NATIONAL PLANNING POLICY FRAMEWORK:

Further Appeal submissions for the Appellant

Town and Country Planning Act 1990

Appeal by Paul Nash Properties Ltd

Site Address: Land East of 20 Bernard Road, fronting Latimer Road, Worthing, West Sussex, BN11 5EL

PINS reference: APP/M3835/W/24/3352190

The Government has published a revised NPPF and it takes effect for all development management decisions from 12 December 2024. The revised NPPF reflects the Government's stated aim that it wants the economy to build, and that building more homes is a vitally important component of that objective.

With reference to this Appeal, we wish to highlight the following matters to the Planning Inspector:

1. Paragraph 11

At paragraph 11(d)(i) the word "clear" has been replaced with the word "strong" – see below:

"where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, [LPAs should apply the presumption and grant planning permission] unless: i. the application of policies in [the NPPF] that protect areas or assets of particular importance provides a ***strong*** *reason for refusing the development proposed; or [..]."*

This is clearly a deliberate change, which we consider provides greater weight to the presumption of sustainable development against conflict with other NPPF policies.

At paragraph 11(d)(ii), following the statement that if adverse impacts of applying the presumption are *"significantly and demonstrably"* outweighed by the benefits of development when taken against the NPPF *"as a whole"*, there is now the phrase *"having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination"*. Therefore the revised NPPF broadens the circumstances under which the *"tilted balance"* applies for the Presumption in Favour of Sustainable Development. It is pertinent to note that the Appeal scheme is located in a 'sustainable location,' it does make 'effective use of land,' and it is also 'well-designed'. The LPA does not dispute these matters.

The NPPF, para 11 references footnote 7, which identifies areas at risk of flooding or coastal change as being protected by polices in the Framework (amongst other policies). As discussed within Hilson Moran's Written Statement and Final Comments, a risk from coastal flooding would only be realised if a cataclysmic failure of all defences in the vicinity of the scheme were to implausibly occur, whereby all defences would need to be completely absent. As such:

- With regard to the "Tilted Balance" 'Limb 1' *"Do policies in the NPPF in relation to areas of particular importance provide a clear reason for refusal, when applied to this proposal?"* – the answer must be 'no', as the risk of flooding to the site is low (as demonstrated by the FRA and on the Gov.uk "Long-term Flood Risk Map") and the scheme has demonstrated passing the Sequential Test;

- With regard to the "Tilted Balance" 'Limb 2' *"Would adverse impacts of approval SIGNIFICANTLY and DEMONSTRABLY outweigh the benefits?"*, again the answer must be 'no', as the risk of flooding is low and the benefits associated with the scheme are multiple (as demonstrated by the Exception Test in the FRA), which include economic, aesthetic, and flood risk reduction benefits (through the inclusion of SuDS); together with making a valuable contribution to the Council's housing requirements (which we consider is a significant material consideration that weighs heavily in favour of the proposed sustainable development – see section 3 below).

Consequently, the planning application should be permitted without delay.

2. Sequential Test

A new paragraph (175) has been added to explicitly state that a sequential test is not needed where a site-specific flood risk assessment locates all new development or access and egress route outside of areas at any/all flood risk. The government has also committed to updating the Flood Risk & Coastal Change Planning Practice Guidance (PPG) to clarify the meaning of the phrase *"reasonably available sites"* that should be considered as part of the sequential test, which is currently pending.

However, we do not consider that the change to the sequential test text should have any impact on the Appeal scheme. The principle reason for this is, as set out in the Appellant's previous Written Statement and Final Comments (as prepared by Hilson Moran), the sequential test for the Appeal Site is deemed passed (using a methodology previously agreed with a senior member of the Worthing Borough Council planning team for a nearby permitted scheme). Furthermore, the Council's Sequential & Exceptions Test, Regulation 18 describes the constrained nature of the Borough, the lack of vacant sites, the significant need for new housing and the considerable area of the Town Centre covered by Flood Zones 2 and 3 and concludes that all potential windfall sites will need to be developed (where acceptable in terms of planning policy) to meet this need as far as possible.

3. Housing Need and 5YHLS

The new NPPF says at paragraph 62 that *"To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for."*

Paragraph 69 of the new NPPF confirms that *"Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment."*

The Worthing Local Plan was adopted in March 2023. Criteria (c) of Policy SS1 says that the Plan "seek[s] to increase the rate of housing delivery from small sites", but despite an identified need for 885 dwellings per annum, Policy SS2 says that the Plan seeks a minimum of 3,672 dwellings during the Plan period (or 230 dwellings per annum). The examining Inspector accepted this position.

However, in December 2024, Labour have now amended the calculation for the standard methodology, and Worthing Borough's revised figure is understood to now be 871 dwellings per annum.

Critically, the revised Standard Method for calculating housing needs is now mandatory, not advisory. Therefore, the previous approach of accepting a Local Plan housing figure below the accepted OAN is no longer acceptable. This has significant implications for Worthing Borough, and the corollary must be that there is an increased requirement for approval of new housing development within the Borough.

When considering the recent delivery rates of housing in the Borough (the Housing Delivery test measurement published by the Government in late 2024 confirms that during the past 3 years the annual housing delivery has been 103 units [2020-21], 249 units [2021-22], and 304 units [2022-23]), it is clear that the Borough must significantly and urgently increase its approval and delivery rate of new housing schemes.

Clearly the introduction of mandatory housing targets now heightens the need for Worthing Council to bring forward sustainable sites such as the Appeal site.

23rd January 2025