



Appeal Decision

Site visit made on 16 August 2022

by C Cresswell BSc (Hons) MA MBA MRTPI

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

Decision date: 13 September 2022

Appeal Ref: APP/K1128/W/22/3297901

Dorsley Cottages, Totnes TQ9 6DL

- 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 Zav Bowden against the decision of South Hams District Council.
 - The application Ref 3377/21/OPA, dated 1 September 2021, was refused by notice dated 29 October 2021.
 - The development proposed is described as 'new dwelling in garden of existing dwelling'.
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Decision

1. The appeal is allowed and outline planning permission is granted for a development described as 'new dwelling in garden of existing dwelling' at Dorsley Cottages, Totnes TQ9 6DL in accordance with the terms of the application, Ref 3377/21/OPA, dated 1 September 2021, subject to the conditions set out in the Schedule at the end of this Decision.

Procedural Matter

2. The application was made in outline with all matters, except access, reserved for future determination. I have considered the appeal on that basis.

Main Issue

3. The main issue is the effect of the proposal on highway safety.

Reasons

4. The appeal concerns an area of land associated with No 2 Dorsley Cottages. These cottages are accessed by a driveway which links onto a public bridleway (described in the appeal documents as Jackman's Lane). This, in turn, provides vehicular access onto Plymouth Road.
5. The most direct way for pedestrians to walk into the centre of Totnes from Dorsley Cottages is along Plymouth Road. This is one of the main routes into the town and carries a relatively high volume of traffic. Although there is some dispute between the parties concerning the exact volume and speed of traffic in the proximity of the Jackman's Lane junction, my own observations lead me to conclude that it is not particularly easy to walk along Plymouth Road in the vicinity of Dorsley Cottages. The road is narrow, there are no pavements and there is little room to accommodate pedestrians as well as vehicles. In my view, future occupiers of the proposed development would find walking into Totnes along this part of Plymouth Road uncomfortable.

6. My attention has been drawn to some alternative routes into the town centre from Dorsley Cottages. Yet while these may bring pedestrians into less conflict with busy traffic, they are not especially attractive options for future residents, especially those who are less mobile. Apart from being longer and steeper than the Plymouth Road route, they involve walking on unlit and occasionally isolated sections of road, some of which are not fully tarmacked.
7. In reality, it seems to me that future occupiers of the proposed dwelling would most probably drive into town to access local services and, consequently, the proposal would be unlikely to compromise pedestrian safety. Although the site is not in an optimal location to maximise opportunities for walking or using public transport, it is nonetheless a short drive into town and so the impact of the development on carbon emissions would be limited.
8. As future occupiers of the proposed dwelling would be likely to drive, there would inevitably be increased use of the junction where Jackman's Lane meets Plymouth Road. I saw on my visit that when emerging from Jackman's Lane onto the main road, there is poor visibility in both directions and so drivers need to be especially vigilant to avoid pulling out in front of traffic. It is for this reason that the Council argue that more intensive the use of the junction would increase the probability of accidents occurring.
9. The appellant has proposed a change to the junction which would involve moving the existing 'give way' line slightly forward. Although the change would be minor, it would allow drivers emerging from Jackman's Lane a slightly better view up and down Plymouth Road than exists at present. While the visibility in each direction would fall short of the standard being recommended by the highway authority, it would nonetheless represent an improvement.
10. I am informed that heavy goods vehicles travelling along Plymouth Road occasionally pull into the Jackman's Lane junction to pass each other. Yet while the proposed give way line would invite drivers in Jackman's Lane to move further out into passing traffic than they do at present, the potential for conflict with heavy goods vehicles would be low. Given the nature of the junction, drivers in Jackman's Lane would need to approach the new give way line slowly and so should be able anticipate if large vehicles were about to pass in front of them. Furthermore, Jackman's Lane is little more than a track and the volume of traffic using the junction is likely to remain very low, even taking account of any additional vehicles from the proposed development. Instances where heavy good vehicles pull into the junction at the same time vehicles in Jackman's Lane approach Plymouth Road would be quite rare.
11. Apart from No's 1 and 2 Dorsley Cottages, I understand that Jackman's Lane is also used to access other properties, including Follaton Lodge. Therefore, if the junction were to be altered as proposed, future occupiers of the new dwelling would not be the only road users to benefit from improved visibility of the traffic on Plymouth Road. While the extra dwelling would intensify use of the junction, the additional traffic generated from a single household is unlikely to be substantial. Hence, if the proposal were to deliver the anticipated junction improvements, it would be of overall net benefit to highway safety.
12. Nonetheless, I am mindful that responsibility for any junction improvements lies beyond the control of the appellant. One issue is that visibility to the east depends on there being open views across Follaton Lodge. Although the view remains open at present, there can be no certainty that it will remain this way

in perpetuity. However, even if visibility to the east were to be obstructed in the future, the proposed junction alteration would still improve views of traffic approaching the junction from the west. Whilst not entirely satisfactory, it would nevertheless represent some improvement from the current situation. An overall net benefit to highway safety would be achieved.

13. If a planning condition were to be imposed to facilitate the proposed alterations to the junction, it would need to take the form of a 'Grampian' condition. Such conditions are negatively worded to prohibit development activity until some specified action takes place, in this case the proposed changes to the junction. The condition would also require work on land that is controlled by the highway authority rather than the appellant.
14. According to the Planning Practice Guidance¹ it is not appropriate to use Grampian conditions where there are 'no prospects at all' of the action being performed by the time limit imposed by the condition. While I am aware of the objections that have been raised, it seems to me that there is some prospect of further dialogue between the appellant and highway authority in light of my findings above. Therefore, as any dialogue would take place between the appellant and a public body, I would consider it appropriate to impose a Grampian condition in this particular case. In my view, such a condition would meet the six tests set out in paragraph 56 of the National Planning Policy Framework insofar as it would be necessary, enforceable, precise, reasonable and relevant to the development and planning.
15. I therefore conclude that, subject to conditions, the proposal would have an acceptable effect on highway safety. There would be no conflict with Policies DEV10 and DEV29 of the Plymouth and South West Devon Joint Local Plan 2014-2034, which promote highway safety and accessibility.

Conclusion and Conditions

16. I have imposed the standard requirement for further details to be approved before development takes place, together with standard time limit conditions. For clarity, there is also a condition that requires compliance with the plans. To ensure adequate drainage there are conditions relating to the management of surface water and, in the interests of the environment, a condition that requires an energy efficient form of development. As covered above, there is also a condition that requires the proposed junction improvements to take place prior to occupation of the dwelling. I am aware that the highway authority has objected to the type of line shown on the indicative plans and so, to enable flexibility, have not referenced these plans in the condition.
17. For the reasons given above, the appeal is allowed.

C Cresswell

INSPECTOR

¹ 'Use of Conditions' Paragraph: 009 Reference ID: 21a-009-20140306.

Schedule of Conditions

- 1) Details of the access, 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.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan TPG-63-P-300.
- 5) Concurrent with the first reserved matters application, it shall be demonstrated that the development shall incorporate low carbon efficiency and/or renewable energy generation measures, including water efficiency and recycling measures, with such details being approved in writing by the Local Planning Authority. No development shall commence until such details are approved and the development shall be carried out in accordance with the approved details and maintained thereafter.
- 6) 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. The 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. The development shall be carried out in accordance with the approved details.
- 7) 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. 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.
- 8) No development shall commence until details of improvements to the junction of Jackman's Lane and Plymouth Road have been submitted and have been agreed in writing by the highway authority. These improvements should be implemented before the development is occupied.