



Appeal Decision

Site Visit made on 16 November 2020

by T Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal Ref: APP/Q1153/W/20/3257118

Site at SX573976, Folly Gate, Okehampton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs K Hawkins-Sampson against the decision of West Devon Borough Council.
 - The application Ref 3963/19/OPA, dated 4 December 2019, was refused by notice dated 28 May 2020.
 - The development proposed is described as outline application for the construction of 23 dwellings, associated car parking, access and estate road, private amenity space and public open space.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for the construction of 23 dwellings, associated car parking, access and estate road, private amenity space and public open space at Site at SX573976, Folly Gate, Okehampton in accordance with the terms of the application, Ref 3963/19/OPA, dated 4 December 2019, and subject to the conditions set out in the schedule to this decision.

Preliminary Matters

2. The appeal is made in outline with all matters except access reserved for future consideration. I have therefore assessed the submitted drawings as merely illustrative insofar as they relate to the reserved matters of scale, layout, appearance and landscaping.
3. During the appeal, the appellant submitted an updated Unilateral Undertaking (UU) made as Deed pursuant to section 106 of the 1990 Act. The Council had the opportunity to comment on it and I have made my decision on the basis of the evidence and submissions before me.

Main Issues

4. The main issues are:
 - Whether the proposed development would be in a suitable location, with particular regard to the development plan and access to services and facilities; and
 - Whether the impact of the proposed development on infrastructure would be sufficiently mitigated.

Reasons

Location

5. The appeal site is located within the settlement of Folly Gate, which is defined by the Plymouth and South West Devon Joint Local Plan 2014-2034 (JLP) as a Sustainable Village. Although its services and facilities are limited to the public house and village hall, Folly Gate is situated relatively close to larger settlements with mixed use centres containing various services and facilities. This includes Okehampton and Hatherleigh, which are approximately 1.75 and 4.5 miles away respectively and are both reachable from Folly Gate via public transport, with the bus service passing through the village on a reasonably regular basis. I observed on my site visit that the bus stops within the village are within walking distance of the site.
6. On this basis, and on the evidence before me, I am satisfied that the site would have reasonable access to centres which meet daily community needs for local services. Supporting this, the Council's Officer Report sets out that Folly Gate has good access to both Okehampton and Hatherleigh and the Inspector for the previous appeal on the site¹ for a similar scheme found the site to be sustainably located.
7. JLP Policy TTV1 sets out the Council's approach to distributing growth and development within the district in accordance with a hierarchy of settlements, with development to meet locally identified needs and to sustain limited services and amenities supported in Sustainable Villages. Figure 5.8 of the JLP identifies Folly Gate as being able to accommodate around 10 dwellings.
8. The proposed development would clearly deliver significantly more houses than this. I also note the recent approval for dwellings on the Folly Gate garage site and that development on that site is now underway. However, the housing numbers in figure 5.8 of the JLP are indicative, were informed by a desk based analysis and are contained within the supporting text of the JLP rather than any of its policies. My attention has also not been drawn to any JLP policy that sets a cap or an absolute limit on the delivery of housing numbers in the Sustainable Village.
9. In accordance with JLP Policies TTV1 and TTV2, it seems to me that the proposed development would help to sustain the services and amenities in Folly Gate and thereby enhance or maintain the vitality of the community. The provision of on-site affordable homes would also help the community to, in the words of TTV2, remain vibrant. Furthermore, given my above findings on the accessibility to surrounding settlements with facilities and services sufficient for daily community needs, I am satisfied that the proposal would reinforce the sustainable settlement hierarchy and deliver a prosperous and sustainable pattern of development, as required by TTV2. Subject to securing details at reserved matters stage, it would also supply a housing mix that adds to the diversity and affordability of housing stock in the area and meet local needs.
10. For these reasons, I therefore place limited weight on the fact that the appeal proposal would provide dwellings in excess of the indicative level of new housing set out in figure 5.8. In coming to this view, I recognise that the Council was unable to demonstrate a sufficient supply of housing land when the

¹ Ref APP/Q1153/W/19/3225836

previous scheme on the site was submitted to and determined by the Council, and that the Council can now demonstrate a sufficient supply of housing land. However, the position on housing land supply changed between the Council's determination of that scheme and the subsequent appeal decision¹, which was made on the basis of the JLP and the Council having a sufficient supply of housing. I have little substantive evidence that the principle of development and its size in relation to the site's location were identified as issues at that point, and as the Council's Officer Report indicates, the principle of development was accepted then. The submitted evidence does not lead me to a different conclusion here and I have no reason to disagree with the conclusion in the Council's Officer Report that the provision of new housing in a Sustainable Village would meet the needs identified in JLP Policy TTV25. I also note that the Council indicates that it has identified a local need for affordable housing, and the appeal proposal would help to meet this.

