria first, before considering material considerations. I first focus on the effect of the proposal on the LGG.

#### Local Green Gap

24. The settlements of Goring-by-Sea and Ferring are predominantly separated by the two large LGGs of Chatsmore Farm to the north and Goring-Ferring Gap to the south. The evidence shows that these LGGs are historically undeveloped areas and provide breaks in the built form of the developed coastline. Since around the 1950s linear development has occurred along Goring Way and south of the railway line, merging the two settlements in this location. Whilst I therefore agree that this results in a degree of coalescence between Goring-by-Sea and Ferring, it is modest in scale when considered against the extent of the northern and southern parts of the settlements which still remain separated by the LGGs. As such, the settlements of Goring-by-Sea and Ferring have not fully coalesced.
25. Whilst there are some similarities between Goring-by-Sea and Ferring in terms of built form, development pattern and density, historically the settlements have formed separately. Notwithstanding the modest level of existing coalescence, the different identities of the two settlements can still be appreciated. Indeed, I saw on my site visit that there is a distinct feeling of moving from one urban area to another when traversing through the appeal site and along Littlehampton Road. In this way I agree with the LP Inspector's

findings in his report that the LGGs in this location 'help prevent the sense that the two areas have merged completely or lost their identities.'

26. The appeal site forms a large part of the Chatsmore Farm LGG which forms an extensive tract of land and there is no dispute that the proposed development would reduce the size of this. One of the disagreements between the main parties lies in whether the proposal would accord with the relevant policy criteria.
27. The first two criteria of LP Policy SS5 respectively require development that would not undermine the physical and/or visual separation of settlements and compromise the integrity of the gap. Goring-by-Sea and Ferring are clearly separated by the LGG in this location. On walking through the appeal site along the PROW, and notwithstanding that this route is adjacent to the railway line, I physically and visually sensed that I was moving from one settlement to another through a large and prominent agricultural area.
28. I recognise that the appeal site does not include the field to the north of the Ferring Rife and that this would remain undeveloped for the width of the existing gap. I also note from the illustrative concept masterplan that the northernmost part of the appeal site (to the south of the Ferring Rife) would include landscaping, open space and recreational uses.
29. Nevertheless, the proposed development would substantially reduce the depth of the LGG between Goring-by-Sea and Ferring. The remaining part of the LGG would no longer be an expansive tract of land, and instead it would appear as a relatively modest area fronting onto Littlehampton Road. Users of this road currently experience wide and open views of fields when travelling between Goring-by-Sea and Ferring and there is a clear sense of separation between the two different urban areas.
30. Whilst the width of the gap would remain at the northern end of the LGG, the markedly reduced depth of the gap and modest size of the remaining undeveloped area would substantially and adversely decrease the visual and physical prominence of the LGG including for users of Littlehampton Road. This would compromise its integrity as an important gap within the Borough's landscape setting. It would also erode its purpose in separating Goring-by-Sea and Ferring as distinct settlements with their own identities and characters.
31. Furthermore, users of the existing PROW would travel through the new development rather than the current expansive field, which would remove the experience of traversing between the two settlements within the countryside. Goring-by-Sea and Ferring would no longer be separated by the LGG in this location, leading to the further coalescence of these two settlements.
32. As regards the third criterion of LP Policy SS5, this requires development to conserve and enhance the benefits and services derived from the area's natural capital. The appeal site clearly provides local communities with access to open countryside as well as uninterrupted landscape views across the site. It also provides a sense of relief from the surrounding urban form and a level of tranquillity. The appeal scheme would result in the substantial reduction, and in some instances loss, of these elements. Whilst there is some existing public access to biodiversity I acknowledge that the proposal would result in some biodiversity net gain. It would also provide informal open space and new public access alongside the Rife and be appropriately managed in the long term. On



balance, taking all these factors into account it is my judgement that the appeal scheme would result in some limited harm to the benefits and services derived from the area's natural capital in this location.

