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## Appeal Decisions

Hearing Held on 5 November 2019

Site visit made on 5 November 2019

**by J Ayres BA Hons, Solicitor**

an Inspector appointed by the Secretary of State

**Decision date: 23 December 2019**

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### Appeal A

**Appeal Ref: APP/N3020/W/19/3222258**

**22 Kighill Lane, Ravenshead NG15 9HN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Devaney against the decision of Gedling Borough Council.
  - The application Ref 2018/0727, dated 16 July 2018, was refused by notice dated 12 October 2018.
  - The development proposed is construction of 6 residential units with associated garages and new private drive.
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### Appeal B

**Appeal Ref: APP/N3020/W/19/3232090**

**22 Kighill Lane, Ravenshead NG15 9HN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Devaney against the decision of Gedling Borough Council.
  - The application Ref 2018/1186, dated 21 December 2018, was refused by notice dated 24 May 2019.
  - The development proposed is construction of 6 residential units with associated garages and new private drive.
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### Appeal C

**Appeal Ref: APP/N3020/W/19/3232093**

**22 Kighill Lane, Ravenshead NG15 9HN**

- 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 Mr and Mrs Devaney against the decision of Gedling Borough Council.
  - The application Ref 2018/1166, dated 13 December 2018, was refused by notice dated 24 May 2019.
  - The development proposed is the construction of 6 No Custom Build Residential Units.
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## Decisions

### Appeal A

1. The appeal is dismissed.

## **Appeal B**

2. The appeal is allowed and planning permission is granted for construction of 6 residential units with associated garages and new private drive at 22 Kighill Lane, Ravenshead NG15 9HN in accordance with the terms of the application, Ref 2018/1186, dated 21 December 2018, subject to the conditions in the attached Schedule B.

## **Appeal C**

3. The appeal is allowed and planning permission is granted for the construction of 6 No Custom Build Residential Units at 22 Kighill Lane, Ravenshead NG15 9HN in accordance with the terms of the application, Ref 2018/1166, dated 13 December 2018, subject to the conditions in the attached Schedule C.

## **Preliminary Matters**

4. Appeal C is an outline scheme with access, layout and scale to be determined at this stage, I have amended the description to reflect the nature of the application. Following a discussion at the hearing relating to the use of outline applications for custom build schemes it was agreed that those three matters were to be determined, as set out in the application. It was agreed at the hearing that the correct plan in relation to layout for Appeal C is VED529-30-D Site Plan Custom Build Site parameters.

## **Background and Main Issues**

5. The three appeals relate to the same site, and for Appeal B and Appeal C the layout and scale of the proposed schemes are the same.
6. In refusing permission at application stage for Appeal A the Council stated three reasons for refusal. In refusing permission at application stage for Appeals B and C the Council stated one reason for refusal.
7. The three appeals relate to different schemes, and I have assessed each on its own merits. However, it is logical to deal with the three appeals within one Decision Letter in order to avoid unnecessary repetition and duplication.
8. Accordingly, the main issue in relation to Appeal A, Appeal B and Appeal C is the effect of the proposal on the character and appearance of the area.
9. There are two additional issues in relation to Appeal A, these are the effect of the proposal on the living conditions of neighbouring occupiers, and whether the proposal would provide adequate levels of infrastructure.

## **Reasons**

### *Character and appearance*

10. Kighill Lane is a long, relatively straight road which slopes gradually downwards from Mansfield Road to Longdale Lane. The houses on either side face towards the highway and the built form tends to follow a linear pattern consisting of a range of bungalows and detached two storey dwellings. There is a considerable level of variation in terms of scale and form which is partly due to the gradual redevelopment of a number of sites including extensions to existing dwellings. As such the character of the area is mixed and creates an aesthetically interesting streetscene.