11. For the above reasons, I conclude that the proposed development would be in a suitable location, with particular regard to the development plan and access to services and facilities. I therefore find that it accords with JLP Policies SPT1, SPT2, TTV1 and TTV2. Amongst other aspects, these set out the Council's approach to delivering sustainable development and distributing growth and development in accordance with its settlement hierarchy, support development which reinforces the sustainable settlement hierarchy and which deliver a prosperous and sustainable pattern of development, and require development to create neighbourhoods which have reasonable access to a vibrant mixed use centre, which meets daily community needs for local services.

Infrastructure contributions

12. JLP Policy DEL1 sets out, amongst other aspects, that the Council will seek to mitigate the impact of development on infrastructure through direct provision or a financial infrastructure contribution. It requires robust viability evidence to be submitted where it is contended that the planning obligations sought would render the scheme economically unviable, allowing for the social, economic and environmental benefits of the scheme to be balanced in such a scenario.
13. The ability of the appeal proposal to make financial contributions towards infrastructure, such as education and open space/recreation provision, has been subject to viability appraisal. The Council reviewed the viability information and found that a full policy compliant s106 agreement was not achievable in this case and that the maximum viable amount that could be contributed, taking account of the 30% on-site affordable housing provision, is £95,000. From the evidence before me, I have no reason to disagree with this.
14. The appellant's draft UU set out that this amount would be split between education and open space/recreation provision on the basis of £80,000 and £15,000 respectively, with the latter going towards the village hall. However, an updated UU, was submitted with the appeal and contains the full education contribution requested by the Local Education Authority. This would therefore ensure that the impact of the proposed development on education provision would be sufficiently mitigated.
15. The village hall contribution in the updated UU remains below the amount identified as necessary by the Council's Open Space, Sport and Recreation Specialist. However, given the findings of the viability appraisal and the Council's review of it, and balancing the benefits of the appeal proposal –

including providing affordable and market housing in a Sustainable Village, helping sustain local services and amenities, and enhancing or maintaining the vitality of the community – I am satisfied that the village hall contribution would be sufficient and the shortfall is justified in this instance.

16. I note that the submitted illustrative layouts show that the proposed development could also provide some public open space within the site. The UU secures the provision of this open space and further details of the publicly accessible space could be secured at reserved matters stage. While such space may not include formal play or sports facilities, the provision of public space on the site weighs in favour of the appeal proposal and supports my finding that the proposed village hall contribution, covering open space/recreation provision, is reasonable. I am satisfied that the on-site open space provision and the village hall contribution would, collectively, therefore ensure that the impact of the proposed development on open space/recreation provision would also be sufficiently mitigated.
17. For the above reasons, I conclude that the impact of the proposed development on infrastructure would be sufficiently mitigated. I therefore find that it accords with JLP Policy DEL1. The evidence before me indicates that the above obligations as set out within the Deed – covering education provision, the village hall contribution and Open Space Land – are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to it.
18. In addition to the obligations covered above, the completed UU includes an obligation securing the provision of a policy compliant amount and mix of on-site Affordable Housing. The submitted evidence indicates that this obligation within the Deed accords with the development plan, is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to it. Accordingly, and for the reasons above, I find that all the obligations in the Deed meet the tests set out in the National Planning Policy Framework (Framework) and the Community Infrastructure Levy (CIL) Regulations 2010 (as amended), and collectively constitute a reason for granting planning permission in accordance with Regulation 122 of the CIL Regulations.

