The Planning Inspectorate

Appeal Decision

Hearing Held on 23 July 2019

Site visit made on 23 July 2019

by V Lucas LLB (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2019

Appeal Ref: APP/M0933/W/19/3226074
Land adjacent to the north side of Natland Mill Beck Lane, Natland Mill Beck Lane, Kendal, LA9 7XX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Oakmere Homes (NW) Ltd against the decision of South Lakeland District Council.
- The application Ref SL/2018/1032, dated 20 December 2018, was refused by notice dated 12 March 2019.
- The development proposed is the 'erection of 26 dwellings including vehicular and pedestrian access'.

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by Oakmere Homes (NW) Ltd against South Lakeland District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. During the course of this appeal the parties have referred to numerous development plan policies, studies, national guidance and case law. Whilst I have had regard to the information submitted, I have only specifically referred to those which I consider most relevant to my decision.

Main Issues

4. The main issues are:

    - The effect of the development proposed on the character and appearance of the area; with particular regard to the character of Natland Mill Beck Lane, the special interest of nearby Listed buildings and the area of Amenity Open Space;
    - Other planning considerations, specifically housing land supply.

Reasons

Character and appearance: Natland Mill Beck Lane

5. Natland Mill Beck Lane is directly accessed off a roundabout on Burton Road. It is a single width lane that is bordered by a stone wall and vegetation along much of its length. There are openings that have been created in the boundary wall serving field accesses and also accesses to the small number of dwellings situated directly on the lane which are grouped in clusters along it. There is also a pedestrian access that has been created from the lane to serve a new housing development at The Beeches. However the boundary wall and vegetation between the lane and appeal site, which is an open undeveloped field, is relatively continuous. On the opposite side of the lane, several of the existing dwellings are situated close to the boundary of the lane itself. This relatively defined boundary on either side of the lane gives it an enclosed feel which together with its narrow width and the presence of natural stone and vegetation does give the lane a distinctive rural character.

6. The appeal proposal would result in a range of highway works to the lane. Specifically, three passing places and a new section of road around the bend at the western end of the lane to form the site access would be created. Trees, hedgerows and some sections of the stone boundary wall would be removed in places to facilitate the highway works. Also white lines on the road surface and additional signage would be introduced.

7. Whilst I acknowledge that currently the lane does not have white lining on the road surface and that additional highway signage would be introduced, these features are common place on lanes in rural areas. They are therefore a feature that users of the lane are likely to encounter in a rural setting and would not be viewed as unusual or unexpected. This element of the proposed scheme would therefore not be harmful to the rural character and appearance of the lane, subject to conditions.

8. The proposed removal of trees and hedgerows is a matter that could be addressed via an appropriately worded condition requiring suitable replacement planting. Whilst it would take some time for this planting to mature, with the passing of time this would occur and any harm as result of the loss of vegetation could therefore be mitigated. Similarly, where sections of the stone boundary wall is proposed to be removed there would be opportunities to rebuild sections of the wall in locations along the widened sections of the lane. This could be secured via a suitably worded condition to ensure that appropriate natural stone were used so that in time it would visually assimilate with the existing stone wall. This element of the scheme would therefore not be harmful to the character and appearance of the lane, subject to conditions.

9. The alterations to the width of the lane, which includes the creation of the passing places along with the new section of road would however represent a permanent physical change. The narrowness of the existing lane is a defining feature of its rural character and appearance. Furthermore, whilst the boundary treatments could be reinstated, when viewed in combination with the increase in width that would occur along the lane, the sense of enclosure which is a defining feature of the lane's rural character would be seriously diminished. For these reasons, the proposal would be harmful to the character and appearance of Natland Mill Beck Lane.

10. In summary, whilst I have found that some elements of the scheme would not be harmful, subject to conditions, these are neutral considerations whereby a lack of harm does not weigh in favour of the proposal. On the other hand, I have found that the widening of the lane as a consequence of the creation of the three proposed passing places along with the new section of road, in combination with the increased width between the boundary treatments along it would be harmful to the rural character and appearance of the lane overall.

11. The proposal would therefore conflict with policies CS8.2 and CS8.10 of the South Lakeland Core Strategy (Adopted October 2010) (CS); and Policies DM1 and DM2 of the Development Management Policies Development Plan Document (Adopted March 2019) (DM DPD). Together these policies seek to ensure, amongst other things, that proposals demonstrate that their location and design will protect, conserve and, where possible, enhance the special qualities and local distinctiveness of the area; that new development should protect and enhance key local features; to safeguard local amenity and ensure development responds appropriately to the proposal site's locational context and distinctiveness.

12. The overall aims of these policies are generally consistent with paragraph 127 of the National Planning Policy Framework (Framework) which, amongst other things, seeks to ensure that developments add to the overall quality of the area, and are sympathetic to local character. Paragraph 130 also states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Character or appearance: Listed buildings

13. There are several listed buildings in the vicinity of the appeal site. However, it is a matter of common ground between the parties that the two listed buildings most relevant to the consideration of this appeal are Natland Mill Beck Farmhouse (Grade II Listed) and Natland Mill Bridge (Grade II Listed).