11. The appeal site itself currently hosts a large detached dwelling set some way back from the road, this is largely representative of the setting of the majority of the houses along the Lane. There was historically a uniformed building line, however this has been eroded in a number of places with the additional development to houses.
12. The appeal site was allocated for housing in the Gedling Borough Local Planning Document Part 2 Local Plan 2018 (the Local Plan) as part of a larger site which would provide approximately 20 dwellings (Site X5). Site X5 is split into three ownerships and spans the rear of a number of dwellings along Kighill Lane. The indicative plans put forward as part of the planning process suggested an arrangement across the sites that would accommodate the units, and the proposal before me roughly adheres to this indicative plan in respect of the land associated with No 22 Kighill Lane.
13. The adjacent property, number 18 Kighill Lane, also forms part of Site X5, however at this point in time the owner of No 18 has confirmed that they do not wish to develop the site as part of Site X5 and has instead secured planning permission for a single dwelling in the garden of No 18 adjacent to the main dwelling. This means that, whilst Site X5 was included as part of a comprehensive development, the deliverability of the site in its entirety is no longer a possibility. I note the council's concerns that it would be preferable for the site to be developed comprehensively as one proposal and the council has relied upon policies that encourage this as part of the appeal. However, due to the issues surrounding ownership and the revised aims of the owner of No 18 the deliverability of site X5 as a single scheme does not appear to be realistic. Even if the site were to be developed as a single scheme, the indicative layouts do not suggest that the proposed layout would be wildly different in order to achieve the required level of housing. Therefore, whilst I fully appreciate the aim of the council in bringing forward comprehensive schemes, it was agreed at the hearing that, due to the change in circumstances, the proposal should be considered on its own merits against the relevant policies in the development plan.
14. All three proposals would result in a net increase of 6 units on the site. The general layout would provide two dwellings to the rear of the existing No 22, a further dwelling set back and to the side along the boundary with No 18, and three units would be located at the front of the site. The layout would not reflect a cul-de-sac arrangement, largely due to the fact that the units would not be located around a central area or turning point, as it is proposed to retain No 22 a standard cul-de-sac layout could not be achieved. Nevertheless, in general terms the units would have a comfortable relationship with each other and the street scene. Plots 5 and 6 face into the site towards 4, plot 4 faces towards the street scene whilst being set back from No 22 which would create a small cluster of dwellings at the rear of the site. Units 1, 2 and 3 would be located at the front of the site, each with its own access and active frontage onto Kighill Lane.
15. The principle of this proposed layout would be different to the general linear pattern of development along Kighill Lane. However, the appeal site is relatively flat, and the cluster of dwellings to the rear of the site would not appear inconspicuous within the wider setting, indeed they would be significantly screened by the dwellings to the front of the site and boundary planting and I do not consider that the change in character would be harmful to

- the wider linear form. I am also mindful that allocated site H18 would also introduce a level of development and an arrangement that would be different. I am not convinced by the council's argument that the proposals before me would be harmful due to their layouts, yet the indicative layout of site H18, which I accept is purely indicative, would not be harmful despite demonstrating a number of similarities to the proposals before me. The development of the appeal site would still be a comprehensive scheme, that would take account the topography of the site and the evolving characteristics of the wider area.
16. These general principles apply to all three appeals, however the layout and scale of the proposal set out as part of Appeal A differs in a number of ways to that as set out in both Appeal B and C.
  17. The determinative difference between the schemes is the location of plots 1, 2 and 3. As part of Appeal A these three units would be set forward of No 24 Kighill Lane, and of the general building line along Kighill. Whilst this building line is not entirely uniformed, and there area a number of garages located to the front of dwellings, it is a significant feature of the character of the area. The units in Appeal A would appear incongruous and alien as part of the wider street scene due to their location, which would be exacerbated by the fact that the layout would include three units of significant scale set in a uniformed line. The similarity in the scale and design of these three units would reinforce the discordant and overly dominant introduction of built form at this point of the road.
  18. In contrast, the layout of both Appeal B and Appeal C would provide smaller units on plots 1, 2 and 3. Whilst slightly forward of No 22 the dwellings would be located along a similar building line and would be more comparative with the bulk and scale of No 22 and 24. Unit 2 would not have an individual access to Kighill Lane, however it would be orientated to face the main street and as such I find that the three units would have a comfortable relationship with the street scene and the wider area. The mix of soft and hard landscaping would reflect the front gardens along the road.
  19. The design of the units in Appeal A and B would be of a high quality, respecting and enhancing the individual aspects of those dwellings in the area. However, in terms of Appeal A I do not consider that well designed houses would overcome the clear harm to the street scene caused by the proposed layout and scale of units 1, 2 and 3. Design is not a matter before me as part of Appeal C.
  20. Accordingly, I find that Appeal A would result in an incongruous and harmful development, having particular regard to the plots 1, 2 and 3. It would therefore conflict with Policy LPD35 of the Local Plan which requires development to be appropriate to its context. Appeal B and Appeal C would deliver a comfortable and respectful layout, and whilst I accept that the layout of the site would be different to sites along Kighill Lane, it would not be harmful to the wider character of the area. Therefore both Appeal B and Appeal C would comply with Policy LPD 35 of the Gedling Borough Council Local Planning Document Part 2 (2018) (the Local Plan) which requires development to be of a mass, scale and proportion that would be appropriate to its context and Policy 10 of the Gedling Borough Aligned Core Strategy 2014 (the Core Strategy) which requires development to reinforce local distinctive identity.

