

Application Number

P/2016/0772

Site AddressLand To The Rear Of Broadway
Dartmouth Road
Brixham**Case Officer**

Mr Alexis Moran

Ward

Churston With Galmpton

Description

Removal of condition re P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Condition 3 - Traffic calming measures.

Update

It was agreed at the DMC on 14.11.2016 that this application should be deferred in order for the Council to obtain additional professional advice from its transport consultants. The Council has now received the relevant report. The conclusion is that there is no doubt that a right turn lane would provide benefits, however the scale of development is such that a severe impact is not anticipated and it is not essential for the right hand turn lane to be provided.

The consultants' report refers to information submitted by the applicant that states the current access has limited vehicular demand with 2 or 3 vehicle movements per hour at morning and evening peak times.

The addition of the 10 residential units would generate in the order of 7 two way movements in the morning and evening peak hour. The expected vehicle movements which would use a right turn lane in any one hour are 3 or 4, which is considered to be low.

Traffic flows on the A3022 (Dartmouth Road) in 2016 are estimated to be in the order of 2,020 vehicles in the morning peak hour with 56% travelling towards Paignton. This equates to 889 vehicles towards Brixham and 1,131 vehicles towards Paignton in the morning peak.

Using PICADY software the junction was assessed assuming a worst case scenario of 10 vehicle per hour turning right into the development from the north. The results of this gave an average delay of 4 seconds, an average queue of 0.12 vehicles and Ratio of Flow to Capacity of 7%. This demonstrates that there would not be a capacity issue from vehicles performing a right hand turn manoeuvre.

Therefore, given the low number of vehicle movements, it is not considered that the development will present a severe impact on congestion in the A3022.

With regards to safety, there is no history of personal injury collision at the access. A collision issue has been raised along this stretch of Dartmouth Road with five collisions over a six year period (2011-2016) as a result of right turn manoeuvres. The addition of a right hand turn lane would remove right turn vehicles from ahead traffic and therefore reduce the likelihood of rear shunts.

A collision data review was undertaken by the Council's transport consultant which identified that there is a significant amount of vegetation on the west side of the carriageway in advance of the access, reducing visibility. The developer has agreed to dedicate the land and remove vegetation to improve the visibility splay to 70m on the western side of Dartmouth Road. However Design Manual for Roads and Bridges (DMRB), which is used in determining visibility splay requirements, states that a splay of 90m is required.

The report states that a more proportionate scheme than that proposed under Condition 3 of P/2015/0097 may be to provide adequate road markings and signage on the Dartmouth Road to indicate the presence of the side road. In addition it states that a financial contribution should be paid for the Council to maintain the visibility splay, or measures to ensure that the developer keeps the visibility splay unobstructed. It is your officers' view that the most effective way to ensure that the visibility splay remains unobstructed is for that area to be dedicated as highway (the applicant has agreed to this) and the Highway Authority assumes responsibility for its future maintenance. In this event, a £5000 contribution towards future maintenance costs will be required.

In order for the access to be acceptable in safety terms the small scale improvements to road markings and signage should be secured, this will require a financial contribution of £2000.

In conclusion the report states that given the limited number of expected traffic movements it is not considered that the development will present a severe impact on safety or capacity. Although there is no doubt that a right turn lane would provide benefits, the scale of the development is such that a severe impact is not anticipated. As such the condition may not be considered proportionate to the development by a Planning Inspector.

The Councils strategic highways officer has responded to the highway consultants' report. He notes that bullet point 2 of paragraph 32 of the NPPF states that "safe and suitable access to the site can be achieved by all people" stands alone and that measures to reduce highway hazards, proportionate to the application are required. It is considered that the measures suggested by the highways consultant (which they have recommended would result in the junction being safe), are suitable and proportionate.

Updated Recommendation

That the removal of condition 3 of outline application P/2015/0097 is approved subject to

- i. the clearance, replanting and subsequent dedication of the visibility splay prior to the first occupation of any of the dwellings
- ii. a s.106 obligation to tie the amended permission to the planning obligation entered into in respect of permission P/2015/0097
- iii. a s.278 agreement to secure financial contribution of £2,000 for improvements to road markings and/or signage and £5,000 towards the future costs to the Highway Authority of maintaining the visibility splay.

