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## Appeal Decision

Inquiry Held on 22 – 25 May 2018

Site visit made on 25 May 2018

**by Helen Hockenhull BA(Hons) B.PI MRTPI**

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

**Decision date: 09 July 2018**

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**Appeal Ref: APP/G0908/W/17/3183948**

**Land North of Broughton Park, Little Broughton CA13 0XW**

- 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 Mr Adam McNally, Story Homes against the decision of Allerdale Borough Council.
  - The application Ref 2/2016/0751, dated 1 December 2016, was refused by notice dated 31 May 2017.
  - The development proposed is the erection of up to 64 dwellings including landscaping, open space, access, highways and drainage.
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### Decision

1. The appeal is dismissed.

### Procedural matters

2. The Council refused planning permission citing four reasons for refusal on its Decision Notice. In its Statement of Case, the Council confirmed that reasons 1 and 2 had been withdrawn. These related to highway safety and the prematurity of the proposal in advance of housing allocations in the Allerdale Local Plan (Part 2) - Site Allocations Development Plan Document (DPD). As third parties have raised concern with regard to highway safety matters, I will examine this issue. In relation to prematurity, I am satisfied that it is not necessary to consider this matter further.
3. The Council and the appellant submitted an agreed Statement of Common Ground (SoCG) dated 30 April 2018 indicating all the areas of agreement between them.
4. A signed and dated planning obligation by way of an agreement made under section 106 of the Town and Country Planning Act 1990 (s106) between the appellant and the Council was submitted at the Inquiry. The obligation related to the provision of affordable housing and financial contributions towards primary education and secondary school transport provision.

### Main Issues

5. In light of the above, I consider that the main issues in this case are:

- whether the Council can demonstrate a 5 year supply of housing land sufficient to meet the objectively assessed need (OAN) for housing and the consequences for national and local plan policy;
  - the effect of the development on the character and appearance of Little Broughton and the rural landscape;
  - the effect of the development on the living conditions of the occupiers of neighbouring properties with particular regard to privacy and outlook.
6. There are other areas of objection raised, including highways, which I have already referred to above, local infrastructure such as schools, flooding and drainage. I shall assess all these matters.

## **Reasons**

### *Principle of development*

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
8. For the purposes of this appeal, the most relevant development plan policies are those contained in the Allerdale Local Plan (Part 1) adopted in July 2014 and the saved policies of the Allerdale Local Plan (1999).
9. Policy S3 of the Local Plan Part 1 sets out the spatial strategy for the borough and makes provision for the delivery of at least 5471 net additional dwellings over the plan period 2011-2029. New development is to be concentrated within the towns and villages identified in the settlement hierarchy. Broughton, which for the purposes of the Local Plan includes both Little Broughton and Great Broughton, is defined as a Local Service Centre which in combination with the other such centres in the Borough would receive up to 20% of the housing growth.
10. Policy S5 states that new development will be concentrated within the physical limits of Principal, Key and Local Service Centres. In the appeal case it is common ground that the appeal site lies outside the physical limits of the settlement and therefore conflicts with this policy.
11. The settlement boundaries are currently defined by the saved Allerdale Local Plan 1999. At the Inquiry the Council argued that settlement limits were not out of date in the circumstances of a 5 year housing land supply. However the 1999 Local Plan aimed to provide sufficient housing land to meet the boroughs needs up to 2006. The Local Plan Part 1 did not review these boundaries but confirmed that such an assessment would be undertaken as part of the Site Allocations DPD, the Part 2 Plan. This plan is still under preparation and a Preferred Options version was the subject of consultation in January 2017. It is agreed between the parties that the settlement limits set by the 1999 Local Plan will need to change to accommodate the level of growth anticipated in the Part 1 Local Plan to 2029. It is notable that the majority of sites in the emerging Part 2 Local Plan are located outside settlement boundaries, confirming this position.
12. The Officers report regarding the original planning application accepted that the settlement limits were out of date and that they should be applied

'flexibly' taking account of their age and the principles of sustainable development set out in the Framework. This approach has been taken by the Council in the consideration of a number of other planning applications<sup>1</sup> in the borough. These approvals were also in the context of a 5 year supply of housing land.

