



Decision by J Alasdair Edwards, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-380-2085
- Site address: land 250 metres south of The Beeches, Boghall Road, Biggar, ML12 6EX
- Appeal by Gladman Developments Limited against the decision by South Lanarkshire Council
- Application for planning permission P/19/0727 dated 8 May 2019 refused by notice dated 22 November 2019
- The development proposed: residential development with associated engineering works, landscaping and open space
- Date of site visit by Reporter: 16 July 2020

Date of appeal decision: 9 December 2020

Decision

I dismiss the appeal and refuse planning permission.

Preliminary matter

The scale and nature of the appeal proposal is such that it comes within the description of development set out in Class 10 (infrastructure projects with an area exceeding 0.5 hectares) of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. In response to a screening request the council sought additional information which the appellant provided as part of the planning application. The council then validated the application and carried out an assessment of the development against a screening checklist confirming that the application would not result in any likely significant effects meaning an environmental impact assessment was not required. I agree with the council's conclusion. In review of the submissions, and the council's evaluation, the characteristics and location of the development together with the potential impacts are not likely to have a significant effect on the environment requiring an environmental impact assessment.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are whether:

- there is a five-year effective housing land supply
- development in the rural area would be acceptable
- the proposal would result in the unacceptable loss of prime agricultural land



- the development responds to climate change
- a suitable residential environment would be promoted
- required infrastructure could be secured
- landscape and visual, and heritage, impacts would be acceptable
- habitats and species would be protected
- access, road and pedestrian safety were acceptable
- flood risk and drainage could be suitably mitigated/managed
- the appeal proposal aligns with the spatial strategy.

The development plan

2. The development plan covering the appeal site comprises the approved Clydeplan - Glasgow and the Clyde Valley Strategic Development Plan (2017); the adopted South Lanarkshire Local Development Plan (2015); and relevant supplementary guidance, which include the council's approved supplementary guidance 1 (sustainable development and climate change); 2 (green belt and rural area); 3 (development management, placemaking and design); and 9 (natural and historic environment).

3. The proposed South Lanarkshire Local Development Plan 2 (2019) has been subject to consultation and an examination process. The report of examination was published on 13 August 2020 and includes, generally binding, recommendations to modify policies relevant to the appeal proposal and modify the housing land supply in the Clydesdale housing sub-market area in which the appeal site is located. While the proposed plan is yet to be formally adopted it can, particularly in its modified form, be afforded substantial weight in decision-making as it is very likely to become part of the statutory development plan in the near future. This finding is supported by the fact that the council has confirmed that it has promoted the plan for adoption endorsing all of the report of examination recommendations.

4. Scottish Government publication 'Scottish Planning Policy' (2014) advises that "when a plan is under review, it may be appropriate in some circumstances to consider whether granting planning permission would prejudice the emerging plan". The "circumstances" are stated to include where a proposal is "so substantial, or its cumulative effect would be so significant, that to grant planning permission would undermine the plan-making process by predetermining decisions about scale, location or phasing of new developments that are central to the emerging plan". Decisions about where to allocate sites have already been made as the settled view of the council in the proposed plan and additional sites have been recommended for inclusion in the report of examination. I find that as the examination process is finalised there is limited risk of the plan-making process being undermined. Consequently, I do not find that there is an issue of "prematurity" in making a decision on the appeal proposal. Therefore, I turn to address the main issues.

Housing land supply

5. Policy 8 (housing land requirement) of Clydeplan requires local authorities to "provide for a minimum of 5 years effective land supply at all times for each Housing Sub-Market Area and for each Local Authority". In addition, the policy requires that councils take steps to remedy any shortfalls in the five-year supply of effective housing land through the granting of planning permission for housing, on greenfield or brownfield sites, subject to meeting five criteria, those being that the proposal would: help meet any shortfall; contribute

to sustainable development; be in keeping with the character of the settlement and local area; not undermine green belt objectives; and that any additional infrastructure required as a result of the development be committed or funded.

