



Appeal Decision

Site visit made on 7 July 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Appeal Ref: APP/Q1153/W/25/3359861

Development Site At Sx 571 979, Folly Gate

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of an outline planning permission.
 - The appeal is made by Belfield Developments Ltd against the decision of West Devon Borough Council.
 - The application Ref 2143/24/ARM sought approval of details pursuant to condition No 1 of planning permission reference APP/Q1153/W/21/3273815, granted on appeal on 27 September 2021.
 - The application was refused by notice dated 10 October 2024.
 - The development proposed is 10 new houses (6 affordable, 4 open market).
 - The details for which approval is sought are: access, appearance, landscaping, layout & scale.
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Decision

1. The appeal is allowed and the reserved matters are approved, namely access, appearance, landscaping, layout and scale, submitted in pursuance of condition No 1 attached to planning permission APP/Q1153/W/21/3273815, dated 27 September 2021, subject to the conditions in the schedule below.
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans:

Site Location Plan Ref PL01, Proposed Site Plan Ref PL03 Rev G, Surfaces Plan PL05 Rev C, Refuse Plan PL06 Rev C, Parking Plan PL07 Rev C, Highway Strategy Plan 8710 P02, 1892-PL10 Rev C HT2 Bed Plans and Elevations, 1892-PL11 Rev B HT3 Bed Plans and Elevations, 1892-PL12 Rev C HT4 Bed Render Frontage Plans and Elevations, 1892-PL13 Rev C HT4 Bed Brick Frontage Plans and Elevations, 35379BPC XX XX DC 8600 Rev P01 External Works Strategy Plan, Tree Constraints Plan TCP Folly Gate November 2024, Landscaping Proposals CLD832/01.
 - 2) Notwithstanding the details shown on the submitted plans, prior to the construction of the dwellings hereby approved, details and/or samples of the materials to be used in the construction of the external surfaces of the dwellings and boundary walls shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Applications for costs

2. An application for costs was made by the appellant against the Council. This application is subject of a separate decision.

Preliminary Matters

3. A number of revised plans were submitted during the course of processing the appeal application which the Council did not accept or consult upon. The same plans have been submitted for consideration with the appeal. Where amendments are proposed, regard should be had to the principles established in *Holborn Studios*¹ - including whether the amendments would materially alter the nature of the application and whether anyone who should have been consulted on the changed development would be deprived of that opportunity. As the plans detail minor amendments or provide supplementary detail, and the nature of concerns of those who would have been consulted are clear from responses in the evidence, I do not consider that their interests would be prejudiced if I take the amended plans into account. I shall therefore determine the appeal on the basis of the relevant plans referred to on the decision notice, as well as the revised plan submitted with the appeal with exception of the materials plan, for the reasons outlined below.

Main Issues

4. The main issues are:
 - whether the proposal would make a positive contribution to local housing needs;
 - whether the site area would be appropriately divided between the open market and affordable housing tenures;
 - whether the design of the scheme would be adequate, having regard to layout, appearance, landscaping and distinguishability of tenures;
 - the effect of the proposal on trees.

Reasons

Housing needs

5. The concern raised by the Council is that the open market component of the scheme, representing 40% of the total with 4 units, each of 120sqm, is not sufficiently mixed to respond positively to a local housing need. The more mixed 2, 3 and 4 bedroom affordable units are not subject of the same criticism.
6. Policy DEV8 of the *Plymouth and South West Devon Joint Local Plan 2014 – 2034 (adopted 2019)* (JLP) seeks to deliver a wide choice of high quality homes which widen opportunities for home ownership and create sustainable, inclusive and mixed communities. DEV8 advises that needs across the plan area include homes that redress an imbalance in the housing stock and homes suitable for households with specific needs. There is also a need for dwellings suited to younger people, working families and older people who wish to remain self-sufficient.
7. The accompanying guidance to the JLP is set out in the *Plymouth and South West Devon Joint Local Plan Supplementary Planning Document (2020)* (SPD). In respect of Policy DEV8, the justification touches on the high proportion of 4 or more bed homes in South Hams and West Devon compared to the rest of Devon and Cornwall, with also a high number of under-occupied properties, with around 35 per cent of homes having at least two spare bedrooms. The SPD also notes the ability for a room to be dedicated to homeworking. As a means to consider the

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823

appropriateness of the response to local housing needs, the SPD urges reference to the existing stock and local needs demographics from the latest census data. Reference is also made to viability and market signals being taken into account in the negotiation of appropriate mixes for schemes of 5 units or more.