13. The Council brought my attention to the Examiners Report into the Allerdale Local Plan Part One. In light of existing housing commitments at that time, the Inspector did not envisage the need for site allocations to come forward until the medium to longer term. We are now in the medium term (7 years into the 18 year plan period). The Inspectors view was predicated on site allocations starting to deliver in 2016/17, however no allocations have been made and the emerging Part 2 Local Plan is not anticipated to be adopted until 2019. The significant contributions to housing supply anticipated by the Examining Inspector from allocated sites have not yet come to fruition. In this context, it appears to me that the reason the Council has been able to maintain a 5 year housing land supply is by taking a 'flexible' approach allowing development outside the defined settlement boundaries.
14. In summary, the settlement limits pre-date the Framework and were prepared in a different policy context. They do not reflect the Frameworks requirement to significantly boost the supply of housing. If the settlement limits were up to date and provided for the development needs of the borough to 2029, there would be no need for the Council to apply them 'flexibly'. Consequently for these reasons, it is my view that the settlement limits are out of date.
15. Accordingly Policies S3 and S5 of the Local Plan Part 1, which apply these settlement limits, are also out of date. I accept that there is no specific policy in the Local Plan Part 1 entitled 'Settlement Limits'. This does not however mean that Policies S3 and S5 are not out of date. These policies apply the out of date 1999 settlement limits, and will continue to do so until they have been reviewed or replaced by the Part 2 Local Plan.

#### *Housing land supply*

16. The Local Plan Part 1 identifies an objectively assessed need for housing in Allerdale of 304 dwellings per annum. Using the Sedgefield approach to address the accumulated housing shortfall and applying a buffer of 20%, the Council calculates the annual housing requirement to be 395 dwellings per year. The appellant disputes this figure arguing that demolitions on a site in Cockermouth have not been correctly recorded and the completion figures adjusted accordingly. The appellant maintains that the annual requirement should be greater at 403 dwellings per year.
17. In relation to the 5 year supply figure, there is also disagreement between the parties with regard to the delivery of a number of large sites with planning permission. Following some minor concessions in the round table discussion, the Council assessed the housing land supply figure to be around 5.86 years while the appellant argued it was lower at around 4.21 years.

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<sup>1</sup> Mr Mitchells Proof Appendices 9-11

18. Before considering the detailed evidence with regard to housing need and supply, I have had regard to paragraph 14 of the Framework which sets out a presumption in favour of sustainable development and explains what it means for decision taking. In the first bullet point it states that this means approving development proposals that accord with the development plan without delay. In the second bullet point this means that where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits, when assessed against policies of the Framework taken as a whole or specific policies in the Framework indicate development should be restricted. This is known as the 'weighted' or 'tilted' balance.
19. I have already found that other relevant development plan policies, namely Policies S3 and S5 of the Local Plan Part 1 are out of date. Therefore, irrespective of the position on housing land supply and the application of paragraph 49 of the Framework, the 'tilted balance' would apply in any event. Consequently in the circumstances of this appeal, it is not necessary for me to determine the housing requirement figure or whether the Council can demonstrate a 5 year supply of housing land. This issue is not determinative to my approach or my subsequent reasoning.

#### *Character and appearance*

20. The appeal site comprises an area of around 3 hectares of agricultural land currently used for grazing. The site slopes from the north east corner down to the south west, with an overall difference in height of over 15 metres. At the southern boundary the site adjoins Broughton Park, an existing residential estate within the settlement limits of Little Broughton. The site lies close to an extensive network of public rights of way, in particular Footpath 218020 to the northern site boundary and Footpath 218013 to the western boundary.
21. The site is not subject to any landscape designations and it is common ground that the site does not form a valued landscape in terms of paragraph 109 of the Framework. Whilst I concur with this assessment, I acknowledge that local residents take a different view as the site is clearly of value to the local community.
22. The appeal site is located within the West Cumbria Coastal Plain National Landscape Character Area (LCA). This forms a plain of varying width between the Cumbrian High Fells in the east and the coast in the west. Inland the sheltered pastoral farmland is traversed by sheltered river valleys. The appeal site lies in the Derwent Valley.
23. The Cumbria Landscape Character Guidance and Toolkit (CLCGT) describes the site as within landscape character type 5a, Ridge and Valley, a series of ridges and valleys with medium to large pastoral fields bounded by hedges with scattered farms and linear villages found along ridges. The document considers the sensitive characteristics and features of this landscape character type and states that ridge top locations of settlements, such as the appeal site, are sensitive to village expansion.
24. Looking from Brigham, on the other side of the valley, Great and Little Broughton can be seen as a linear settlement running along the valley side, with a predominantly green skyline. The appeal site lying above the residential development at Broughton Park is clearly evident in the view and can be seen