6. The above approach is mirrored in the content of local development plan policy 12 (housing land) where there is a commitment to ensure “a minimum five year effective supply of private sector housing land at all times during the lifetime of the plan” and that if the housing land audit identifies a shortfall then proposals which are effective will be supported in the following order of preference: urban capacity sites; additional brownfield sites; and sustainable greenfield sites. Furthermore, the policy advises that account “will be taken of other local development plan policies and of any adverse impacts which would significantly and demonstrably outweigh the benefits of the proposal”.

7. Clydeplan sets an all-tenure housing supply target of 11,760 homes for South Lanarkshire over the period 2012 to 2024. With the addition of a generous margin of 15% the plan then identifies an all-tenure housing land requirement of 13,530 homes for the authority over the same period (with 10,490 homes specifically required for the private sector). In relation to private housing, the plan also sets a housing land requirement of 1,570 homes for the Clydesdale housing sub-market area for the period 2012 to 2024.

8. The council and the appellant disagree on how to calculate whether a housing shortfall exists. The council argue that the housing supply target should be used as the basis to calculate whether a five-year effective supply has been maintained. This methodology was adopted in an appeal decision within the Clydeplan area submitted by the council at Morningside Road in North Lanarkshire (appeal reference PPA-320-2135 dated February 2020). In contrast, the appellant refers to an appeal decision at Bathgate, West Lothian (PPA-400-2097 dated 25 April 2019) where the reporter refers to the “housing land requirement” as the basis for determining whether a shortfall exists. Yet, that decision relates to a separate strategic development plan area and the terminology used reflects an older usage of the words “housing land requirement” contained in the 2013 strategic development plan for Edinburgh and South East Scotland which, in the context of policy material published at the time of its approval, actually related to what is now referred to as the “housing supply target”. Consequently, there is a favourable precedent within the Clydeplan area which supports the council’s position. This position is further supported by the recent Scottish Government ‘technical consultation on proposed policy amendments’ to Scottish Planning Policy (July 2020) which suggest calculating the five-year effective land supply by using the housing supply target. However, that document is consultative with no firm commitment to making amendments at this stage and, therefore, it has limited bearing in relation to this decision.

9. In any event, a recent decision of Inner House Court of Session of ‘Gladman Developments Limited v The Scottish Ministers [2020] CSIH 28’ (dated 3 June 2020) provides judgement on the manner in which a housing shortfall should be calculated. The decision (at paragraph 49) finds that Scottish Planning Policy “states that development plans should address the supply of land for housing. They require to set out the HLS [housing land supply] target for each area, based on the HNDA [housing need and demand assessment]. This is the number of houses which the planning authority has determined will be delivered over the period of the development plan. It represents the demand in the particular market sector. This number is...to be increased by a margin of 10 to 20% in order to ensure a generous supply of land for housing. It is this augmented figure which

represents the housing land requirement. When the SPP [Scottish Planning Policy] is referring to a shortage in the 'effective housing land supply', it is to the figure identified in the development plan as increased by the percentage margin selected; ie the housing land requirement. It is to that figure that regard should be had by a reporter in order to determine the level of shortage". Based on the freshness of this judgement I find that it should be preferred over the past appeal decision findings and the proposed calculation stated in the technical consultation on Scottish Planning Policy. Consequently, the housing land requirement should be used as the basis to determine if a shortfall exists in this case.

10. A second dispute relates to the use of housing land audit data to be used to inform completions, programming and the effective housing land supply. The appellant promotes the use of the agreed 2018 housing land audit whereas the council argues that the draft 2019 audit, where ineffective sites have been removed and programming adjusted, should be used. Recent audits have been approved for the other local authority areas within Clydeplan and a substantial period has elapsed without Homes for Scotland (and its partners) agreeing the draft 2019 audit. I note the delay and recognise that the draft 2019 audit has updated the housing land position. However, this is only from the council's perspective without formal agreement from other interested parties. I consider that without agreement there remains uncertainty over programming and site effectiveness reducing the reliability of the information contained in the draft 2019 audit. Therefore, I find that the agreed 2018 audit should be used.