14. Natland Mill Beck Farmhouse is a 17th century building with later alterations and additions. The house is constructed in limewashed stone rubble with a graduated green slate roof and three chimneys with round shafts. The farmhouse is set immediately adjacent to the highway boundary and is therefore prominent in views along Natland Mill Beck Lane when seen from a variety of directions. Whilst more modern housing development has occurred close to the farmhouse, including the conversion of former outbuildings and The Beeches to the south, I observed that intervisibility remains between the appeal site, the lane and the listed building. Whilst lanes in rural areas may have differing characteristics including various widths and signage, I have assessed this matter in relation to the specific context within which Natland Mill Beck Farmhouse is situated.

15. The significance of Natland Mill Beck Farmhouse is therefore informed by its architectural and historic interest as a building dating back several centuries with the survival of key interior features.

16. Natland Mill Bridge is an early 19th century bridge over the former Lancaster/Kendal canal. It is constructed in coursed, squared rubble and has a single elliptical arch with projecting keystones and low parapets. Natland Mill Beck Lane passes over the bridge and is approximately 12ft wide at this point.

Nearby modern housing and industrial development has taken place in the wider area close to the bridge. There is also a cluster of buildings to the left of the lane, on the opposite side of the appeal site. But the linear approach along Natland Mill Beck Lane to the bridge remains and allows for direct views of the bridge and former canal basin when walking along the lane which is enhanced by the rural character of the lane itself.

17. The significance of Natland Mill Bridge is therefore informed by its architectural and historic interest as bridge over the former canal.

18. The setting of each listed building also contributes to their significance, and I have had special regard to preserving the setting of each building as required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The extent of a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve.

19. The appeal site is separated from the farmhouse by the width of the lane. There is some dispute between the parties as to whether there was a historical functional link between the farmhouse and the appeal site in the form of an agricultural use of the field or whether the site was used in connection with a former mill. Despite this, the appeal site does have inherent value as an area of undeveloped pasture land next to the farmhouse and within the setting of the listed building. Natland Mill Beck Lane forms the main approach to the farmhouse and also has inherent value due to its close proximity and rural character and is also within the setting of the listed building. Whilst lanes in rural areas may have differing characteristics including various widths and signage, I have assessed this matter in relation to the specific context within which Natland Mill Beck Farmhouse is situated.

20. The lane passes over Natland Mill Bridge and the linear approach allows for direct views of the bridge. Whilst there are existing buildings to the left, the stone boundary wall along the boundary of the site forms a strong liner feature which, along with the undeveloped pasture land that forms the appeal site, are features that have inherent value and are within the setting of the listed building. The appeal site, in its current open and undeveloped form, also hints at the transition from the urban town to the more open countryside beyond that users of the canal would have experienced when travelling over and underneath the bridge.

21. The proposed development would involve the creation of a hard surfaced footpath through the appeal site adjacent to the lane. However, being situated close to the boundary wall along the lane, views of the footpath would be relatively self contained and would not limit views of the listed farmhouse. When approaching the farmhouse along the lane from the direction of the former canal, the farmhouse would be situated further to the south from the proposed site access and the new section of road at the bend. The farmhouse would also be separated from these new proposed elements by the southern part of the appeal site which, apart from the footpath, would remain relatively open and undeveloped directly in front of the listed building. These elements of the proposed scheme would therefore not limit views of the listed building and its setting in these respects would be preserved.

22. The proposed housing in the northern part of the appeal site would have a neutral impact on the setting and significance of both listed buildings due to the separation distances involved.

23. However, I have identified above that elements of the proposed highway works would be harmful to the character and appearance of the rural lane and would detract from its existing informal layout. Specifically, the proposed widening of the road as a result of the creation of the passing places and new section of road. The new highway would have a more modern and urban character and this would affect the foreground of both listed buildings both in terms of views out of them and towards them. The existing informal, rural character of the lane contributes positively to the setting of both listed buildings.

24. The proposed site access would be situated in close proximity to Natland Mill Bridge and this would result in a new opening being formed in the stone boundary wall between the appeal site and the highway. The new access would then slope away to the right and the proposed dwellings would be situated beyond this. This proposed new highway layout would detract from the existing linear approach and well defined views of the bridge when approached along the lane. It would also introduce development on the pasture land close to the bridge. For these reasons the new access along with the southern most proposed plots 1, 2 and 3 would be seen as a visually distracting, urbanising element that would detract from public viewpoints of the listed bridge.

25. For the reasons outlined above, the proposal would result in a degree of harm occurring so that the heritage significance of the two listed buildings would not be preserved.

26. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. The harm to the significance of the listed farmhouse and listed bridge would be less than substantial, but still important given the proposed development's effect on the setting of the listed buildings. Paragraph 196 of the Framework provides for a balancing exercise to be undertaken, between less than substantial harm to the designated heritage asset, on the one hand, and the public benefits of the proposal, on the other.

27. The provision of twenty six new dwelling, including 9 affordable units, would help to meet local housing needs and local services and facilities would be supported in nearby Kendal. The provision of a new footpath would allow for recreational opportunities and would also offer a traffic free route for local people to use. The southern field would also provide amenity open space. There would also be some heritage benefits associated with the conservation of the former Mill leat.

28. I acknowledge these public benefits and attach moderate weight to them. However, this would be insufficient to outweigh the harm identified to the significance of both listed buildings. I therefore conclude the proposal would fail to comply with national policy outlined in the Framework and referred to above.

29. I therefore conclude on this main issue, that the proposed development would result in less that substantial harm to the setting of the two listed buildings, Natland Mill Beck Farm and Natland Bridge. The proposal would therefore conflict with policy CS8.6 of the CS; and Policies DM1 and DM3 of the DM DPD. Together these policies seek to ensure, amongst other things, that proposals safeguard and, where possible, enhance historic environment assets, including

their characteristic settings and any attributes that contribute to a sense of local distinctiveness; have regard to the impact of the proposal on historic environment qualities; that proposals will safeguard and, where appropriate, enhance all heritage assets and their settings, in a manner that is appropriate to their particular significance.

30. The overall aims of these policies are generally consistent with paragraph 192 of the Framework which state, amongst other things, that the desirability of sustaining and enhancing the significance of heritage assets should be taken account of; and paragraphs 193 and 196 (which I have already referred to in my reasoning above). The proposal would also be contrary to the Framework as it would not sustain the significance of the setting of listed buildings, and the public benefits would not outweigh the harm. In addition, Section 66(1) of the Planning (Listed Building and Conservation Areas) Act 1990 would not be met.

Character and appearance: Amenity Open Space

31. The southern part of the field that comprises the appeal site is designated as Amenity Open Space in the Land Allocations Development Plan Document (LA-DPD) (Adopted October 2013). 'Amenity Open Space' is defined in the DPD as a site which is not accessible to the public but which nonetheless, has amenity value because of its openness, appearance or landscape quality (para. 2.73). Policy LA1.10 of the LA-DPD states that these spaces will be safeguarded for development and, where possible, managed to enhance, amongst other things, their visual, environmental and informal recreational significance both in themselves and as part of green infrastructure networks. The policy goes on to state that development affecting amenity spaces will not be permitted unless their green infrastructure significance is safeguarded or enhanced.

32. The appeal site does form an open area of undeveloped pasture land on the edge of the built form of the town. The site is relatively flat at the Burton Road end but the topography rises steeply upwards to the rear of dwellings along Helme Drive to the north. From the bend in the lane the site also rises steeply upwards to form a slope or ridge before levelling off at its northern extent.

33. Due to the topography of the site, views from Natland Mill Beck Lane are open and the steep slope within the site is a prominent feature when viewed from the lane. The sloping topography of the site also introduces visual interest and this is a positive feature of the site. There is a line of trees and mature vegetation that runs along the edge of the site boundary with the former canal. This does provide an element of enclosure to the northern part of the site. However beyond this, views of the wider countryside are visible where the land slopes steeply upwards to form a high landform that defines the extent of the skyline.

34. I have previously found that Natland Mill Beck Lane has a rural character due to several defining features including its narrow width and the stone boundary walls and vegetation that, in combination with the width of the lane, form a sense of enclosure. The appeal site is an open, undeveloped field. Whilst it may not currently be in intensive agricultural use, its visual appearance is that of pasture land and this relates more to the countryside beyond rather than the nearby dwellings and development within the town due to its open nature. Although the dwellings along Helme Drive do run along the boundary of the site to the north, they are at a higher level than the appeal site due to the topography of the area. The open and undeveloped nature of the appeal site

serves as a form of visual separation between this more modern development and the more rural appearance and separate and distinct character of Natland Mill Beck Lane. The part of the appeal site that is the subject of the Amenity Open Space designation therefore plays an important role in softening the edge of the built extent of the town and providing a form of separation and visual relief between the town and the more rural character of the lane.

35. The density of vegetation along the northern boundary of the appeal site does enclose the northern part of the site and largely screens it from views along the footpath and cycleway that runs along the route of the former canal. I acknowledge that I viewed the site and surroundings in summer when the trees and shrubs were in full leaf. However, even in winter the density of the trees and vegetation would remain in the form of an extensive network of trunks and interlocking branches that would to a greater extent filter views of the appeal site from users of the former canal route.

36. In summary, the open appearance of the appeal site enhances the rural character of the lane both in terms of its undeveloped form, visual appearance, variation in topography and views across the site to the wider countryside beyond. The visual appearance of the site also provides a form of visual separation between the existing built extent of the town and the countryside beyond. Views of the appeal site are most prominent when travelling along Natland Mill Beck Lane. For these reasons, I consider that the appeal site does make a positive contribution to the character and appearance of the area.