- as a green field above the settlement. The proposed dwellings would follow the contours of the site and be seen extending built development to the ridge. The properties proposed along the northern site boundary, in particular the higher north east section of the site, would break the skyline.
25. The sensitivity of the appeal site to development is recognised in the emerging Part 2 Local Plan. This states that development proposals for the site should consider the topography and minimise the landscape and visual impact on the northern portion. I acknowledge that other dwellings in the village to the west of the appeal site may be located on the ridge and some may break the skyline. This is also true of Craggs Farm immediately north of the appeal site. However the majority of built development lies below the ridge when seen from across the valley. I accept that the lower portion of the site would be less sensitive to development in landscape impact terms as it would be seen in the backdrop of the existing houses on Broughton Park. However development on the northern portion of the site as proposed would not reflect the predominant existing form of the settlement with development below the ridge and skyline. This would conflict with the development guidelines in the CLCGT which seeks to ensure that new development makes a contribution to the character of the area by respecting the form of villages.
26. I acknowledge that the scheme would retain and strengthen boundary hedgerows and trees. However hedgerows currently visible on the ridgeline would for the most part be obscured by the new development reducing their contribution to the character of the landscape.
27. It is inevitable that the proposal would result in a significant change to the appearance of the land and alter its rural character. These impacts would be relatively localised in terms of the LCA as a whole. That being said, due to the sites sensitive ridge top location, the views of the site from the south across the Derwent valley and the impact on the ridgeline and skyline when viewed from certain elevated positions; it is my judgment that the development would cause harm to the landscape. It is common ground that the site is of medium sensitivity to change and therefore it forms a landscape that is capable of accepting some change through the introduction of new residential development. I agree with this assessment and therefore attribute moderate weight to this harm.
28. I acknowledge that the development of the appeal scheme has been the result of a design led approach which is outlined in the Design and Access Statement and supported by the Landscape Visual Appraisal. With regard to site density, the proposal results in 21 dwellings per hectare gross or 25 dwellings per hectare net. The proposed layout provides lower density development in the southern and eastern parts of the site and higher density development to the north west corner, reflecting the higher density dwellings in the older parts of the settlement. Bearing in mind the range of densities within Little and Great Broughton and the suggested density for the site of 20-25 dwellings per hectare stated in the emerging Local Plan Part 2, I am satisfied that overall, the appeal scheme would not be out of step in this regard.
29. Turning to the visual impact of the development, the site can be viewed by users of the surrounding public footpaths. When viewed from the bottom of the valley to the south, either from the footpaths along the River Derwent or