11. The council and appellant produced tables illustrating the housing land supply situation which show agreement on the housing land requirement figures, completions and the residual housing land requirement. I have compiled the information in Table 1 below which illustrates that the primary disagreement is the amount of effective land supply programmed to come forward in the next five years. I asked through further written submissions where the figures for the effective supply were derived. In response, the appellant clearly demonstrated that its effective figures were taken from the programmed delivery provided in the agreed 2018 housing land audit for the years 2018/19 to 2022/23. The council referred to various submissions and tables but failed to directly specify where its figures were derived. Therefore, I consider that the figures supplied by the appellant should be favoured in this case.

12. Parties agree that there is a sufficient all-tenure five-year effective supply across South Lanarkshire. However, the figures indicate that there is a slight shortfall in the private supply across South Lanarkshire (38 homes) and a shortfall in the Clydesdale housing sub-market area (190 homes). While I am content to use the agreed 2018 housing land audit as the initial basis to assess the housing land supply situation it is a static snapshot in time of the housing position across South Lanarkshire and not fully reflective of changes since 2018.

Table 1: Five-year effective housing land supply*

	Clydesdale HMA		South Lanarkshire LA			
	Private HLR		All-tenure		Private HLR	
	Appellant	Council	Appellant	Council	Appellant	Council
Housing requirement	1,570		13,530		10,490	
Completions (2012/13 to 2017/18)	545		5,402		4,535	
Residual requirement	1,025		8,128		5,955	
Years remaining	6		6		6	
Annual requirement	171		1,355		993	
5-year requirement	854		6,773		4,963	
Effective supply	664	835	6,786	8,306	4,925	5,815
No. years supply	3.89	4.89	5.01	6.13	4.96	5.86
Percentage	78%	98%	100%	123%	99%	117%
5-year effective supply shortfall/surplus	-190	-19	13	1,533	-38	852

* using housing land requirement; the effective supply taken from agreed 2018 housing land audit; and data submitted by parties.

13. The council suggests that a number of sites in the established housing land supply could come forward as effective in the Clydesdale housing sub-market area to fulfil the shortfall in both the sub-housing market area and across South Lanarkshire. Sites at Bellfield, Coalburn for 560 homes; Law Hospital for 500 homes; Ayr Road, Ravenstruther for 100 homes; Middlemuir, Coalburn for 100 homes; and Byretown, Kirkfieldbank for 40 homes are identified. While these sites have extant planning permission they are constrained for various reasons and not included as part of the effective supply at this time. Although I agree that there is latent supply which could become effective there is no guarantee that these sites would deliver in the next five years to fulfil the shortfall identified.

14. At paragraph 5.8 the proposed local development plan 2 includes six new allocations for residential development totalling approximately 810 new homes not included in the 2018 housing land audit. The report of examination removes one site for 160 homes leaving some 650 additional homes. The examination report discusses, at page 133, when these sites might be able to deliver housing and concludes it reasonable that they could begin to deliver from 2022/23. While these sites could contribute to the five-year all-tenure housing land supply they are located in the Hamilton, Cambuslang Rutherglen and East Kilbride sub-housing market areas so would not reduce any shortfall in the Clydesdale housing sub-market area but would contribute to the all-tenure supply.

15. The report of examination into the proposed local development plan 2 allocates two sites at Bellefield Road, Lanark (74 homes) and at Hyndfordbridge (19 homes) within the Clydesdale housing sub-market area. The examination report identifies (at page 143) that “the benefit of bringing forward additional effective land in addressing a potential shortfall has informed our assessment of each candidate housing site”. Therefore, I have confidence that these sites were selected for inclusion being considered effective and able to aid in the delivery of meeting the housing land requirement.