21. Due to the site coming forward in isolation the proposal would conflict in principle with Policies LPD 62 and LPD 67 of the Local Plan. These policies allocate site X5 for housing for approximately 20 units, and also restrict development from coming forward that may compromise the development of the site in its entirety. However, it was made clear that the owners of No 18 are no longer contributing their land for the purposes of site X5. In fact, the Council has recently granted permission for a single dwelling on that site. Therefore, the likelihood of site X5 coming forward as a comprehensive development is significantly reduced. Furthermore, Paragraph 68 of the National Planning Policy Framework 2019 suggests that in some cases it may be suitable to sub-divide sites where it could help to speed up the delivery of homes. I therefore consider that in this case there are material considerations that outweigh the conflict with the development plan in this regard.

*Living conditions – Appeal A only*

22. The adjacent property, No 24, is a modest chalet bungalow. Whilst the proposed unit on Plot 1 would be set at a slightly lower level due to the change in topography, the proposal would result in a substantial dwelling set forward of the building line of No 24. The location of the proposed dwelling would be close to the boundary and despite efforts to reduce the appearance of scale from the street scene the unit would be two storey. It would be almost 20 metres in depth for its entire length (including the large garage with accommodation in the roof space), and a significant portion of this depth would be directly adjacent to the boundary with No 24 whilst also located in front of the building line of the dwelling at No 24. This would result in an oppressive and overbearing form of development, which would be significantly detrimental to the living conditions of the occupiers of No 24. I accept that the proposal would not result in a loss of light, however the general mass and scale would nevertheless result in a harmful development for the reasons set out above.

23. The dwelling proposed for Plot 5 would face towards the rear amenity space of Nos 24 and 26. However, this would be at the very rear of these gardens, and would be some 10 metres from the boundary. As such I do not consider that this unit would have a detrimental impact on the living conditions of neighbouring occupiers.

24. No 18 Kighill Lane is a substantial detached property, unit 4 would be aligned adjacent to the boundary with this property, set to the rear of the neighbouring dwelling. The proposed unit 4 would be located adjacent to the boundary, at a depth of nearly 20 metres. Whilst I do not consider that the proposal would result in overshadowing, I do consider that the siting of the proposed unit in such close proximity would result in an overbearing impact on the residents of No 18 when using their outdoor amenity space.

25. Accordingly, in respect of Appeal A only, the proposal when considered in its entirety would result in harm to the living conditions of neighbouring occupiers. This would conflict with Policy LPD 32 of the Local Plan which seeks to avoid development that would have an adverse impact on the amenity of nearby residents.

*Infrastructure – Appeal A only*

26. The development proposed in Appeal A would provide 6 dwellings on the site. Whilst a viability assessment was submitted for Appeals B and C, no such

assessment was provided for Appeal A. I have noted the comments of the appellant's agent, namely that in their opinion the dwellings in Appeal A would not be significantly larger, and that when the viability assessment is amended to take account of the figures in Appeal A the difference is such that the scheme would still not be viable should infrastructure contributions be provided.