37. Whilst views from the lane across the site may not be specifically protected, they are nevertheless of value and significance to users of the lane based on the evidence before me. Indeed, I visited the appeal site on two separate occasions and was able to observe that the lane is a well used route by walkers, joggers and cyclists.

38. Having regard to the respective Landscape and Visual Impact Assessments (LVIA) submitted by the parties, I acknowledge that other than the Amenity Open Space designation, the appeal site is not the subject of any specific landscape designation. It is a matter of agreement between the parties that the appropriate National Landscape Character that covers the appeal site is not directly relevant. At a County level, the site is described as 'urban' within the Cumbria and Landscape Character Guidance and Toolkit. The lane forms the boundary between this County level character and the 'Drumlin Field' landscape sub type to the south. Whilst not within that character type, the traditional stone wall and vegetation that line the lane along with the narrowness of the lane are also characteristic of the 'Drumlin Field' landscape type.

39. At the local level, the Kendal Town Council Landscape Assessment (2011) identifies the site as being within the urban pasture character area. Whilst the assessment acknowledges that this landscape character has several functionalities, it is also described as being potentially tolerant of change due to the existing built form / connection to existing housing and screening. The assessment goes on to classify the capacity of this landscape type to hold development without an effect on the landscape character unit as high. However that assessment does not appear to have specifically considered detailed development matters such as the means of access to facilitate development.

40. I note that the appellant's LVIA concludes that the appeal site is of an overall ordinary value and of medium importance. However, the fact is that the southern part of the site has been designated in the development plan as amenity open space. I have also found that it is an attractive area of open land with features that contribute positively to the character and appearance of the area. Furthermore, based on the evidence before me, in the form of submissions from local residents, it is clear that the contribution that the appeal site makes as an area open land is valued highly by the local community who use the lane as a regular walking and cycling route.

41. In terms of paragraph 170 of the Framework and whether the site can be considered a 'valued landscape', the term landscape necessarily implies something on a larger scale whereby a site would from a constituent and integral part of the wider panoramic landscape beyond. That is not the case with the appeal site as whilst views across it to the wider countryside are possible and a positive feature, the site itself is understood as a separate parcel of land due to its relatively defined boundaries along the lane, former canal and existing housing along Helme Drive. For these reasons, the appeal site is not a 'valued landscape' for the purposes of paragraph 170. However, this finding does not detract from the contribution that the site makes to the character and appearance of the area in the more local sense and part b) of paragraph 170 recognises the intrinsic character and beauty of the countryside. Paragraph 171 also refers to the designation of local sites and the need to take a strategic approach to maintaining and enhancing networks of green infrastructure. Policy LA10.1 is therefore consistent with the Framework in this regard.

42. The development proposed would see a footpath, a new section of road and the access to the site constructed in the part of the site that is designated as Amenity Open Space. The exact line of the boundary of the designation between the southern and northern part of the site is a matter of dispute between the parties. However, which ever way the line is drawn two proposed dwellings (plots 2 and 3) and part of the front garden and drive of another dwelling (plot 1) at the southern part of the appeal scheme would be situated in part of the Amenity Open Space.

43. The footpath would be situated close to the existing boundary with the lane for much of its extent and would therefore be largely screened from public viewpoints along the lane itself. Furthermore the materials proposed (rolled stone) would give the appearance of a typical track that one would expect to find in a rural setting and this is a matter that could be controlled via a condition. I am therefore satisfied that this element of the scheme would not be harmful to the character and appearance of the area nor undermine the purpose of the Amenity Open Space designation in so far as it seeks to protect openness and appearance.

44. The new section of road and access to the site would be situated at the point where the topography of the site begins to slope steeply upwards. Part of the proposed footpath would also follow the slope of the land at this point. There would be bends in the road and path to accommodate the sloping levels on the site. These elements would be situated on the part of the site that is most visible in views from the lane and due to the difference in levels between the site and the lane, the new road layout, in combination with the footpath, would be a prominent feature when viewed from the site.

45. The three most southern dwellings proposed would be situated close to the highest point of the slope and due to the difference in land levels would also be seen as prominent features from viewpoints along the lane. Whilst the dwellings on Helme Drive are also situated at a higher level and would be situated close to the proposed dwellings, the topography falls away slightly at this point which results in the existing dwellings on Helme Drive being set slightly lower than the levels on the appeal site. As a consequence this reduces the visual prominence of the existing dwellings.

46. Due to the height of the land levels on the site, proposed plots 1, 2 and 3 would be seen as visually dominant features when viewing the appeal site from Natland Mill Beck Lane. The dwellings would also extend the defined limit of built development across the site, taking it close to the lane itself and therefore closing off views of the former canal and countryside beyond. The southern part of the appeal scheme would therefore introduce a visually dominant form of development that would seriously detract from the openness and visual appearance of the area of Amenity Open Space.