8. The evidence presented by the Council in its Officer Report from the 2021 census data for the parish of Inwardleigh indicates a large number of households of up to 3 members and a relatively high rate of bedroom under-occupancy. In response, the appellant's evidence suggests that there is limited data on the housing stock and that the 2021 Census data also reveals a considerably higher number of households comprising of four or more people in Inwardleigh, totalling 21.6% of households, compared to 16.2% of households in West Devon and 19.9% of households in England. This fact is relied upon to suggest that the higher than average number of larger households translates to a need for larger properties within the area. The appellant also presents the Parish Profile data collated by the Council which shows that of the 13 affordable rented properties that were turned over between Jan 2019 and Sept 2022, there were 96 bids on the 4 bed house, 35 bids on the 2 bed and 17 on the 3 bed. The parish data also sets out there are 13 applicants on the Devon Home Choice register for the parish with a local connection through residence.
9. I do not dispute that the provision of smaller dwellings helps to encourage churn within the housing stock and enable entry-level access. However, as a small scheme with only 4 open market units, the scale and viability considerations constrain the ability of the scheme to meaningfully contribute to this broader objective. The evidence of an existing imbalance is limited and in this context, the delivery of only 4 open market houses with in-built flexibility for homeworking would not materially exacerbate this issue.
10. Taken as a whole, the scheme will deliver 2, 3 and 4 bed houses with both market and discount sale tenures which will feed into the wider objective of JLP Policy DEV8 to deliver a wide choice of high quality homes and create sustainable, inclusive and mixed communities.

Site area

11. The outline scheme originally allowed on appeal confirmed that the tenure split would be at the maximum 40% open market housing to 60% discount sale, albeit the layout was not detailed at that stage so the land take split between the tenures was not known. Policy TTV27(2) requires that open market housing should not represent more than 40% of the homes or 40% of the land take excluding infrastructure and services (my emphasis). Whilst the Policy appears to infer an either/or scenario, the SPD clarifies that 40% is the maximum permissible amount of open market housing, both in terms of the number of units and site area (my emphasis).
12. In its stipulation that infrastructure and services are to be excluded from the calculation of the land take, Policy TTV27 appears to infer reference to net developable area (NDA) rather than gross site area. The Council's focus on percentages of NDA supports this assumption despite the absence of specific clarity in the Policy or SPD. The SPD actually focusses more on the percentage split of tenures as opposed to the land take division requirements.

13. When drawn together, the open market component represents 46% of the NDA compared to the 34% of the affordable housing component. So, whilst the outline was granted on the basis of compliance with TTV27 insofar as the 60/40 tenure split is concerned, the technical details of the scheme indicate a degree of conflict through a 6% exceedance in relation to the maximum 40% land take requirement of the Policy.

Suitability of design and distinguishability of tenures

14. The size of the open market units and land take differences in comparison with the closer grouped affordable units will contribute, to a degree, in the ability to distinguish the difference in tenures. That said, the Council has confirmed that the affordable housing mix is acceptable to best relate to the current identified needs so I do not regard the inclusion of a single four bed affordable unit or its garden size as tokenistic.
15. In broad terms, the layout, scale, appearance of the individual dwellings and landscaping are acceptable in the context of a small scale cul-de-sac scheme which already has established external boundaries and an edge of village context. The scheme is small scale which limits the ability to create a coherent scheme which widens the choice of housing in an economically viable way. Any material alterations to the scheme that increase the values of the discount sale affordable dwellings would make them less attainable to future purchasers. However, the distribution of the different tenures within the scheme is relatively blended and the positioning of the open space would help to engender community cohesion.
16. In terms of whether the access junction and estate road with a footway on one side are overly engineered and suburban for a village which is largely devoid of footways, I do not equate this to a harm. The junction would allow retention of the existing trees and frontage vegetation. The footway's lack of connectivity to other footways extending beyond the access point is a bit of an oddity and renders it of limited use, but internally, the extra set back that it would afford plots 7, 8 and 9 from the carriageway would be beneficial to those residing in those dwellings.
17. In terms of the use of timber boarding as a boundary feature, there is clearly no issue with it being used to divide rear gardens and where such is largely out of public view. However, where large lengths of it would divide public from private areas it would appear poor quality and overly suburban. This would be the case for the linking sections between plots 1, 2, 3, 6 and 7 where timber boarding would demark the separation of gardens from parking areas facing the street. It is evident that a different approach was intended for plots 4 and 5 which are linked by a more substantial frontage boundary but divided by timber fencing to the rear.
18. In terms of the use of other materials in the scheme, I do not agree that a rough rendered finish would be out of context with the area, but the use of red brick on the frontages of two dwellings would be a questionable choice given that its use elsewhere in Folly Gate is limited to plinths and detailing around windows. There is also some ambiguity as to whether the brick walls are to be of the same red brick type as the house frontages, or another brick type entirely. Whilst there are areas of a softer blush-red brick on the newer housing scheme in Folly Gate and the submitted plans infer a softer hue with textured finish, it would be unwise to assume that a high quality finish would result without further detail being provided.