16. In addition to the site at Hyndfordbridge the council identify four other sites within the Clydesdale housing sub-market area which have gained planning permission since the

publication of the 2018 housing land audit totalling 211 homes: Braidwood (140 homes); Ravenstruther (10 homes); Albany Drive, Lanark (16 homes); Law (20 homes); and Byretown, Kirkfieldbank (25 homes). These approvals are due to be included in the forthcoming 2020 housing land audit and programmed accordingly. The appellant argues that these are “not new sites” and that as the 2020 audit is yet to be published the effectiveness of these sites is unknown. However, the appellant has not supplied any specific information to suggest that these sites are ineffective. Clydeplan policy 8 clearly stipulates that a remedy to rectify any shortfall is to grant planning permission which the council has done in this case. Furthermore, the wording of adopted local development plan policy 12 allows the approval of effective sites where there is a shortfall. Therefore, it would be counter-intuitive for the council to have approved ineffective sites. I agree that as the sites are yet to be programmed there is a degree of uncertainty over their ability and rate to deliver housing. However, to dismiss these sites entirely would be, in my view, unreasonable. Indeed, if I were to dismiss these sites on the basis that they are not programmed in a housing land audit then the same would be true of the appeal proposal which is not currently programmed for delivery in a housing land audit.

17. The housing contribution from the sites added through the examination of the proposed local development plan 2 (93) and those with planning permission (211) totals 304 homes. The adopted local development plan requires a 25% affordable housing contribution on sites of 20 units or more. Therefore, those eligible sites with planning permission and those added to the housing land supply through the examination of the proposed local development plan 2 would require, assuming off-site commuted sums were not sought, to provide 60 affordable homes (25% of 239 homes [140+74+25]). Consequently, these sites could provide a total of 304 homes to the all-tenure housing land supply and 244 homes to the private supply in the Clydesdale housing sub-market area (and across South Lanarkshire).

18. On the basis of the above, and using the appellant’s figures set out in Table 1 above, adding the contribution from these sites would result in a five-year effective housing land supply all-tenure surplus of 317 homes (304+13) with a private surplus of 206 homes (244-38) across South Lanarkshire including a private surplus of 54 homes (244-290) in the Clydesdale housing sub-market area.

19. I appreciate that not all of this additional housing may come forward, particularly as the programming is yet to be agreed. However, while (as explained in paragraph 13 above) the established supply is currently constrained there is potential for some of this substantial resource of housing land to come forward, especially as I note the report of examination into the proposed local development plan 2 introduces wording to the housing chapter to ensure effective partnership working to release land for housing which mirrors similar provisions contained in Clydeplan policy 7 (joint action towards the delivery of new homes). I further note that the contribution from windfall sites has not been included in the Table 1 figures provided by the parties. The council has explained that windfall housing on small sites are delivered at a much higher rate in the Clydesdale housing sub-market area than other parts of South Lanarkshire providing flexibility over those sites programmed in the housing land audit. In support of this position, while there was insufficient evidence to include an allowance for small sites in the proposed local development plan 2, the examination report explained that “a considerable number of planning applications are consented annually for such developments across South Lanarkshire particularly in the Clydesdale housing market area”.

20. I consider that while the agreed 2018 housing land audit indicates a shortfall in the five-year effective housing land supply the contribution from newly allocated sites through the proposed plan and those with planning permission would be satisfactory to ensure the maintenance of a five-year effective all-tenure and private supply to meet the housing land requirement across South Lanarkshire and the Clydesdale housing sub-market area. Although not guaranteed, the contributions from small sites would also likely allow for some degree of flexibility in the supply.

21. Consequently, I find that the council has adhered to the requirements of Clydeplan policy 8 without the need to take further steps to remedy any shortfalls in the five-year effective housing land supply. In addition, as there is no shortfall the appeal proposal gains no support from adopted local development plan policy 12.

Development in the rural area

22. The appeal site is located in the rural area on the immediate edge of Biggar. According to adopted local development plan policy 3 (green belt and rural area) the rural area functions primarily for uses appropriate to the countryside and, consequently, other uses (such as housing) should be located within settlements other than in five circumstances, of which one is relevant to the appeal proposal – where it is demonstrated that there is a specific locational requirement and established need for the proposal. As there is no shortfall there is no demonstrable need for additional housing and, therefore, no specific locational requirement to release land in the rural area for the appeal proposal.