- the Broughton High Bridge, the site would be seen as an extension to Broughton Park.
30. It is inevitable that the development of the site would increase the feeling of urbanisation for users of the adjoining footpaths. This would be particularly experienced to the north west corner of the site where high density development with car parking bays would be sited close to the site boundary. I noted on my site visit that Footpath 218013 to the west of the site passes the rear gardens of houses on Broughton Park and Footpath 218020 to the north, runs past Craggs Farm. The routes are therefore already affected by urban development on the edge of the settlement. The existing planting to the western and northern boundaries of the site which is proposed to be enhanced, would not screen the development completely but would assist to filter views. Whilst there would be moderate visual harm for footpath users, this would be for the length of the development only.
  31. Looking south from Footpath 218020 to the north of the appeal site, glimpsed views of the Lake District National Park can be obtained from breaks in the boundary vegetation and the existing field gate into the site. These views are however limited and only achievable at certain points, the remainder of the footpath being bounded with dense boundary vegetation preventing views across the site. The development of the appeal site would remove the views to the wider fells; however this would only be for the extent of the footpath adjacent to the development site. Views would still be available from the field gate past the site and beyond.
  32. The ambience and tranquillity currently experienced by footpath users would be diminished, particularly where the paths run close to proposed residential gardens. However I am not persuaded that this would result in unacceptable effects for footpath users.
  33. In terms of residential views, the most affected residents would be those living in properties on Broughton Park which immediately bound the site. As a result of the level differences, the lack of proposed planting on this southern boundary, the provision of boundary fencing and the siting of the proposed dwellings, these occupiers would experience significant harm to their visual amenity. I shall assess the effect on living conditions for these residents later in my decision.
  34. Broughton Park forms a distinctive modern residential estate which in landscape terms is seen divorced from the main settlement, separated by intervening green space. The proposed development would extend Broughton Park to the north to connect to existing development. Concern has been raised by local residents that the development would result in the coalescence of the two villages. However it appears to me that whilst they are distinct communities, in physical terms Little Broughton and Great Broughton have already significantly coalesced, particularly around the central core. I therefore consider that the appeal scheme would not have a significant impact in this regard.
  35. In summary, the appeal site occupies a ridge top location. The northern portion of the site in particular is highly sensitive to development in landscape and visual terms. Taking all of these factors together, it is my judgment that the scale and siting of the proposed development would result in harm to the character and appearance of the area. The proposal would therefore conflict

with Policies S4, S5, S32 and S33 of the Local Plan Part 1 which aim to protect the distinctive visual amenity and character of the natural and built environment. The scheme would also run counter to the Framework objective to recognise the intrinsic character and beauty of the countryside.

36. I note the Council's suggestions of how the scheme could in their view be improved in design terms, reducing the impact on the landscape, footpath users and adjoining residents. However I must give consideration to the merits of the scheme before me and it is therefore not necessary for me to consider these suggestions further.

#### *Living conditions*

37. The Council's reason for refusal referred only to the overbearing impact of the proposed dwellings and not loss of privacy. However as this matter has been raised by interested parties and also by the Council's witness at the Inquiry, I shall consider it below. I note that the Council does not have any specific policy guidance with regard to acceptable separation distances between residential properties to safeguard living conditions. I have therefore come to my own view on this matter.
38. The property known as Hillrigg lies to the west of the proposed site access. The proposed dwelling on Plot 1 would have a side gable facing the rear of Hillrigg with no window openings. It would not therefore result in any issues of overlooking or loss of privacy. The proposed dwelling would be sited approximately 17.5 metres away from the side wall of the rear garage and 21 metres from the rear elevation of the bungalow. There would also be a difference in finished floor levels of around 2.3 metres. At this separation distance, and taking account of the height differences, whilst the residents of the property would experience a different outlook, in my view it would not be overbearing or result in an unacceptable feeling of enclosure. Furthermore I consider that there would be no significant loss of light to the rear garden area as the proposed dwelling would be sited to the north of Hillrigg.
39. Plots 52-54 lie over 50 metres from Hillrigg and would occupy an elevated position looking over an area of proposed public open space towards a side bedroom window and side utility room. Having regard to the separation distance and also taking account of the different levels, I am satisfied that there would be no significant loss of privacy to the side bedroom. The headlights from cars using the proposed access road, whilst not shining directly into the side bedroom of Hillrigg, would be likely to have some impact in terms of light spillage bearing in mind the open nature of the property boundary. However based on the limited evidence before me, I consider that this would not be to such an unacceptable level to adversely affect the living conditions of the occupiers of the property.
40. Turning to the impact on the utility room, whilst I acknowledge that the occupiers of Hillrigg would be able to be seen when undertaking household chores, at the separation distance proposed and bearing in mind that it is not a habitable room, I consider that there would be no significant loss of privacy.
41. In respect of the properties known as Broom Knoll, Sandwood and Howick House, plots 11-14 would be sited to their respective rear boundaries. The proposed house type consists of a dormer bungalow with roof lights providing accommodation in the roof space. I am satisfied that the separation distances