47. I have considered whether the landscaping proposed would screen views of plots 1,2 and 3 from the lane. However, additional landscaping at this point would further diminish the openness of the southern field as it would be situated in a visually prominent position and would further close off views to the former canal and countryside due to the topography of the site. It would not therefore overcome the harm that I have identified.

48. Due to the land levels on the site the northern part of the development would be relatively self-contained visually and would also benefit from screening when seen from viewpoints along the route of the former canal. This element of the appeal scheme would therefore not be harmful to the visual appearance or function of the amenity open space.

49. I therefore conclude on this main issue that the proposal would be harmful to the openness and appearance of the Amenity Open Space. The proposal would therefore conflict with policy LA.10 and paragraphs 170 and 171 of the Framework. I accept that policy LA.10 does not provide specific criteria against which land needs to be assessed in order to be considered as Amenity Open Space. Assessing the effect of a proposal in this respect is therefore necessarily a matter of planning judgement for the decision maker.

50. Whilst the Council may not have referred to policy LA1.10 in their reason for refusal, the appellant has been given the opportunity to comment on this policy during the course of the appeal.

Other planning considerations: Housing Land Supply

51. Policy CS6.1 of the CS sets a housing requirement of 400 dwellings per annum (dpa) during the Plan period (2003-25). Paragraph 73 of the Framework indicates that where strategic policies are more than five years old then local housing need should be used to assess whether there is a five year supply of housing land. In accordance with footnote 37, the Council have reviewed their adopted housing requirement and they have found that it does require updating. This is a matter of common ground between the parties and based on the evidence before me I am in agreement.

52. The Framework defines 'local housing need' as the number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 60 of this Framework). Footnote 37 of paragraph 73 also goes on to state that where local housing need is to be used as a basis for assessing a five year supply, it should be calculated using the standard method set out in national planning guidance (PPG).

53. The standard method is explained in the 'Housing and economic needs assessment' chapter of the PPG. A specific calculation is referenced and worked examples provided. Therefore following this approach to arrive at a figure should be relatively straightforward.

54. However, in the case of South Lakeland, parts of the Council area are within the Lake District National Park and Yorkshire Dales National Park authority areas. Therefore the strategic policy making boundaries do not align with the District boundary. In such cases, the PPG states that an alternative approach will have to be used (Paragraph: 014 Reference ID: 2a-014-20190220).

55. The PPG does not provide specific guidance or a definition of what might constitute an 'alternative approach'. The following paragraph (15) refers to assessing a different method however this refers to different methods being tested at examination in the context of plan making and no specific reference is made to decision taking in the context of a s.78 appeal. A subsequent paragraph links to specific guidance on calculating housing need for the purposes of decision making, which is relevant in the context of a s78 appeal (Paragraph: 016 Reference ID: 2a-016-20190220). This link directs to the 'Housing and economic land availability assessment' chapter of the PPG. However the reference within this chapter that previously referred to calculating housing need in the context of National Parks in no longer extant.

56. A new chapter in the PPG titled 'Housing supply and delivery' was published on 22 July. Paragraph 23 of this chapter states that within National Parks and those local planning authorities where local authority boundaries overlap with these areas and where plans are more than 5 years old, a locally derived housing requirement figure may be used. The term 'locally derived housing requirement' then links back to paragraph 14 of the 'Housing and economic needs assessment' in the PPG which states that in these circumstances, authorities may continue to identify a housing need figure using a method determined locally, but in doing so will need to consider the best available information on anticipated changes in households as well as local affordability levels.

57. In terms of using a method determined locally, I have two alternative approaches before me. The first is to take the Council's housing requirement as set out in their most recent 2017 Strategic Housing Market Area Assessment (SHMAA). The SHMAA suggests a range of between 145 and 320 dwellings per annum, although advises that a figure towards the top end of this range may best reflect housing need. Taking account of affordable need, it concludes that 26 dwellings per annum are needed within parts of the District that are within the Lake District National Park and 6 within the Yorkshire Dales. This results in a requirement of 288 dpa which the Council has rounded up to 290 dpa.

58. The other alternative approach, which is the approach preferred by the Council, is based on the PPG's standard method but in order to take account of the National Park issue the number of dwellings identified as being needed in the National Park areas in the Council's 2017 SHMAA has been deducted from the standard method figure. The standard method results in a figure of 192.3 dpa. However this also includes the areas within the National Parks. To take account of this, the Council have therefore deducted 32 dpa from this figure reflecting the specific need identified in the National Parks in the SHMAA. This results in a requirement of 160 dpa for the Council area. This figure is within the range identified in the 2017 SHMA, although it is towards the lower end.