23. Policy 3 also allows in the rural area the “limited expansion of an existing settlement...where the proposal is proportionate to the scale and built form of the settlement, it is supportive of the sustainability of the settlement and a defensible boundary is maintained”. I agree with the appellant that the addition of 100 homes could be proportionate in relation to the population of Biggar (2,290 people) and that the development would be smaller than the 285 homes built and under-construction in the north of the settlement at Edinburgh Road. I also agree that the layout and design of the housing to the north of the appeal site with substantial landscaping to the south would allow for a defensible boundary and a built form which would integrate with its surroundings. There is nothing to suggest that the proposal would have a negative impact in relation to the sustainability of the settlement. However, the development of 100 homes with a land-take of 11.1 hectares is a major development and would not, in my opinion, represent a “limited expansion” of Biggar. This conclusion is supported by the fact that the council’s statutory supplementary guidance 2 (green belt and rural area) refers, at paragraph 3.7, to limited expansion of settlements in relation to small scale housing but nothing of a greater scale. I find, therefore, that the proposal is not compliant with policy 3.

Prime agricultural land

24. The appeal site is located entirely within a parcel of prime agricultural land extending to some 4,251 hectares. As a finite resource the loss of 11.1 hectares of prime agricultural land to accommodate the appeal proposal would be significant. However, in the context of the wider parcel of prime agricultural land the removal of land from productive use would represent only 0.26%. In that context, the loss would not compromise the integrity (using the terminology of the local development plan) of the prime agricultural land parcel.

Therefore, in these terms, I find that the proposal satisfies adopted local development plan policy 15 (natural and historic environment).

25. However, the aforementioned policy is general in the sense that it applies to a variety of constraints and is not designation-specific. A distinct policy dealing with prime agricultural land is set out in statutory supplementary guidance 9 on the natural and historic environment (policy NHE10). This policy states that development on prime agricultural land should only be supported in three instances, of which one is relevant in this case - as a component of the settlement strategy or necessary to meet an established need where no other suitable site is available. The appeal proposal is not allocated and, as established below, would be at odds with the spatial strategy. The proposal is not, therefore, a component of the settlement strategy. Housing is not necessary to meet an established housing need. There are also other suitable sites for housing in the Clydesdale housing sub-market area which could deliver housing. Consequently, the appeal proposal fails to comply with policy NHE10.

Response to climate change

26. The appeal site is sustainably located within an accessible walk of the settlement's amenities and facilities reducing the need to travel by car; there is potential for new housing to utilise low and zero carbon technologies (which could be suitably controlled through conditions); and there would be, as stated below, no adverse flood risk to residents. The proposal therefore complies with local development plan policy 2 (climate change).

Provision of a suitable residential environment

27. Although an application in principle the supporting documentation, particularly the illustrative masterplan, from the appellant demonstrates that there would be sufficient land to ensure a suitable residential environment which was accessible for all with adequate space for access, parking, green infrastructure and open space. There would be no likely significant adverse impacts on landscape character and built heritage, habitats or species, biodiversity, protected species or the amenity of residents on the site or surroundings (including from Moss Side Crescent, Fleming Way and Lodge Park). Energy efficient measures, layout and site orientation could also be suitably addressed through conditions. No significant adverse impacts on air quality, water or soil quality or on the water environment are envisaged. Consequently, the proposal would comply with Clydeplan policy 1 (placemaking); local development plan policy 4 (development management and placemaking); and the provisions of the council's statutory supplementary guidance 3 (development management, placemaking and design).

28. The illustrative masterplan shows a substantial area of public open space with linear areas of structured planting to complement the wetland habitat to the south along with the widening of an existing watercourse on the southern boundary of the site to ecologically enhance the wetland environment. New pathways and links are also proposed to allow access to these newly created areas. A derelict house on site would be removed with the foundations used to define a new play area. These provisions would be beneficial to the area and accord with local development plan policy 14 (green network and greenspace) which supports development that provides enhancement contributing to placemaking, biodiversity, water management and improvements for the health and quality of life for residents through active travel and environmental upgrade.