- proposed, even taking account of the rear conservatories to the existing properties which are not shown on the submitted plans, would be adequate to prevent overlooking between the dwellings themselves. However the proposed rear patio areas would have the same finished floor level as the proposed dwellings. Having regard to the length of the proposed garden areas and the proximity to the rear boundaries, someone standing on the rear patio area would be able to look over the proposed rear boundary fence into the rear gardens of neighbouring properties. This would adversely affect the privacy of the occupants of these dwellings.
42. With regard to outlook, Plots 11-14 form a row of four tightly spaced bungalows with modest rear gardens of around 8-10 metres in length. They would have finished floor levels of approximately 2.3 metres to 2.5 metres above the neighbouring dwellings. Despite the relatively high roof design of this house type, which would slope away from the existing dwellings, these properties would provide a significant block of built form in an elevated position, with little relief or feeling of space between them. This would have an oppressive and overbearing effect adversely affecting the outlook for the occupants of the neighbouring properties.
43. The rear boundary of the existing property named Eryn lies adjacent to the proposed front drive and turning area serving Plot 15. The proposed dwelling would be offset the existing house and would be orientated with the side gable facing the rear boundary. Whilst oblique views of the rear part of the garden may be achievable, these would not be so significant as to adversely affect the living conditions of the occupiers of the property in terms of overlooking. A local resident has expressed concern regarding light spillage from vehicles using the driveway serving Plots 15 and 16. However having regard to the height of the proposed boundary fence, I am satisfied that light pollution to the rear of the neighbouring property would be minimised.
44. The proposed dwelling on Plot 15 abuts the rear of a property named Loen. Due to the lack of window openings in the blank side elevation there would be no issues of overlooking. The proposed dwelling would be sited between 2-3 metres from the rear fence line and would extend over approximately two thirds of the rear garden boundary to Loen. Whilst there would be an increased sense of enclosure with a new dwelling sited as proposed with a slightly higher floor level, oblique views across the garden area of Plot 15 would remain maintaining a degree of openness. I therefore consider that the proposal would not result in an unacceptable outlook for the occupants of the existing property. A local resident raised concern about loss of light to the patio at the rear of the garden due to the proximity of the proposed dwelling to the rear boundary. Bearing in mind the orientation of the proposed dwelling, to the north of Loen, I am satisfied that there would be no material loss of light to this area.
45. In conclusion, I have found that the appeal scheme would cause harm to the living conditions of the occupants of Broom Knoll, Sandwood and Howick House by reason of loss of privacy and outlook. Accordingly the proposal would conflict with Policies S4 and S32 of the Local Plan Part 1 which aim to achieve a high quality of design and safeguard the amenity of neighbouring residential occupiers. The proposal would also conflict with one of the core principles of the Framework to secure a good standard of amenity for all existing and future occupiers of land and buildings.



## **Other matters**

### *Highway and road safety issues*

46. The Parish Council and a number of local residents have raised concern with regard to the potential level of traffic generated by the development and highway safety issues for road users.
47. Questions have been raised regarding the adequacy of the Traffic Statement submitted by the appellant. It is acknowledged that the traffic survey was undertaken on a day when Craggs Road was closed at Priest's Bridge but the likely effect of this would be an increase in traffic travelling through Great Broughton to access the A66. I am therefore satisfied that the survey data collected was robust.
48. A local resident presented evidence of traffic surveys that she had undertaken at other new residential developments in the borough. This was to demonstrate that the traffic likely to be generated by the proposed development would be higher than that estimated by the appellant. The Transport Statement used trip rates derived from the TRICS database validated against the actual recorded am and pm peak trip rates for Broughton Park. This approach was accepted by the local highway authority. Whilst I acknowledge that Broughton Park has a number of retired residents, I have no evidence before me to suggest that trip rates from this development are significantly lower than that for a typical residential area. The Transport Statement estimates less than 1 additional trip every 2 minutes. Even if this is an underestimate, I am satisfied that the local road network has capacity to accommodate the increased traffic from the proposed development.
49. Turning to concerns with regard to highway safety, I observed on my site visit that the Little Brow /Harris Brow junction has poor sight lines especially when looking to the west. This is due to the alignment of the road and the encroachment of existing boundary vegetation. Vehicles emerging from Little Brow creep forward slowly to ensure that the route is clear. This deficiency is recognised and the appellant proposes to adjust the white line markings to achieve a 30 metre visibility splay. Harris Brow forms a national cycle route. Whilst the proposed improvements would result in a vehicle stopping further forward at this junction, I have no substantive evidence to suggest that this would cause an increased risk to cycle safety. I note that the Highway Authority have welcomed the proposed improvements. Overall I am satisfied that the proposed improvements to the Harris Brow/Little Brow junction would be acceptable to mitigate highway safety issues.
50. I have been referred to an appeal decision for a new dwelling accessed from Harris Brow<sup>2</sup> where the Inspector raised concern with regard to traffic speeds. This was on the basis of observation rather than technical surveys. In this case the proposed access was located further down Harris Brow near the Craggs Road junction. Significant visibility concerns were raised together with issues of land ownership and the ability to implement sight line improvements. As a result of these different factors, I consider that this development is not completely comparable to the scheme before me. Accordingly I have considered the appeal proposal on its individual merits.