19. The use of natural slate roofs would be desirable but it would not be completely out of character for Folly Gate to have a synthetic slate/tile. The village contains dwellings displaying a variety of materials and which particular examples found locally have influenced the choice for the scheme could be further clarified. Given that appearance is one of the subject matters for approval and notwithstanding the submitted materials information, a condition could be added to seek revised and supplementary details on the material treatment of the scheme which would benefit from closer attention to detail, i.e. including roofing materials.
20. In terms of the landscaping proposals, the retention of the existing established boundaries is a key objective of the scheme that will help limit the impact of the new two storey dwellings. The central public open space will be relatively open with a small planted area to provide a focal point at the main turning head and will encourage its wider use. Otherwise, the landscaping scheme is limited to small areas of hedging, planting and a modest number of new trees given the limited scale of the scheme. It is proportionately low key, not unlike the varied front landscaped spaces found locally and will at least contribute to softening the interior of the scheme.
21. In conclusion, there are some areas which would have benefited from refinement to achieve a high quality and 'beautiful' development as per the aspiration of the National Planning Policy Framework² (the Framework). A planning condition could be used to address the materiality aspects to better assimilate the scheme with the host settlement. Thus, subject to a further materials condition, I find that the design of the scheme would be adequate, having regard to layout, appearance, landscaping and distinguishability of tenures in compliance with, in particular, Policies STP1, DEV10, DEV20 and DEV23 of the JLP which collectively seek to ensure that development is designed to be integrated with the pattern of local development and surroundings in terms of matters such as style, local distinctiveness, siting, layout, orientation and visual impact etc.

Effects on trees

22. The layout plan shows the rear fences of the gardens inset from the retained hedgerow trees by 3 metres and the trees are protected by a tree preservation order (TPO). The Council has confirmed that its original concern about the root protection areas (RPAs) not having been correctly plotted has since been addressed through an updated plan. However, the concern about the proximity of the terrace of dwellings at plots 7, 8 and 9 to retained tree T18 still remains, particularly given the modest size of the garden for plot 8 and degree to which the Council anticipate it would be shaded.
23. The appellant's evidence suggests that the shading effects would be more notable for plot 7, though little additional detail has been provided as to what day and time the shading effects have been modelled on. It also appears that the canopy would overhang the garden of plot 8 which would result in leaf litter effects.
24. The Council has confirmed that the garden for plot 8 would be technically appropriately sized for a terraced dwelling. The appellant's evidence goes on to state that even though not strictly necessary, sympathetic target pruning would allow for an increase in light levels through the crown without altering its overall shape if the shading level were considered unacceptable. Irrespective of rights that

² Paragraph 131

may exist to allow pruning of trees that overhang third party property, the TPO places the control with the Council in any event.

25. Drawing the above together, for a scheme that has placed tree retention as a high priority, I consider that the proximity of at least plots 7 and 8 to retained tree T18 would be likely to result in a pressure for it to be pruned more regularly than would be the case if the layout had taken appropriate account of this constraint. For the foregoing reasons, the proposal raises a degree of conflict with Policy DEV28 of the JLP which seeks to development should be designed so as to avoid the loss or deterioration of woodlands, trees or hedgerows.

Other Matters

26. I have considered the representations which indicate that there is a boundary discrepancy that is refuted by the appellant. This is not a matter for resolution as part of this planning appeal.
27. It is suggested that there is an issue with sewerage infrastructure in the area of which little evidence has been submitted. However, the outline permission establishes the principle of development for a 10-dwelling scheme on the appeal site which the current reserved matters proposal would not alter.
28. The other matters raised by objectors in connection with design considerations have been taken into account in my assessment of the scheme.

Planning Balance

29. The appellant's evidence suggests that the Council can only demonstrate a housing land supply position of 2.53 years compared to the minimum five year supply with relevant buffer as required by the Framework. The Council's Statement refers to the benefits of the development being significantly and demonstrably outweighed by the harms when applying the 'tilted balance' (sic). This infers an acceptance of the engagement of paragraph 11 d) of the Framework through the deficiency in the Council's housing land supply. The magnitude of the shortfall is therefore around 50% of the area's needs and the decision should be made in the context of such a shortfall and as required by paragraph 11 d) of the Framework. In this case, there are no areas or assets of particular importance that provide a strong reason for refusal under the terms of the Framework.
30. The benefits of the scheme include the provision of the 10 dwellings of mixed tenures which were originally granted on appeal in 2021. Dismissal of the scheme will result in at least significant delays in the delivery of housing on the site given that the outline consent has since expired and would place the Council 10 dwellings further from demonstrating a five year supply. Furthermore, the actual rather than theoretical implementation of the scheme would achieve the economic boost to the area from both the construction phase and longer-term occupation of the new dwellings that also attract modest weight in the overall balance.
31. Having considered the nature and extent of the policy conflicts, I am not of the view that the scheme conflicts with the development plan when taken as a whole. Nonetheless, even if it did, the totality of the identified harms still do not significantly and demonstrably outweigh the benefits of the scheme.

32. Thus, the presumption in favour of sustainable development indicates that a decision should be granted other than in strict accordance with the development plan in this case.

Conditions

33. The Council suggested that a condition should be imposed requiring adherence to the plans in the event that permission were granted. Such a condition is necessary in the interests of certainty. However, I also consider it necessary to impose a condition in relation to material details, for the reasons outlined above.

Conclusion

34. For the foregoing reasons, the appeal is allowed.

H Nicholls

INSPECTOR