Infrastructure provision

29. The appellant is supportive of providing required education contributions (£1,353 per non-affordable unit); a financial contribution towards local community projects (£1,500 per non-affordable unit); and on-site play equipment and future maintenance. Parties are content to use a section 75 planning obligation to secure these items of which I have no reason to disagree. The proposal would, therefore, satisfy local development plan policy 5 (community infrastructure assessment) which requires necessary infrastructure to be secured. In addition, the appellant has agreed to provide 25% affordable housing on the appeal site in accord with local development plan policy 13 (affordable housing and housing choice) which requires 25% on-site provision for proposals over 20 homes.

Landscape and visual impact

30. The appeal site is contained wholly within the Upper Clyde Valley and Tinto Special Landscape Area and located some 250 metres north-west of the Tweedsmuir Uplands Special Landscape Area. I agree with the findings of the appellant's landscape and visual impact assessment that while there would be moderate effects on the Upper Clyde Valley and Tinto Special Landscape Area during construction. However, once completed, and the newly formed areas of landscaping established, the development would have beneficial effect on the special landscape area with areas of newly formed habitat, wildflower meadows and public open space. There would be no direct impact on the Tweedsmuir Uplands Special Landscape Area but views to the appeal site would, once development was completed and planting established, soften views from the south and south-east from this landscape. Policy 15 of the local development plan requires that there would be no significant adverse impact on category 3 areas (including special landscape areas). Consequently, the proposal satisfies this policy requirement. However, policy NE16 (landscape) within statutory supplementary guidance 9 states that development within special landscape areas will only be permitted where the requirements of local development plan policy 3 are met. Therefore, while the proposal could be accommodated without significantly and adversely affecting the landscape character, scenic interest and special qualities/features of the Upper Clyde Valley and Tinto Special Landscape Area because it fails to comply with policy 3 of the local development plan (see paragraph 23 above) it also fails to comply with policy NE16.

The historic environment

31. There would be no direct impact on either the scheduled monument of Boghall Castle (located some 175 metres east of the appeal site) or the remains of an earthwork (located some 195 metres to the south). The setting of the castle is relatively contained in its present state and surroundings. The few remnants of the castle above ground are located within a field used for livestock with limited likely indivisibility with future housing development (due to stone dykes, hedgerows and farm buildings). The earthworks are raised but intervening trees and the distance to the proposed development would limit any impact on the setting of this monument. The proposed landscaping and boundary treatments on the appeal site would also reduce any visual impact in relation to the setting of both monuments. Therefore, the proposal would comply with local development plan policy 15 and policy NHE 2 (scheduled monuments and their setting) contained within statutory supplementary guidance 9 which require monuments to remain in situ and for their

setting to be appropriately safeguarded. A condition requiring archaeological evaluation could also be imposed to ensure that any unknown resource on-site was recorded.

Habitats and protected species

32. Habitat and protected species surveys were conducted in 2017 with reassessment in 2019. These confirm that no roosting bats were present, there was no evidence of water vole, and that all works involving the removal of hedgerow/trees and other potential nesting sites should be undertaken outwith the bird breeding season (which could be suitably controlled by condition). Consequently, there would be no adverse effects on any protected species in accord with local development plan policy 15.

Transportation, road and pedestrian safety

33. I agree with the findings of the appellant's transport assessment that there would be no significant impact on the transport network as a result of the proposed development. This finding is supported by the fact that there is no objection from Transport Scotland or the council's roads and transportation section. There would be more traffic using Boghall Road to access the development and this in turn would affect traffic on Station Road (which leads to Boghall Road from the A702). However, from the submissions and my own inspections, I do not consider that this increase would have any detrimental impact on the junctions using this road as the visibility from the junctions at Station Road to the A702 and from Boghall Avenue to Boghall Road are clear with sufficient space for queuing traffic; nor do I consider that there would be any impact on the use of the Fire Station on Station Road as a consequence of parking or additional traffic. There is a route along Hartree Entries Road to the south of Biggar which would allow access from the appeal site to the A702 (or vice versa). This is a narrow and winding road with no road markings. While this could be used as an alternative route for new residents to bypass the settlement it would offer few gains in terms of distance or time savings with little attraction for users. The appellant has offered to improve road safety by promoting a new off-road footpath from the appeal site to Biggar Rugby Football Club – this would be beneficial to pedestrians who currently need to walk along the road or travel by vehicle to access the club. I find that the proposal is compliant with the provisions of local development plan policy 16 (travel and transport) which requires the consideration of the impacts of traffic growth.