33. The final criterion of LP Policy SS5 requires development to conserve and enhance the area as part of a cohesive green infrastructure network. The appellant states that the appeal site does not form part of any cohesive green infrastructure network. But this criterion, like the rest of the adopted policy relates specifically to LGG and the LP Inspector found this criterion to be sound.
34. Whilst I acknowledge that there is urban development to the east and south of the appeal site, it forms part of an extensive tract of land which includes the adjacent fields to the west and north. There is also clear public access through and beyond the site that leads to other areas of open land, even though this may include crossing some roads. In this context it is my view that the appeal site forms part of a cohesive green infrastructure network.
35. The introduction of urban development of the scale and in the location proposed within the appeal site would result in some considerable fragmentation of this part of the network. I particularly note that the field to the west of the site would no longer be located adjacent to an open agricultural field, and whilst there would still be public access through the proposed development, this field would appear isolated from the remaining areas of countryside. Consequently, this fragmentation would not accord with the policy requirement to conserve and enhance the area as part of a cohesive green infrastructure network.
36. For the above reasons I conclude that the appeal proposal would result in substantial harm to the LGG which would conflict with LP Policy SS5. It would also not accord with LP Policy SS1 on the basis that the development would be outside the BUAB, would not protect this remaining area of countryside and would substantially harm an important gap between settlements.
37. The evidence includes much detail on the impact of the proposal on local landscape views. As the LGG is a spatial planning designation and not a landscape designation, I consider this further within my next main issue.

#### Landscape including the setting of the South Downs National Park

38. In landscape terms the appeal site lies within Natural England's National Character Area (NCA) 126 – The South Coast Plain. It clearly forms part of one of the 'stretches of farmed land between developed areas' which is defined as a key characteristic of NCA 126. The site also forms part of the Littlehampton and Worthing Fringes, South Coast Plain as indicated in the West Sussex County Landscape Character Assessment (2003) (LCA). A key characteristic of this area is the 'narrow gaps of open land...which provide...separation between the urban areas.' Within this assessment the key sensitivities include 'urban development pressures, especially in the gaps between settlements' and the 'closing of open views between settlements.' I have also considered the other landscape studies which have been brought to my attention and reflect the landscape character of the area.
39. It is agreed by the main parties that the appeal site is not a valued landscape in respect of paragraph 187(a) of the Framework and carries no specific landscape designation. It is also agreed that the site lies within the setting of

the SDNP which lies immediately to the north of Littlehampton Road and is clearly visible from within the appeal site. Indeed, I saw for myself that views of the SDNP landscape are dominant when traversing the appeal site, due to its elevated nature. The site is also visible from viewpoints within the SDNP which I consider in more detail below.

40. The appellant has submitted a Landscape and Visual Impact Appraisal (LVIA) which considers the effect of the proposal on landscape character and assesses its visual impact. This has been prepared in accordance with the guidance set out in the 'Guidelines for Landscape and Visual Impact Assessment Third Edition' (2013). Whilst the Council accepts that the LVIA is fit for purpose, there is disagreement on some of the professional judgements expressed.

*Effect on local landscape*

41. Whilst I acknowledge that the appeal site is a relatively flat and featureless agricultural field with some overhead pylons running through it, its character is nevertheless rural and visually appears as part of the open countryside to the north, albeit separated from the SDNP by Littlehampton Road. Despite the site's partial containment by surrounding development, it contributes to the form and character of the local undeveloped landscape and provides a visually prominent rural gap between the two settlements. Due to the size, type of development and the range of associated infrastructure proposed within the appeal site, I am of the view that this would not appear in keeping with the site's existing rural character. It also does not comprise development essential to a countryside location.
42. The visible effects of the proposed development would be experienced by users from a range of local viewpoints. From the public footpaths, which bound the site to the south and west, receptors currently experience open rural views of the entire site, as well as expansive views beyond including the elevated SDNP landscape. Whilst the footpath along the southern boundary runs adjacent to the railway line, it nevertheless provides access between Goring-by-Sea and Ferring through a rural landscape and forms an important and well-used recreational route on the edge of the settlements, which increases its community value. Although the surrounding existing developments are screened to some extent by existing boundary features they are visible to varying degrees when traversing the site. However, they are not unduly prominent in the landscape when viewed from the PROW.
43. The appellant proposes to retain the footpaths through the site and the illustrative masterplan shows these would be within landscaped corridors. Users would nevertheless experience a profound change as they would traverse through a suburban housing estate rather than open countryside. I recognise that the proposal would allow for some views and vistas through the development, but these would be experienced in a very different built form setting, would be much more limited than at present and would by no means compensate for what are currently uninterrupted views of agricultural land and the wider landscape.
44. As specified in my previous main issue, users of Littlehampton Road currently experience wide and open views of fields when travelling between Goring-by-Sea and Ferring. The addition of urban form within the appeal site would adversely decrease the visual and physical prominence of this undeveloped



break for these receptors. The significant change to the local landscape views from Littlehampton Road would be substantially adverse.