59. For the purposes of the PPG, and based on the evidence before me, both approaches consider anticipated changes in households as well as local affordability issues as this is an integral part of the methodology for both the standard method and the SMHA. Although the PPG does refer to an 'alternative approach' it is not clear if this refers to using a completely different alternative to the standard method or whether this allows for the standard method to be modified to take account of local circumstances. The PPG also does not explicitly rule out the use of the standard method and adapting it to fit the particular circumstances of the National Park as this could reasonably amount to a method determined locally for the purposes of the PPG. At the same time, the PPG does not specify that a SHMA must be used when using an alternative approach.

60. In determining the approach to take I am mindful that both the Framework and PPG emphasise that the standard method should be used to determine local housing need. Whilst an 'alternative approach' is referred to in the context of National Parks this is not specifically defined. On the other hand there is detailed guidance set out in the PPG on how to apply the standard method. I am also conscious that the 2017 SHMA figure has not been tested via a Local Plan examination and in the context of a s78 appeal I have limited evidence before me, rather than a full range of evidence from interested parties which would be the norm as part of the Local Plan process. The reduction that the Council has applied to take account of the housing need in the National Parks is based on the most up to date available evidence in the form of the 2017 SHMA. Whilst that exact figure has also not been tested via a Local Plan examination, there is no specific alternative approach before me to identify the specific housing need for the areas within the National Parks only other than referring to the 2017 SHMA.

61. For these reasons, I will adopt the Council's approach of using the standard method with a National Park adjustment to set the appropriate housing requirement against which the level of housing supply should be tested.

62. I note the reference to an appeal decision in Central Bedfordshire[1] where an alternative approach was taken and the Inspector chose to refer to the Council's most recent SHMA. However, in that case the Inspector accepted evidence that the mid-year population estimates were not correct for the area. That is not the case in the appeal before me, in this case the issue relates specifically as to how to take account of the fact that parts of the District also lie within two National Parks. This is quite a different issue and I therefore

[1] APP/P0240/W/18/3206495 and APP/P0240/W/19/3220640 Decision date: 21 May 2019

draw a distinction between the two cases on that basis and attach limited weight to the previous decision in my consideration of this appeal.

63. There is agreement between the parties that the base date for calculating the five year supply is 31 March 2019. It is also agreed that a 5% buffer should be applied based on the fact that in 2018 the Council obtained a result of 205% in the Housing Delivery Test and therefore is not underperforming in this respect. There is also agreement that based on the Council's most recently published evidence, the current shortfall is 66 dwellings and the parties agree that this should be dealt with via the Sedgefield method. Based on the evidence before me, I see no reason to disagree.

64. It is the Council's position that the five year supply is 2,506 dwellings. Based on the standard method, the Council claim a supply of 14.92 years. Against the 2017 SHMA figure, the Council claims a supply of 7.73 years. The appellant on the other hand, in setting the housing requirement using the 2017 SHMA claims a supply of 1,344 dwellings which equates to 4.23 years supply.

65. The appellant has challenged the extent of the supply in general terms with regard to the Council's use of proformas and whether this represents clear evidence that sites are deliverable.

66. In order for sites to be included in the supply, paragraph 73 requires them to be deliverable. This term is defined in the glossary of the Framework which states, amongst other things, that to be to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years.

67. The definition goes on to state that sites that are not major development, and sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years. Sites with outline planning permission, permission in principle, allocated in the development plan or identified on a brownfield register should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years. Further guidance is also contained within the PPG.

68. The Council have undertaken an annual survey which has gathered evidence directly from land owners, agents and developers. The survey has involved the completion of a proforma which has asked for confirmation of development intentions, including timescales for planning applications and commencement, annual build rates and any barriers that may impact on a site being delivered. The proformas have been published, albeit some are in a redacted form, and a summary of each site has also been made available. In addition to the information contained in the proformas, the Council have applied their professional judgement and local knowledge to the information received in the survey and have in the case of some sites reduced the anticipated annual build rates and also discounted some sites from the supply.

69. Several appeal decisions and also a Secretary of State decision letter have been brought to my attention that have, amongst other things, dealt with the issue of what might constitute 'clear' evidence as to whether a site can be considered deliverable and I have had regard to them in my determination of this appeal.

70. In the Braintree appeal[2], the Secretary of State removed 10 sites from the supply on the basis that they did not meet the requirement of clear evidence that housing completions will begin on site within five years. Whilst I note that the appellant has been provided with a list of sites by MHCLG which includes a list of the evidence provided by the Council in that case including proformas and emails, the decision itself does not specifically identify the sites concerned nor the exact reasons why the evidence submitted was considered not to be clear. On that basis, it is not possible for me to clearly understand in what way, if any, the evidence provided by the Council in the appeal before me is comparable to that supplied in the Braintree appeal. I therefore attach very limited weight to this appeal decision in my consideration of this appeal.