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<sup>2</sup> Appeal ref APP/G0908/W/17/3188592

51. Concerns have also been raised regarding the Harris Brow/Craggs Road junction. This route leads to the village shops and primary school. Whilst I accept that this junction is at a sharp angle and only suitable for traffic heading west towards the village, users travelling back towards Broughton Park and the A66 could use alternative routes.
52. Local residents have commented on the inadequacy of the car parking provision in the appeal scheme. I am advised that the car parking provided meets the requirements of the Cumbria County Council parking standards and that no concerns have been raised by the local highway authority with regard to access for emergency vehicles. Whilst I accept that there is on street car parking in parking bays or at the end of access drives, mainly for visitors, I am satisfied that adequate provision is provided in the scheme to meet the overall needs of the development.
53. The Parish Council and local residents have raised concern with regard to the accessibility of the appeal site, particularly for pedestrians walking to the village shops and facilities, the primary school and local bus stops. The appeal scheme proposes a new footpath link from the north west corner of the development leading to Winder Lonning, an unmade public footpath and access road serving a small number of residential properties leading to Meeting House Lane. It is proposed to surface this 260 metre route and provide lighting. This route would provide access to the village facilities and public transport routes to Maryport and Cockermouth and the term time West Lakes College bus route between Cockermouth and Workington. I acknowledge that like many rural areas, the frequency of public transport is low and there is a high reliance on the car. However there is the potential for some trips to be taken using public transport.
54. The proposed footpath link would not necessarily shorten walking routes to village facilities. I am advised that it would take around 15 minutes to walk from the appeal site to Broughton Academy, the Primary School. I accept that not all future residents would choose to walk to school and some would take the car adding to the traffic through Great Broughton. However the proposed footpath link would provide choice along a surfaced and lit lightly trafficked route which may also be of benefit to existing residents.
55. Many of the existing roads in the village are narrow including Main Street, and some do not have footpaths. This raises potential safety issues for pedestrians and cyclists. However this existing situation is representative of the character of the two villages. The narrowness of the streets can assist with traffic calming and whilst there may be localised congestion at peak times, I have no evidence, such as accident records, to suggest that these routes are unsafe.
56. In summary, I conclude that the proposed development would not result in any significant adverse effects on the wider highway network, the site would be accessible and highway safety concerns for all road users would be appropriately mitigated. The appeal scheme would therefore comply with paragraph 32 of the Framework which advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts would be severe.

#### *Education provision*

57. Cumbria County Council, the Education Authority, have assessed the provision

of school places in the area serving the development. They have concluded that there would be insufficient places available at the nearby Broughton Academy for primary age pupils. They have requested a financial contribution through a section 106 agreement to fund additional classroom provision. I heard from a Director at the school that there is sufficient space to provide an extension to the school and a number of options have been given preliminary consideration. There are however concerns that the monies to be provided may be inadequate. The sum requested has been calculated by the Education Authority using their adopted methodology. In the absence of any scheme costings, I have no reason to conclude that the identified sum would be deficient.