Flood risk and drainage

34. There is a watercourse on the southern boundary of the appeal site and the southern part of the site is susceptible to flooding from rivers and surface water. I agree with the findings of the appellant's flood risk assessment that flood risk can be appropriately mitigated on the appeal site and drainage managed through appropriate attenuation of surface water. Housing would be located to the north of the appeal site outwith areas susceptible to flooding. This conclusion is supported by the fact that the Scottish Environment Protection Agency and the council's flooding team have no objection to the proposal subject to mitigation measures being implemented. While a concern of residents, there is also no evidence to suggest that there would be any impact on sewerage for residents on Castle Yett to the east of the appeal site; or on the capacity of the drainage/sewerage facilities for Biggar. As flood risk and drainage can be appropriately managed I find that the proposal complies with local development plan policy 17 (water

environment and flooding); and the provisions of statutory supplementary guidance 1 (sustainable development and climate change).

The spatial strategy

35. Clydeplan's spatial development strategy supports "a presumption in favour of sustainable development that contributes to economic growth" (paragraph 5.5). Furthermore, as stated in paragraph 6.24, "the vision and spatial development strategy supports the provision of high quality and affordable housing in the right location which is central to the creation of a successful, sustainable and growing city region". The adopted local development plan seeks to "encourage development in the right place, at the right time and of the right quality". Policy 1 (spatial strategy) of the plan encourages sustainable economic growth and regeneration, the protection and enhancement of the built and natural environment and movement towards a low carbon economy promoting "development that accords with and supports the policies and proposals in the development plan and supplementary guidance". Although the proposal would provide high quality and affordable housing there is no shortfall in the five-year effective housing land supply and, therefore, the loss of prime agricultural land to accommodate housing outwith the settlement boundary of Biggar would not represent the right development in the right location. Consequently, I find that the appeal proposal is contrary to the spatial development strategy of Clydeplan and the provisions of local development plan policy 1 (spatial strategy).

Material considerations

36. The report of examination into the proposed South Lanarkshire Local Development Plan 2 stated, using the agreed 2018 housing land audit figures and submissions to the examination, that "the evidence submitted does not allow me to safely conclude there is not a shortfall in the council meeting its housing land requirements for the periods set out in Clydeplan". That conclusion was made on the basis of determining whether the housing land requirements were met whereas the issue in this appeal relates primarily to whether a five-year effective housing land supply is being maintained. While the examination report was submitted relatively recently (13 August 2020) the updated evidence presented in relation to this appeal has led me to conclude that there is a sufficient five-year effective supply of housing in the Clydesdale sub-housing market area and South Lanarkshire.

37. The policy wording within the proposed plan (as modified through the examination) closely follows that of the adopted plan. An assessment against the provisions of the proposed plan leads me to conclude the following:

- The proposal would not be located in a sustainable urban location and the substantial loss of prime agricultural land in a location outwith the settlement boundary would not protect the natural environment ultimately contrary to proposed policy 1 (spatial strategy).
- With no shortfall in the five-year effective housing land supply the proposal would gain no support from proposed policy 11 (housing).
- The proposal would not be a small scale development in the right place within the rural area so would not comply with proposed policy 4 (green belt and rural area).
- The loss of prime agricultural land would have a negative impact on the natural environment contrary to criterion 6 of proposed policy 5 (development management and placemaking); the other criteria would be met.