71. On the other hand, the Land south of Williamsfield Road[3] appeal decision considers the use of a proforma approach. The Inspector in that appeal noted that whilst a proforma may be more informal than an approach involving a statement of common ground, he found that there was no fundamental difference in the way the Council had approached the collation of the information. I also note that the updated PPG now refers to a written agreement rather than statement of common ground and that this is only one of a number of factors that may be included as evidence to demonstrate deliverability.

72. Clearly the extent to which the information provided by developers and land owners to the Council being equivalent to a certainty that it would be highly likely that those sites will be delivered in line with expectations would be going beyond the requirements of national policy, as noted by the Inspector in the Williamsfield Road appeal. Based on the evidence before me, I am satisfied that the Council's use of proformas has allowed them to gather relevant information from land owners and developers in a logical and consistent manner. This information has then enabled the Council to make an informed judgement based on local knowledge and professional judgement on whether a site is deliverable for the purposes of the Framework and the PPG. The Council's general approach is therefore sufficient to demonstrate clear evidence of whether a site can be considered deliverable.

73. However, I do add one qualification to this finding and that relates specifically to sites where the information contained in the published proformas has been entirely redacted at the request of the developer. Whilst I appreciate the Council's position regarding this and that summaries of the sites in question are available, it is difficult to assess the accuracy of the data on which delivery assumptions have been based with any transparency. For this reason, I conclude that in cases where proformas have been fully redacted then this does not amount to the clear evidence required by national policy.

74. The appellant has also challenged the extent of the supply in relation to build rate and delivery rate assumptions and the windfall allowance included. Specific issues have also been raised regarding individual sites.

75. In relation to delivery and build rate assumptions, the application of a simple average to define these figures would fail to capture instances within the data where sites have delivered both more quickly and also slightly longer. The beginning and end phase of the delivery of a site could also affect average

[2] APP/Z1510/W/18/3197293 Decision date: June 2019
[3] APP/E2001/W/18/3207411 Decision date: June 2019

calculations such as where a site either starts or completes partway through a monitoring year. This can result in a low build rate that is not representative of the actual build rate. There are also instances of statistical anomalies which may skew average calculations. For this reason, the application of a bespoke approach to individual sites based on the information provided by developers and landowners as part of the completed proformas seems to me to be entirely reasonable as a general point of principle.

76. I note that in terms of build rates, these have also been assessed by the Council on an individual site basis derived from the information contained in the proforma responses. Where this information has not been provided, the Council has referred to the lead in times stated in the LA-DPD which assumes 1 year for sites less than 40 dwellings for design and relevant consents and 2 years for sites of more than 40 dwellings. Whilst I note that the latter approach is consistent with the development plan, it may well be that on individual sites this assumed build rate may prove to be somewhat ambitious.

77. On the other hand, the Council has factored in a 35% lapse rate to small sites with planning permission. Notwithstanding the Framework stating that such sites should be considered deliverable, the Council has applied this discount rate based on local evidence. This demonstrates that the Council has taken a conservative and realistic approach in calculating the supply in this regard.

78. The Council's windfall allowance is divided into a figure for both small and large sites. Paragraph 70 allows for a windfall allowance to be included in the supply providing there is compelling evidence they will provide a reliable source of supply. Completions data from 2003 shows that windfalls have consistently formed in excess of 50% of the total supply, with some years having reached in excess of 90%. Whilst larger sites may not have been specifically identified in the SHLAA, this document requires updating. Furthermore, the nature of windfall development is that it is often unplanned. Based on past trends and the strong consistent performance of the delivery of windfall development in the District over several years, I am satisfied that the evidence provided meets the requirements of national policy.

79. Turning to specific sites, for the most part the queries raised by the appellant relate to the Council's general approach. In terms of specific individual sites, it became apparent at the hearing that the site 'South of Underbarrow Road – East' which has been included in the supply and is now under the control of the appellant will not be delivered in line with the Council's assumptions due to a variety of reasons including on site constraints. This site should therefore be removed from the supply if it is not deliverable.

80. There is also a site, 'Land south of Fell Close, Oxenholme' which the Council has classed as C2 use, whereas the appellant states it is C3 and that 46 dwellings should be removed from the supply. However, the Council confirmed even if part of the scheme were classed as C3 this would result in a very small scale difference in terms of the overall number of units. Therefore even if I were to accept the appellants position, any deduction to the supply would be minimal.

81. Drawing this matter together, I have identified some weaknesses in the Council's approach in the calculation of their housing land supply, specifically in relation to proformas that have been fully redacted. However, even if I were to accept the appellant's case that the supply should be reduced to 1,344

dwellings when this is assessed against the housing requirement of 160 dpa, the Council would still be able to demonstrate in excess of a 5 year supply of housing land for the purposes of national policy. This would also be the case even if a reduction were not made for the National Park areas within the District using the standard method.

82. I therefore conclude on this main issue that the Council is able to demonstrate a five year supply of housing land for the purposes of paragraph 73 of the Framework.