Other matters

19. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such as: the effects of the proposed development on flooding, drainage and contamination, and that proposed outfall discharge point options are outside of the site boundary; the potential disruption to the water supply of existing properties; highway safety; the effect on the greenfield, countryside and agricultural character of the site; the collection and storage of waste and recycling; limited local employment opportunities; the site's location in relation to the village boundary; the availability of other land for development in the locality, including brownfield sites; previous and new development in Folly Gate and the wider area; the effect on the living conditions of adjoining occupiers; the loss of a species rich hedge; and whether local health services would be able to accommodate additional residents.
20. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal

would result in unacceptable effects in relation to any of these matters. Some of the issues raised can also be addressed at reserved matters stage while some other issues would be covered by conditions. Consequently, they do not lead me to a different overall conclusion that the appeal should be allowed.

Conditions

21. I have had regard to the various planning conditions that have been suggested by the main parties. I have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, to ensure that details are submitted to and considered by the Council where relevant and for clarity and consistency.
22. The conditions covering reserved matters are necessary to secure details of the outstanding reserved matters prior to the development proceeding. However, these conditions have been amended from those suggested by the Council in the interests of consistency, clarity and certainty. I have imposed a condition setting out the further details which need to be submitted as part of the reserved matters application. This is necessary to ensure that adequate information is available for the proper consideration of the detailed proposals. As part of this condition, I have added details relating to trees given the Council's Tree Officer comments on the planning application. I have also imposed an additional condition requiring that the development is carried out in accordance with the approved plans. This is a common and uncontroversial condition and is necessary in the interests of certainty.
23. The condition relating to local housing need and space standards is necessary to ensure that occupiers are afforded sufficient internal space and that the development provides a suitable mix of housing sizes and types to help to address any imbalance within the existing housing stock. To avoid repetition, I have also incorporated the Council's proposed condition relating to accessibility into this condition. Securing details relating to accessibility and adaptability is necessary to ensure that an acceptable number of the new dwellings are accessible and adaptable, in accordance with JLP Policy DEV9.
24. A condition relating to low carbon and renewable energy generation is necessary to ensure the delivery of low carbon development in accordance with JLP Policy DEV32. A condition relating to the delivery of an employment and skills plan is necessary to provide provisions for local employment in accordance with JLP Policy DEV19. A condition covering archaeology is necessary in order to ensure that an appropriate record is made of industrial archaeological evidence that may be affected by the development, in accordance with JLP Policy DEV21.
25. Conditions covering drainage are necessary to ensure that surface water is suitably managed in accordance with the principles of sustainable drainage systems and to ensure that both construction and the resulting development do not increase flood risk or affect water quality. A condition covering groundwater monitoring is required to confirm that the use of infiltration devices on the site is an appropriate means of surface water drainage management. Rather than including an additional condition securing details relating to the on-going operation of the permanent drainage system, I have incorporated it into the condition covering the permanent drainage scheme.

26. A condition requiring the Council's approval of details relating to the construction and laying out of various aspects of the development is necessary in order to ensure that adequate information is available for the proper consideration of the detailed proposals. A condition requiring the initial provision of safe and suitable access to the site and a site compound and parking before the remainder of construction works commence is necessary to ensure highway safety and to protect the amenities of the adjoining residents. Conditions securing the prior provision and maintenance of various amenities and access needed for the safe and suitable occupation of each dwelling is necessary in order to ensure that adequate access and associated facilities are available and retained for use by the occupiers of each dwelling. A condition requiring the closure of the existing substandard access once the new access is constructed is necessary in the interests of the highway safety.

Conclusion

27. For the above reasons, the appeal is allowed.

T Gethin

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The development hereby permitted shall commence not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan (140515 L 01 01); and Proposed Site Access (Drawing No 105).
- 4) The development hereby permitted shall be carried out in accordance with detailed drawings/documents which shall previously have been submitted to and approved by the Local Planning Authority. These detailed drawings/documents shall include the following: (a) the design and external appearance of the proposed building(s); (b) its/their siting; (c) existing and proposed site levels and proposed slab levels; (d) the materials for their construction; (e) the arrangements for the disposal of foul and surface water; (f) the means of access from public highways; (g) the areas for parking and turning of vehicles (in accordance with the Devon County Council's parking standards); (h) all other works including walls, fences, means of enclosure, screening; (i) the location, extent and layout of open space(s) and play space(s); (j) the design, layout, levels, gradients, materials, drainage, lighting and method of construction of all new roads and connection with existing roads; and (k) Arboricultural Impact Assessment,

Tree Protection Methodologies, Tree Constraints Plan and Site Monitoring Schedule.