58. The Academy has requested that the education contribution be provided at the start of the proposed development so that new provision can be in place for when it is needed. The section 106 requires the payment to be made to the Education Authority, a signatory to the agreement, prior to the first occupation of any dwelling. This would be at the start of the occupation of the site, when it is envisaged that there would be some school places still available. As these could be taken up initially, I am satisfied that the payment arrangements are appropriate.
59. With regard to secondary school provision, I am advised that Cockermouth School has insufficient places to accommodate the anticipated pupil yield from the proposed scheme. Children may need to go to other schools more than three miles away. A five year contribution towards secondary school transport, as requested by the Education Authority, would ensure adequate provision is available.
60. In conclusion, with the above contributions in place, I am satisfied that the local education infrastructure would have adequate capacity to accommodate additional pupils from the proposed development.

#### *Brownfield sites*

61. A local resident has argued that in line with Policy S30 of the Local Plan Part 1, brownfield sites, such as that at Derwent Forest, should be developed in preference to greenfield sites like the appeal site.
62. The Derwent Forest site is the subject of Policy S18 in the Local Plan Part 1. It forms a former Royal Navy Armaments Depot and covers around 425 hectares. The Local Plan recognises the potential of this site for a mix of uses including leisure and tourist related development as well as employment and renewable energy. Housing is also considered appropriate as an enabling development to assist the viability of the project and secure the overall restoration of the site.
63. Whilst as an exception, housing may be appropriate on this site, it is likely to be some time before it would come forward as part of a wider regeneration scheme. In the interim, the borough still needs to ensure the delivery of other housing sites, some of which may be greenfield in order to meet the objectively assessed need for housing.

#### *Flooding and drainage*

64. Local residents have expressed concern with regard to flooding and drainage. The appeal site is located within Flood Zone 1, an area with the lowest probability of fluvial flooding. It is proposed that surface water drainage be

dealt with through a gravity piped sewer system leading to an attenuation tank located in the south east area of public open space. The facility would have capacity to cope with a 1 in 100 year flood event with 40% allowance for climate change. It would be fitted with a hydro brake to control surface water discharge to green field run off rate. Foul drainage would connect to main sewer. There are no objections from the Environment Agency and the Lead Local Flood Authority. Whilst there may be existing localised flooding issues, I am satisfied that the measures proposed to deal with surface and foul drainage would be acceptable to ensure that there is no increased risk of local flooding.

### **Planning obligation**

65. The appellant has provided a signed and executed section 106 agreement to secure the provision of affordable housing and financial contributions towards primary education and secondary school transport provision. The Council confirmed at the Inquiry that the original request for a financial contribution to upgrade existing play facilities is no longer required. This is because the Council has now adopted a Developer Contributions Supplementary Planning Document. As there is considered to be adequate play provision to serve the needs of Broughton for the plan period up to 2029, a contribution is no longer necessary.
66. The Framework confirms that planning obligations should only be sought to mitigate the effects of unacceptable development therefore making it acceptable. The Framework in paragraph 204 and CIL Regulation 122 (2) set out 3 'tests' for seeking planning obligations. They must be necessary to make the development acceptable in planning terms, be directly related to the development and fairly and reasonably related in scale and kind to the development.
67. The 25% affordable housing contribution is required so that the scheme is compliant with Local Plan Part 1 Policy S8. I have already discussed the primary education and secondary school transport contributions earlier in this decision. These are required in order to provide for the needs of the development are met.
68. I am satisfied from the evidence before me that the 3 tests are met and that the obligations comply with the Framework and the CIL Regulations. I am also satisfied that in relation to the primary school contribution, the pooling restrictions of Regulation 123 of the CIL Regulations are also met. I shall therefore give them full regard in this decision.

### **Planning Balance**

69. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that I determine the appeal in accordance with the development plan unless material considerations indicate otherwise. I have concluded that the proposal would conflict with Policies S3 and S5 of the Local Plan Part 1 as the site lies outside the settlement boundary. As I have found these policies to be out of date, I attribute limited weight to this policy conflict.
70. I have already concluded that the 'tilted balance' is to be applied in this case. In terms of adverse impacts, I have found that the proposal would cause moderate landscape harm and moderate to significant harm to a number of views from nearby footpaths and neighbouring residential properties.