Other Matters

83. The appeal site is within the settlement boundary of Kendal and therefore it is a matter of agreement that the principle of residential development is acceptable. The proposal would provide 26 market dwellings that would increase the provision of family homes in the area. 9 affordable units that would be tenure blind in terms of appearance would also be provided. There is a mechanism before me in the form of a s106 that would ensure that the affordable element would be delivered and the units would comprise a mix of shared ownership and rental properties. It is also proposed that the dwellings will exceed the building regulations with regard to air leakage and air loss. The new dwellings would also bring economic benefits, a CIL contribution and Council Tax income. In terms of environmental benefits the proposal would include the removal of damaging species along the water course and the clearance of vegetation from the leat. The proposal would also create a new footpath that would provide an off road route connecting Natland Mill Beck Lane with Burton Road. There would also be some heritage benefits associated with the conservation of the former Mill leat. The southern field would also form open space that would be accessible to the general public and a completed s106 has been submitted to secure this. These are all positive benefits that weigh in favour of the scheme.

84. Based on the information before me, the proposed layout of the scheme; the design, materials and appearance of the dwellings; and the mix of the dwellings would all be acceptable. The proposal would also be acceptable in terms of its effects on the living conditions of neighbouring occupants due to the separation distances involved. The effect of the proposal on relevant non designated heritage assets and archaeological matters would also be acceptable. Surface water drainage and flood risk issues could be addressed via conditions, as would landscaping elements. Conditions could also be used to ensure that the effect of the proposal on highway safety, the safe operation of the highway network, biodiversity/ecology, contamination and air quality. These matters are all neutral considerations whereby a lack of harm does not weigh in favour of the appeal proposal. Green spaces would also be created in line with the recommendations of ecological reports submitted but this would be necessary to offset the loss of open land to facilitate the development. This is also therefore a neutral matter.

85. I have identified several positive benefits that weigh in favour of the development proposed, along with several neutral matters that do not weigh in favour of the proposal. On the other hand, I have found that the proposal would be harmful to the character and appearance of the area; with particular regard to the character of Natland Mill Beck Lane and the area of designated Amenity Open Space. The proposal would also result in less that substantial

harm to the Grade II listed buildings Natland Mill Beck Farmhouse and Natland Mill Bridge and I have concluded that for the purposes of paragraph 196 of the Framework this harm would not be outweighed by the public benefits of the proposal. For these reasons the proposal would conflict with the development plan, specifically policies CS8.2, CS8.6 and CS8.10 of the CS; policies DM1, DM2 and DM3 of the DM DPD and policy LA1.10 of the LA-DPD.

86. I have also previously concluded that these development plan policies are consistent with the Framework for the purposes of paragraph 213. When considering this issue, it seems to me that it is reasonable that policies should be considered in the context of other relevant policies in the development plan rather than taking each policy in isolation. This is because several policies when read together may well demonstrate compliance with particular paragraphs of the Framework and it is a generally accepted principle that the development plan should be read as a whole.

87. I have also found that the Council is able to demonstrate a five year supply of housing land in line with paragraph 73 of the Framework. Therefore having regard to paragraph 11 of the Framework, the appeal proposal conflicts with the development plan. I have also found that the policies which are most important for determining this appeal are generally consistent with the Framework and I have attached weight to the conflict with these policies in line with paragraph 213 of the Framework and conclude that they are no out-of-date. Paragraph 11 d) is therefore not engaged. However in any event, I conclude that the adverse impacts that I have identified that would occur as a consequence of the proposal would significantly and demonstrably outweigh the benefits I have identified.

Conclusion

88. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

V Lucas

Inspector

APPEARANCES

FOR THE APPELLANT:

Kate Bellwood MSc BSc MRTPI, Planning witness

David Manley QC, Counsel

Ben Pyecrofy BA (Hons) DIP TP MRTPI, Housing land supply witness

Jon Berry, Landscape witness

Annabelle Langhorn, Assistant to landscape witness

Chris O'Flaherty, Heritage witness

Alan Davies, Highway witness

FOR THE LOCAL PLANNING AUTHORITY:

Graham Darlington, Conservation officer, SLDC

Jon Etchells, Landscape witness

Ashley Bowes, Counsel

Nick Howard, DM Planner, SLDC

Dan Hudson BSC (Hons) MRTPI, Strategic Land Specialist (Planning Policy), SLDC

Laura Chamberlain MRTPI, Specialist (Strategy), SLDC Planning Policy

Julia Krier, Solicitor, SLDC

INTERESTED PARTIES:

Patricia Hovey, Kendal Civic Society

Graham Townsend, Local resident

Cllr Doug Rathbone, South Lakeland District Council

Andrew Tomas, Local resident

ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING

BY THE APPELLANT:

- A written application for partial costs award
- A draft s.106 agreement
- Document showing landscape views
- Document showing heritage views

BY THE COUNCIL:

- A copy of the conditions requested by the Local Planning Authority
- A map showing the Amenity Open Space designation in relation to the proposed site layout