45. From Goring Street views of the appeal site are limited in places by the existing boundary hedgerow/vegetation. Some views would inevitably become more open around the location of the proposed access, but other views would become more screened through the retention of the existing vegetation and the introduction of new landscaping. The effect on receptors visually at this location in landscape terms would be moderately adverse.
46. Rail users currently have a relatively good vantage point from which to view the appeal site and surrounding landscape, though their view is rather transitory. Nevertheless, the development would be highly visible to these receptors. Users of the nearby railway station bridge have prominent elevated views of the appeal site and surrounding landscape. The proposed development would introduce significant built form in close proximity to receptors in this location. Even with the proposed additional landscaping, the development would appear dominant and obtrusive in local views. The impact of this would be substantially adverse.
47. Overall, I conclude that the resultant harm from the proposal to the character and appearance of the local landscape would be substantial and would conflict with LP Policy SS1 which requires gaps and landscapes outside the BUAB to be protected, including those between settlements. It would also be contrary to LP Policy SS4 due to the adverse impact to the character of the area.

#### Effect on the South Downs National Park

48. Whilst both main parties agree that the proposed development would result in an adverse impact within the setting of the SDNP, there is disagreement on the level of harm and the weight to be attached to that in the overall planning balance. I will turn to the issue of weight later in my decision. I will first consider the issue of harm. The appellant identifies that the harm would be moderate at first, reducing to slight harm after 15 years and overall, would not have a material impact on the setting of the SDNP. The Council disagrees and considers the harm would be substantial.
49. The Framework states in paragraph 189 that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and National Landscapes which have the highest status of protection in relation to these issues'. It goes on to state that development within the setting of these areas '...should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.' This latter wording is replicated within LP Policy SS4.
50. There was some discussion at the Inquiry as to whether the South Downs National Park Authority (NPA) objected to the appeal proposal. In its consultation response on the planning application, dated 21 October 2020, it made 'no comment on the principle of development' and recommended the Council carefully consider design related issues when determining the application. More recent email correspondence between the Council and the NPA about this appeal site has been provided but its purpose is not entirely clear and the NPA was not present at the Inquiry to provide clarification. Notwithstanding this, I note the appellant's concerns about the context and timing of this latter response and also acknowledge that the NPA has previously

provided clear and detailed objections for other planning applications within the Borough, including the West Durrington scheme.

51. Whether the NPA has objected to the appeal scheme or not, it is incumbent on me to determine whether the appeal scheme would accord with paragraph 189 of the Framework and whether the duty to seek to further the statutory purposes of the National Park has been met, as is required by the amended section 11A(1A) duty of the 1949 Act. The first statutory purpose is 'to conserve and enhance the natural beauty, wildlife and cultural heritage of the area.' The second is to 'promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.'
52. Section 11A(1A) of the 1949 Act continues by stating that 'if it appears there is a conflict between those purposes [a relevant authority] must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprised in the National Park'.
53. The appeal site is visible in the middle distance from elevated viewpoints within the SDNP, notably so because it is one of few areas of undeveloped land within the extensive urban landscape. Indeed, it clearly forms part of the larger LGG, which provides a break between existing built development, and appears as an extension of countryside into the urban landscape. I saw for myself that there is clear visibility of the site from prominent viewpoints within the SDNP. This includes Highdown Hill, particularly viewpoint 31, which is identified in the South Downs National Park: View Characterisation and Analysis (2015) (VCA) as a representative view looking south across the developed coastal plain out to sea. The extensive sea views are the main focus from this viewpoint. The appeal site is also particularly noticeable from the car park at Highdown Gardens and from Highdown Rise.
54. The introduction of built form as proposed within the appeal site would result in a noticeable change within these existing views, which would be particularly visible during construction and for some years afterwards. It is a large tract of undeveloped land that provides a welcome break from the sprawl of dense coastal development. Whilst the proposal would clearly not restrict any views of the sea from elevated viewpoints within the SDNP, it would add a significant amount of built form in the middle distance when looking out towards the sea.
55. However, whilst the appeal site is clearly visible from the SDNP viewpoints, it is not overly dominant within the context of the expansive and wide-sweeping urban landscape and seascape views. The appeal site is not the focus of these views. Indeed, the VCA makes no specific mention of the appeal site in regard to viewpoint 31. It does however highlight, amongst other things, that 'intrusive new developments within the view' could affect the 'sense of tranquillity within the National Park.' It continues by stating that the aims for development outside the SDNP include ensuring that it 'does not block, or adversely affect the quality of, views towards the sea,' and 'is integrated into its context in terms of scale, form and materials.'
56. The appeal scheme would clearly not block views towards the sea. This is agreed between the main parties. I acknowledge that when observed from the more elevated SDNP viewpoints the development would be seen in the context of the wider and predominantly urban landscape of the coastal plain. Nevertheless, the loss of a large undeveloped field and its replacement with mainly built form, would still be noticeable. In saying this I have taken account