Executive Summary/Key Outcomes

The application seeks permission for the removal of condition 3 of outline application P/2015/0097 for the development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Condition 3 requires the developer to enter into a Section 278 Highways Agreement in order to provide a right hand filter land to the site and other road calming measures.

The condition was considered necessary to provide a safe access to the site and to ensure that the additional vehicle movements associated with the development would not cause additional congestion or road safety issues to the Major Road Network (A3022 Dartmouth Road).

The Council could also have requested a contribution from the applicant via a Section 106 agreement and then carried out the works. However in this instance, given the specificity of the requirements being directly linked to the site, a S278 Highways Agreement was considered to be the most appropriate method available.

Consultation responses from the Highways Officer and from Strategic Transport advise that the removal of Condition 3 would not be acceptable. The removal of Condition 3 would be contrary to the requirements of Policy TA2. This Policy requires developments to provide appropriate accessibility and safety, and to satisfy the transport needs of the development.

The applicant has stated that there have been no accidents in this area in the last 5 years. However the Council's Highways Engineers report that there were two reported collisions in the last 4 years on the junction entering the Weary Ploughman and one collision earlier this year exiting the Weary Ploughman.

The Major Road Network in the vicinity of the site is congested and has been projected to exceed capacity by 2018. Without the highway works required by Condition 3 the additional vehicular movements to the site resulting from the residential development, in addition to those from the existing pub, station and sports fields, would cause an increase in congestion to all users of the Major

Road Network and be detrimental to the safety of all road users.

The proposal for the removal of Condition 3 is not therefore considered to be acceptable.

Recommendation

Refusal for the following reason:

The Major Road Network in the vicinity of the site is congested and has been projected to exceed capacity by 2018. The consultation comments from Highways and Strategic Transport suggest the removal of Condition 3 will cause an increase in congestion to all users of the Major Road Network as a result of the cumulative effect of the current and future vehicular movements and would therefore be contrary to the requirements of Policy TA2 of the Torbay Local Plan 2012-2030 and Paragraph 32 of the NPPF.

Target Date

The date for determination of this application is 13.10.2016.

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House. Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station and some small industrial units to the south. The site is within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Bunting. A Tree Preservation Order covers the east and north boundaries of the site. To the west boundary the land is designated as an Area of Great Landscape Value (AGLV). The site area measures 0.27 hectares.

The site is located within the Churston Village Envelope in the Torbay Local Plan 2012-2030. This identifies it as an area which could provide appropriate levels of housing provided that it would be in keeping with the density and character of the area.

Detailed Proposals

The application seeks the removal of condition 3 of outline application P/2015/0097 (for the development of up to 10 dwellings and associated infrastructure with all matters reserved other than access). Condition 3 is as follows:

“Prior to the commencement of development a Section 278 Highways Agreement shall be entered in to, in order to secure the necessary works to the public highway. Unless otherwise agreed in writing with the Council the 278 works shall include work to Dartmouth Road to form a right turn filter lane to the site including road calming measures. This shall include detail of materials and finishes to be used. The works shall then be implemented prior to the occupation of the first dwelling.

Reason: In order to ensure a suitable form of development in accordance with Policies TS, T1, T2, T3, T18, T22 and T26 of the Saved Adopted Torbay Local Plan 1995-2011."

The above Policies in the justification for the addition of Condition 3 are the equivalent of Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

Summary Of Consultation Responses

Highways Officer - Highways could not support removal of this condition as it would conflict with the highway authority's programme of implementing right turn facilities along this section of the A3022 to remove congestion. A Section 278 Agreement is the normal procedure for a developer to undertake improvements upon the public highway and it is recommended that this requirement remains.

With regard to collisions there have been three slight injury collisions (01/12, 07/13 and 04/16) listed turning into/out of the Weary Ploughman and three slight injury collisions (06/14, 09/15 and 09/15) turning into or out of the petrol filling station immediately to the south of the site.

I feel that the request for the creation of space to allow a dedicated right turn facility to serve the new development should remain in the Planning Conditions.