- For the reasons stated in paragraphs 26 to 34 above, the proposal would comply with the provisions of proposed policies 2 (climate change); 7 (community infrastructure assessment); 12 (affordable housing); 13 (green network and greenspace); 14 (natural and historic environment) – particularly in relation to impacts on scheduled ancient monuments, protected species, and the landscape; 15 (travel and transport) and 16 (water environment and flooding).

38. Overall, I find that the appeal proposal would be contrary to the provisions of the proposed local development plan 2.

39. The examination report also, following an assessment, rejected the appeal site as a housing allocation with the reporter concluding that allocation of the site would be contrary to the proposed plan's spatial strategy and result in the unsupported loss of prime agricultural land. This position aligns with, and supports, my conclusions in relation to the appeal proposal.

40. The Scottish Government publication 'Scottish Planning Policy' (2014) introduces a presumption in favour of sustainable development. This presumption does not change the statutory status of the development plan. However, paragraph 33 of the document states that where a development plan is more than five years old then "the presumption in favour of development that contributes to sustainable development will be a significant material consideration". The local development plan was adopted on 29 June 2015 and, therefore, the presumption is a significant material consideration in this case. I note that the 'technical consultation on proposed policy amendments' to Scottish Planning Policy suggests removing the presumption in favour of sustainable development but, again, as per my findings in paragraph 8, I consider that this consultation has little bearing on this decision and, therefore, proceed to assess the proposal in relation to the presumption.

41. In review of the guiding principles set out in paragraph 29 of Scottish Planning Policy related to the presumption, I find that the appeal proposal would contribute to the local economy through construction and taxes (£16.5 million capital investment, 13 construction jobs and 7 retail jobs supported and £112,000 council tax paid annually); support good design and placemaking; support the delivery of market and affordable housing; support climate change mitigation and adaption including taking account of flood risk; would improve health and well-being through open/green space and habitat enhancement and opportunities for activity; protect the historic environment; protect, enhance and allow greater access to natural heritage; reduce waste (through conditions on the final design); and avoid over-development while protecting the amenity of new and existing development as well as considering the implications of development for water, soil and air quality.

42. However, development would result in the loss of 11.1 hectares of prime agricultural land in a countryside location which would not represent the efficient use of land or sustainable use of land as a finite resource. There is no five-year effective housing land supply shortfall which would justify such a loss and impact on the natural environment. Therefore, overall, in assessing the costs and benefits of the appeal proposal over the longer term I find that the development would not be the right development in the right location. The adverse impacts in this case significantly and demonstrably outweigh the benefits of development (including the socio-economic benefits, green space enhancements and creation of a new footway to the rugby club). Consequently, I do not

consider the proposal to be sustainable development and, therefore, it gains no support from the presumption set out in Scottish Planning Policy.

Conclusion

43. The proposed development would comply with Clydeplan policy 1 (placemaking). It would align with adopted South Lanarkshire Local Development Plan policies: 2 (climate change); 4 (development management and placemaking); 5 (community infrastructure assessment); 13 (affordable housing and housing choice); 14 (green network and greenspace); 15 (natural and historic environment); 16 (travel and transport); and 17 (water environment and flooding). In addition, the proposal would meet the provisions of statutory supplementary guidance 1 (sustainable development and climate change); 3 (development management, placemaking and design); and 9 (natural and historic environment) in relation to policy NHE 2 on scheduled monument and their setting.

44. However, as there is no housing shortfall the proposal would gain no support from Clydeplan policy 8 (housing land requirement) or adopted local development plan policy 12 (housing requirement). In addition, the proposal would fail to comply with Clydeplan's spatial development strategy together with adopted local development plan policies 1 (spatial strategy) and 3 (green belt and rural area). It would also fail to comply with statutory supplementary guidance 9 in relation to policies NHE10 (prime agricultural land) and NE16 (landscape).

45. I therefore conclude, for the reasons set out above, that the proposed development does not accord overall with the relevant provisions of the development plan and that there are no material considerations which would justify granting planning permission. I have considered all the other matters raised, including health capacity, effects on water pressure and the potential for anti-social behaviour, but there are none which would lead me to alter my conclusions.

JA Edwards
Reporter