of the proposed set back of the buildings within the site as well as the provisions for landscaping and open space areas. I also recognise that issues relating to scale, form and materials and other matters such as lighting would be determined at the reserved matters stage, which would likely assist in reducing impacts to some degree.

57. Consequently, I do not agree with the Council's assessment that the harm would be substantial. Based on the evidence and my own observations the proposal would result in moderate harm in the shorter term. I acknowledge that this level of harm would reduce to a more modest extent over time, particularly as the landscaping matured. However, the introduction of built form within this site would still be visible to some degree and as such I do not agree with the appellant's position that after 15 years there would only be slight harm.
58. The appellant has proposed the provision of information packs and interpretation boards about the SDNP for future occupiers of the appeal scheme. This is on the basis that these would promote opportunities for the understanding and enjoyment of the special qualities of the SDNP, which relates to the second National Park statutory purpose. The appellant does not consider the proposed development would result in a material impact on the setting of the SDNP and identifies some positive benefits including the undergrounding of the electricity cables and the removal of the pylons, which relates to the first statutory purpose. The appellant has confirmed that the amendment to section 11A of the 1949 Act, to seek to further the statutory purposes of the National Park, does not affect its landscape judgements. In comparison, the Council takes the opposite position and does not consider that the proposal would meet the strengthened requirement to seek to further the statutory purposes of the National Park.
59. Taking all the above into account, I conclude overall that the proposed development would result in moderate to modest harm to the SDNP over the lifetime of the development. Accordingly, this would not accord with LP Policies SS1 and SS4 and the Framework in this regard. It would also conflict with the duty in s11A of the 1949 Act, as it would not meet the legislative requirement to seek to further the statutory purposes of the National Park.

#### Suitable location for development and housing needs

60. There is no dispute that the appeal site lies within an accessible location being in close proximity to public transport options (including a railway station) as well as local shops and services.
61. As stated within my preliminary matters the Council has recently adopted a new LP that sets out a spatial strategy and housing requirement that has been found sound.
62. It is agreed between the main parties that Worthing borough is unable to meet its own objectively assessed housing needs, including affordable housing. This is because of the substantial environmental and administrative constraints that exist, with the coastline to the south, the SDNP to the north and other authorities' built up areas directly to the east and west. Indeed, this serious situation was recognised by the Inspector who examined the recently adopted LP. The LP Inspector clearly concluded that the Council had done everything it could to realistically identify development sites whilst recognising clear

constraints. Accordingly, the housing requirement figure in the LP has been found sound taking account of all known opportunities and constraints.

63. The Council accepts that since the LP Examination further housing sites have become available. This is not unusual, as the evidence for the LP will inevitably be based on a point in time. Further, the Council advises that the policies in the LP allow for further housing sites to come forward where they are in conformity with the adopted strategy.
64. Whilst the appellant argues that the Council needs to maximise delivery wherever possible, particularly as there is currently no solution in place for delivering the identified unmet housing needs, this cannot be at the expense of other environmental matters. Indeed, the LP Inspector made it clear in his report that 'national planning policy does not expect housing needs to be met at the expense of all other planning matters.' I concur with this view, and it is not my role to re-open the housing requirement issue, which was considered fully at the LP Examination, or to find a solution for meeting the identified unmet needs. I therefore do not accept the appellant's suggestion that the weight to be attached to the adopted housing requirement should be reduced. I afford it full weight in determining this appeal. As the Council is able to demonstrate a five year housing land supply, it is currently able to meet its adopted housing requirement.
65. Nevertheless, I accept that the delivery of up to 475 additional dwellings, both affordable and market housing, would provide substantial benefits, and as such I take account of this within my planning balance as set out below.