- 5) Prior to the commencement of the development hereby permitted, details which demonstrate that the development meets local housing need in terms of addressing the imbalance within the existing housing stock, meets the National Described Space Standards and that at least 20% of the dwellings hereby approved meet with Category M4(2) of the Building Regulations shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and provided prior to the occupation of the development.
- 6) Prior to the commencement of the development hereby permitted, it shall be demonstrated that the major development shall incorporate low carbon or renewable energy generation to achieve a regulated carbon emissions levels of 20% less than Building Regulations Part L. The development shall be carried out in accordance with the approved details and maintained thereafter.
- 7) Prior to the commencement of the development hereby permitted, full details of how the development will deliver an employment and skills plan to support local employment and skills in the construction industry shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the commencement of development hereby permitted, the detailed design of the proposed surface water drainage management system which will serve the development site for the full period of its construction shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. This temporary surface water drainage management system must satisfactorily address both the rates and volumes, and quality, of the surface water runoff from the site during the construction works.
- 9) Prior to the commencement of development hereby permitted, the detailed design of the proposed permanent surface water drainage management system and full details of its adoption and maintenance arrangements shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The application for the detailed drainage shall be submitted and agreed at the same time that the reserved matters for layout are submitted and agreed. The design of the permanent surface water drainage management system will be in accordance with the principles of sustainable drainage systems and those set out in the Land at Folly Gate Okehampton EX20 3AD Flood Risk Assessment and Drainage Strategy Report (Report Ref. 17014, Rev. A, dated September 2017), and shall be informed by the groundwater monitoring programme covered in condition 10 of this permission. No part of the development shall be occupied until the surface water management scheme serving that part of the development has been provided in accordance with the approved details and the drainage infrastructure shall thereafter be retained and maintained for the lifetime of the development.
- 10) Prior to the commencement of development hereby permitted, full results of a groundwater monitoring programme, undertaken over a period of 12 months, shall be submitted to and approved in writing by the Local Planning

Authority, in consultation with Devon County Council as the Lead Local Flood Authority. The monitoring should be conducted to provide adequate coverage of the site, with particular focus placed on the locations and depths of the proposed infiltration devices.

- 11) No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.
- 12) The proposed estate road, cycleways, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, road maintenance/vehicle overhang margins, embankments, visibility splays, accesses, car parking and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections indicating, as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
- 13) No other part of the development hereby permitted shall commence until:
 - A) The access road has been laid out, kerbed, drained and constructed up to base course level for the first 20 metres back from its junction with the public highway.
 - B) The ironwork has been set to base course level and the visibility splays required by this permission laid out.
 - C) A site compound and car park have been constructed to the written satisfaction of the Local Planning Authority.
- 14) The occupation of any dwelling in an agreed phase of the development shall not take place until the following works have been carried out to the written satisfaction of the Local Planning Authority:
 - A) The cul-de-sac carriageway including the vehicle turning head within that phase shall have been laid out, kerbed, drained and constructed up to and including base course level, the ironwork set to base course level and the sewers, manholes and service crossings completed;
 - B) The cul-de-sac footways and footpaths which provide that dwelling with direct pedestrian routes to an existing highway maintainable at public expense have been constructed up to and including base course level;
 - C) The cul-de-sac visibility splays have been laid out to their final level;
 - D) The street lighting for the spine road and cul-de-sac and footpaths has been erected and is operational;
 - E) The car parking and any other vehicular access facility required for the dwelling(s) permitted by this permission has/have been completed;
 - F) The verge and service margin and vehicle crossing on the road frontage of the dwelling have been completed with the highway boundary properly defined; and
 - G) The street nameplates for the spine road and cul-de-sac have been provided and erected.

- 15) When once constructed and provided in accordance with conditions 12, 13 and 14, the carriageway, vehicle turning head, footways and footpaths shall be maintained free of obstruction to the free movement of vehicular traffic and pedestrians and the street lighting and nameplates maintained to the satisfaction of the Local Planning Authority.
- 16) The existing access shall be effectively and permanently closed in accordance with details which shall previously have been submitted to and approved by the Local Planning Authority as soon as the new access is capable of use.

END OF SCHEDULE