Strategic Transport - It appears that concerns were raised about application P/2015/0097 in highway terms. In order to overcome these, condition 3 was added to permission P/2015/0097 to ensure an improved visibility splay and road demarcation to allow vehicles to turn right into the site, and right out of the site towards Brixham.

The proposal would not be acceptable in highways terms without these measures. There would be no objection to the condition being amended to remove the explicit reference to the applicant entering in to a S278 agreement, and merely require the works to be carried out at the commencement of development and completed prior to the occupation of the first dwelling. However, a S278 Agreement is the usual way that such highways works would be secured.

Summary Of Representations

One letter of support from Churston Grammar School has been received.

Relevant Planning History

P/2016/0206 - Submission of Reserved Matters relating to layout, in relation to P/2014/0687 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access). Approved 30.06.2016.

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved by Development

Management Committee on 13.10.2014.

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues/Material Considerations

The key issue to consider is whether the removal of Condition 3 would have an impact on highways safety and/or congestion and whether the application for the additional dwellings would be acceptable without this condition.

The outline application P/2015/0097 considered the impact the development of the access and the additional usage would have on the highway. The previous consultation responses suggest that the access would require improvements in order to be sufficient to allow for new residential development. These improvements include the addition of a right turn lane off Dartmouth Road and suitable road demarcations to allow safe right turns from the development.

In order to ensure the works are undertaken it was deemed necessary that the developer enters into a section 278 agreement with the Council.

Policy TA2 of the Torbay Local Plan 2012-2030 states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development.

Schemes which require new access to/from the highway network will be supported where they:

- *Provide vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility;*
- *Maintain an acceptable network capacity or provide suitable mitigation for any negative impact on capacity;*
- *Are essential to access the schemes and can demonstrate significant environmental, safety or economic benefits; and*
- *Do not impact on the wider network, by causing/adding to congestion for example.*

In particular, the Policy states that new access points to the Major Road Network (which includes Dartmouth Road), will not be permitted where there is an impact on road safety, or severe impact (including cumulative effects) on the function and operational efficiency of the Networks. The proposed access for the development is on to a consistently busy part of the Major Road Network.

Condition 3, and the details within it, is considered necessary to ensure that works are undertaken to provide an improved visibility splay, road demarcation to allow vehicles to turn right into the site, and right out of the site, towards Brixham.

Thus improving safety for road users and reducing congestion.

The applicant has submitted further information relating to the potential to provide a suitable visibility splay. However this does not overcome the requirement for the right hand lane in order to reduce congestion to all road users and to provide a safe access to the site.

The applicant suggests that the junction works well in its current format and that the additional vehicular journeys would not cause an increase in congestion or traffic safety. The applicant also states that there have been no accidents in the last 5 years. However there are recordings of two collisions listed turning into the Weary Ploughman (01/12 and 07/13) as well as another collision involving a car being struck by a vehicle exiting the Weary Ploughman (04/2016). Bearing this in mind the addition of the right hand turn lane into the junction is considered necessary and the removal of Condition 3 would be detrimental to the safety of all road users in this location.

The Major Road Network in the vicinity of the site is congested and has been projected to exceed capacity by 2018. The consultation comments from Highways and Strategic Transport suggest the removal of Condition 3 will cause an increase in congestion to all users of the Major Road Network as a result of the cumulative effect of the current and future vehicular movements and would therefore be contrary to the requirements of Policy TA2.

Bearing these points in mind the proposal to remove Condition 3 is considered to be unacceptable. Without the highways works included in the condition, the additional usage of the access for entry and egress would result in an increase in congestion to the Major Road Network and would have a detrimental impact on road safety by increasing the number of vehicle turning movements taking place across the flow of traffic.

Paragraph 206 of the NPPF states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

The addition of Condition 3 is deemed to meet the requirements of Paragraph 206 of the NPPF insofar as the works are necessary to provide a suitable access to the development in order to improve road safety and minimise congestion to this part of the Major Road Network.

Conclusions

The proposal to remove condition 3 is not considered to be appropriate, having regard to all national and local planning policies and all other relevant material considerations.

Relevant Policies