### **Other Matters**

66. As stated in my preliminary matters, it is common ground between the main parties that there would be the lowest level of less than substantial harm to the settings of Highdown Garden Conservation Area and Grade II\* Registered Park and Garden and nearby Jasmine and Clematis Cottages and North Barn, which are Grade II listed buildings. Taking into account the public benefits of the scheme the main parties consider the harm would be outweighed. Accordingly, the Council did not pursue this original reason for refusal as part of this redetermination.
67. Having considered the heritage related evidence submitted, there is nothing before me that would lead me to reach a materially different conclusion regarding harm. I therefore agree with the main parties' position that the development would result in less than substantial harm to the significance of the above highlighted heritage assets. Whilst local residents have raised concerns about the impact of the proposal on other heritage assets within the locality, the available evidence does not demonstrate that there would be harm to their significance.
68. In accordance with the statutory duties for conservation areas and listed buildings, and as required under paragraph 215 of the Framework, I must now conduct my heritage balance by considering the identified harm against the benefits of the scheme. Whilst I have found that there would be less than substantial harm to the significance of the relevant designated heritage assets, which is afforded great weight in accordance with paragraph 212 of the Framework, the Council has confirmed that the public benefits of the proposal

would outweigh this harm. Based on the available evidence, and my consideration of the public benefits I have no reason to conclude otherwise.

69. Whilst I have considered other concerns and objections raised by interested parties and local residents, including those who attended the Inquiry and have taken account of the petition, it is not necessary for me to consider them in any great detail as I am dismissing this appeal.
70. My attention has been drawn to a number of written decisions provided by both main parties in relation to other planning applications and appeals. I am mindful that they do not relate specifically to this appeal site, and I do not have all the evidence that was submitted to the decision-makers. I am therefore unable to determine whether they are directly comparable to the case that is before me. Furthermore, I must consider this appeal on its own merits.

### **Planning Obligations**

71. As I am dismissing the appeal it is also not necessary for me to consider the planning obligations in any great detail as I concur with the Council's statement that those that are proposed within the original S106 and the SD meet the three tests set out in Regulation 122 of the Community Infrastructure Levy and paragraph 58 of the Framework. The tests require development to be necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development.
72. The area of disagreement between the parties relates to the provision in the appellant's UU. This provides for the transfer of the freehold interest in the 'Ferring Gap Land' (also referred to as Manor Farm) to the Council. However, the Council does not consider this provision meets the necessary tests. I concur with this assessment and do not include this as a benefit within my overall planning balance. Even if it were to be included it would not be of sufficient weight to alter my overall conclusions.

### **Planning Balance and Conclusion**

73. The duty in section 38(6) of The Planning and Compulsory Purchase Act 2004 enshrines in statute the primacy of the development plan and proposals must be determined in accordance with the development plan unless material considerations indicate otherwise. As an essential component of the 'plan-led' system, this is also reiterated in the Framework.
74. As I have previously mentioned, pertinent to my determination of this appeal is the fact that both the national and local policy framework has changed since the Council made its decision on the original planning application, the previous Inspector determined this appeal, and the Courts issued their judgements. This inevitably results in some of my policy weightings and conclusions differing from the previous Inspector's findings. Further, the appellant now agrees that the Council can demonstrate a five year housing land supply and accordingly the proposal does not benefit from the presumption in favour of sustainable development.
75. The appeal site lies outside the BUAB within the countryside and would adversely erode the LGG. The resultant substantial harm carries substantial weight against the proposal. In landscape terms there would be substantial harm to the character and appearance of the local landscape which I afford

substantial weight. I afford great weight to the moderate to modest harm to the SDNP over the lifetime of the development, and my findings that it would not seek to further the statutory purposes of the National Park.

76. Based on all these identified harms I consider the proposal would substantially conflict with the development plan when read as a whole.
77. In considering whether any material considerations would indicate the proposal should be determined other than in accordance with the development plan, I now turn to the benefits. The provision of both market and affordable housing are afforded substantial weight. The delivery of some enhanced accessibility and sustainability home standards, and some market housing for persons with local connections carry some moderate weight.
78. The proposal would result in some economic benefits, including construction jobs during development albeit that these would be temporary. The proposal would also provide a local centre including some jobs. Overall, I afford these economic benefits modest weight. The provision of biodiversity net gain at a minimum of 10% would meet the mandatory requirement to which I afford limited weight.
79. Other benefits would include landscaping, open space and play area provisions, public access improvements, the undergrounding of the electricity cables, local highway improvements, the promotion of sustainable modes of travel and car parking for the railway station. These generally are required to ensure the development would be acceptable and to mitigate harm. Accordingly, I afford them limited weight.
80. For the reasons given above, I conclude that the appeal proposal conflicts with the development plan when read as a whole. Whilst there would be some benefits to the scheme to which I have afforded weight, these material considerations, when taken together, do not indicate that the appeal should be determined other than in accordance with the development plan. I therefore dismiss the appeal.