Furthermore I have concluded that the scheme would cause harm to the living conditions of nearby residential occupiers. Due to the degree of harm and the number of existing occupiers affected, I give this significant weight.

71. With regard to the benefits of the scheme, the proposal would provide 64 dwellings which would contribute to the housing need in the borough. This provision would also be supported by the Frameworks objective of significantly boosting the supply of housing. I therefore attach significant weight to this benefit. The proposal would also provide 16 affordable homes. The Council's 2016 Housing Study identifies a gross requirement of 671 affordable homes per annum and after taking account of affordable supply, a shortfall of 175 dwellings per year. In light of this identified imbalance I give significant weight to this provision.
72. In relation to the economic matters, I acknowledge that the scheme would provide direct construction jobs, other indirect jobs and demand for construction materials. However these would be temporary benefits for the duration of the scheme only. New residents would spend locally supporting local businesses. Whilst the scheme would generate New Homes Bonus there is no evidence of a connection between the payments and the development to enable it to be taken into account in accordance with the advice in National Planning Policy Guidance. Overall I attribute limited weight to the economic benefits of the scheme.
73. Areas of green infrastructure are retained and new planting is proposed together with areas of public open space. As these measures are primarily aimed at mitigating the effects of the development or maintaining existing provision, they are of neutral benefit. However as the development would include some environmental gain through biodiversity enhancement, I give them limited weight.
74. With regard to other matters, I have concluded that the scheme would not cause harm to highway safety, that the mitigation measures proposed would ensure that local infrastructure has capacity and the proposal would not cause increased risk of flooding.
75. In the final balance, I conclude that the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. The proposal does not therefore constitute sustainable development as defined in the Framework. The material considerations in this case do not indicate that the development should be allowed other than in accordance with the development plan.

### **Conclusion**

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

*Helen Hockenhull*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Timothy Leader	Instructed by Brendan Carlin, Borough Solicitor, Allerdale Borough Council
He called	
Pete Coe BA Dip LA CMLI	Landscape Architect, Urban Vision
Melissa Kurihara MLPM MRTPI	Associate Planning Consultant, Urban Vision
Simon Wood BA(Hons) BTP MRTPI	Regional Planning and Building Control Manager, Urban Vision.

### FOR THE APPELLANT:

Ian Ponter	of Counsel Instructed by Barton Willmore
He called	
Mrs Chantelle Schulz BSc(Hons), MLA,CMLI	Urban Green Space Ltd
Mike O'Brien MTCP,MRTPI	Director- Planning, Hourigan Connelly
Dan Mitchell BA(Hons), DipTP, MRTPI	Partner, Barton Willmore

### INTERESTED PERSONS:

Mrs Nicky Cockburn	Ward Councillor
Mrs Sue Hannah	Broughton Parish Council
Mrs Jane Derbyshire	Local resident
Mr Ian Derbyshire	Local resident
Mrs Jean Lack	Local resident
Mr Keith Hutchinson	Local resident
Dr Huw Morgan	Director, Broughton Primary Academy

## DOCUMENTS SUBMITTED AT THE INQUIRY

1. Allerdale Local Plan (Part2) Site Allocations DPD, Site Assessment Methodology June 2014.
2. Updated housing land supply schedule and supporting emails.
3. Report on the Examination into the Allerdale Local Plan Part One, 1 July 2014.
4. Summary of representations received relating to the appeal site following the consultation into the Local Plan Part 2.
5. Appellant's opening statement.
6. Council's opening statement.
7. CIL compliance statement by Allerdale Borough Council.
8. Draft section 106 agreement.
9. Statement by Dr Morgan
10. Updated list of application plans and documents.
11. Revised statement and supplementary comments by Mrs Derbyshire
12. Map of Derwent Forest site.
13. Signed and dated section 106 agreement.
14. Secretary of State Decision re APP/D0121/W/16/3153935, Land at Farleigh Fields and 54, 56, 58 Farleigh Road, Backwell Somerset.
15. Updated housing land supply schedule following round table discussion.
16. Revised condition 9 regarding Construction Environmental Management Plan and condition 22 regarding the Travel Plan review.
17. Council's closing submissions.
18. Appellant's closing submissions.

Richborough Estates