*Yvonne Wright*

INSPECTOR



## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Ms Isabella Tafur Barrister and Ms Daisy Noble Barrister

Instructed by Caroline Perry, Senior Lawyer, Worthing Borough Council

Witnesses called:

Ms Christine Marsh

Mr James Appleton

Mr Martin Carpenter

Other person who spoke during the roundtable sessions:

Mr David Jones, Lawyer, Adur & Worthing Councils

### **FOR THE APPELLANT:**

Mr Paul Cairnes KC and Ms Leanne Buckley-Thomson Counsel, No5 Chambers

Instructed by Pegasus Group

Witnesses called:

Mr Clive Self Dip LA, MA (Urban Des), CMLI, Managing Director, CSA Environmental

Mr Neil Tiley, BSc (Hons), Assoc RTPI, Senior Director, Pegasus Group

Mr James Stacey BA (Hons), Dip TP, MRTPI, Managing Director, Tetlow King Planning

Mr David Hutchison BSc (Hons), Dip TP, MRTPI, Executive Director, Pegasus Group

Other persons who spoke during the roundtable sessions:

Ms Laura Jackson BA Hons MA MRTPI, Head of Planning, Persimmon Homes (Thames Valley)

Mr Haroon Khan (solicitor), Partner, Knights PLC

### **INTERESTED PARTIES:**

Dr Rebecca Cooper MP

Mr Christopher Dixon

Mrs Susan Belton, Chair of Worthing Society and also spoke on behalf of Mr Ed Miller representing Ferring Conservation Group and the Protect Our Gaps Alliance

Mr Bob Niall, Secretary of Goring and Ilex Conservation Group

Ms Ella Heryet, student and campaigner (submitted petition)

Ms Julia Wallace, local resident

Sir Peter Bottomley (former MP)

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

- ID1 Petition submitted by Ms Ella Heryet
- ID2 Appellant's Explanatory Note - Additional Core Documents for Submission by the appellant
- ID3 Appellant's submission of appeal decision ref: APP/RE650/W/23/3327643 at land off Midhurst Road at Scotland Park, Midhurst Road, Haslemere, GU27 3HD, dated 24 May 2024
- ID4 Appellant's submission of a Secretary of State decision (and accompanying Report of the Examining Authority) in respect of the M3 Junction 9 Development Consent Order dated 16 May 2024
- ID5 Appellant's submission of High Court Judgement *Basingstoke and Deane Borough Council v Secretary of State for Levelling-Up, Housing and Communities and Bewley Homes plc* [2024] EWHC 1916 (Admin)
- ID6 Appellant's Supplemental Affordable Housing Note
- ID7 Appellant's letter regarding Site A14 Upper Brighton Road (updated Position).
- ID8 Appellant's opening statement
- ID9 Council's opening statement
- ID10 Council's list of appearances
- ID11 Mr Christopher Dixon's statement
- ID12 Updated Statement of Common Ground on Housing Need dated 20 September 2024
- ID13 Addendum to Updated Planning Statement of Common Ground dated 20 September 2024
- ID14 List of draft planning conditions
- ID15 Upper Brighton Road email exchange

- ID16 Council's affordable housing delivery note
- ID17 Updated petition from Ms Ella Heryet provided by an electronic link
- ID18 Statement from Mr William Lefebve (local resident)
- ID19 Draft Supplemental Deed and Deed of Variation to a Section 106 Agreement dated 8 February 2024
- ID20 Draft Unilateral Undertaking
- ID21 Court of Appeal Judgement *R (St Modwen Developments Ltd) v Secretary of State for Communities and Local Government* [2018] PTSR 746
- ID22 Council's Closing Submissions
- ID23 Appellant's Closing Submissions

### **DOCUMENTS SUBMITTED AFTER THE INQUIRY**

- ID24 Supplemental Deed and Deed of Variation to a Section 106 Agreement Dated 8 February 2024 (signed and dated 9 October 2024)
- ID25 Unilateral Undertaking (signed and dated 9 October 2024)