27. However, a scheme specific assessment has not been submitted. Whilst the differences in floor space may not be significant, the overall design and scale would be different and this may have an impact on the value of the property, specifically Unit 1.
28. As such, in respect of Appeal A, I cannot be certain that the proposal would be unviable if infrastructure contributions were required. In the absence of any specific evidence to address this I find that the proposal would not provide adequate levels of infrastructure and would therefore conflict with Policy 18 of the Core Strategy which seeks to ensure development is supported by the required infrastructure. As such there would also be a conflict with Policy 2 of the Core Strategy in respect of ensuring that development is sustainable.

### **Other matters**

29. Concerns were raised regarding living conditions in respect of Appeals B and C. However, I am satisfied that due to the reduction in scale and location of Unit 1 the proposal would not be detrimental to the living conditions of the residents of No 24, and the slightly amended location of Unit 4 in Appeals B and C would not result in harm to the living conditions of those residing at No 18. Therefore, the proposals in Appeal B and C would not result in harm to the living conditions of neighbouring occupiers such to warrant refusal of the appeals on those grounds.
30. With regards to highway safety, I am satisfied that suitable visibility splays could be provided subject to condition.

### **Conclusions**

#### **Appeal A**

31. I have found that the proposal in Appeal A would conflict with the development plan when taken as a whole. There are no material considerations, including the provision of additional housing, that would outweigh this conflict and accordingly I conclude that the appeal is dismissed.

#### **Appeal B**

32. I have found that the proposal would comply with the policies in the development plan taken as a whole, therefore subject to appropriate conditions the appeal is allowed.

#### *Conditions*

33. I have specified the plans for certainty. Further conditions relating to materials, landscaping and means of enclosure within the site are necessary to protect the character of the area. Conditions relating to visibility splays, verge crossings and parking areas are necessary to ensure highway safety. Conditions relating to electrical sockets and a Construction Emission Management Plan are necessary to ensure the development is sustainable.

### **Appeal C**

34. I have found that the proposal would comply with the policies in the development plan taken as a whole, therefore subject to appropriate conditions the appeal is allowed.

#### *Conditions*

35. I have specified the plans for certainty. Further conditions relating to materials and means of enclosure within the site are necessary to protect the character of the area. Conditions relating to visibility splays, verge crossings and parking areas are necessary to ensure safe access. Conditions relating to electrical sockets and a Construction Emission Management Plan are necessary to ensure the development is sustainable.

*J Ayres*

INSPECTOR

### **SCHEDULE OF CONDITIONS – APPEAL B**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - VED529 01 REV A
  - VED529 02 REV J
  - VED529 03 REV E
  - VED529 04 REV F
  - VED529 05 REV E
  - VED529 06 REV C
  - VED529 08 REV A
  - VED529 09 REV C
  - VED529 10 REV A
  - VED529 11 REV D
  - VED529 31 REV C
- 3) Prior to above groundworks commencing, samples of materials to be used for the external appearance of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The samples as approved shall be used in the construction of the approved dwellings.
- 4) Prior to above groundworks commencing, a scheme of landscaping showing the location, species and size of specimens to be planted shall be submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the dwellings being first occupied complete details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in or around the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the dwellings the, the walls (including retaining walls), fences, gates or other means of enclosure shall be erected as approved and retained thereafter.
- 6) No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. VED259 11 C are provided. The area within the visibility splays as identified on the drawing shall thereafter be kept free of all obstructions, structures or erections.
- 7) No part of the development hereby approved shall be brought into use until the verge crossings are available for use and constructed in accordance with the highway authority specification, as agreed in writing with the Local Planning Authority.

### **END OF SCHEDULE – APPEAL B**

### **SCHEDULE OF CONDITIONS – APPEAL C**

- 8) Details of the appearance and landscaping, (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.
- 9) 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.
- 10) 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.
- 11) The development hereby permitted shall be carried out in accordance with the following approved plans:  
VED529 01 REV A  
VED529 30 REV D  
VED529 31 REV C
- 12) Prior to above groundworks commencing, samples of materials to be used for the external appearance of each dwelling shall be submitted to and approved in writing by the Local Planning Authority. The samples as approved shall be used in the construction of the approved dwellings.
- 13) Prior to the dwellings being first occupied complete details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in or around the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to first occupation of the dwellings the, the walls (including retaining walls), fences, gates or other means of enclosure shall be erected as approved and retained thereafter.
- 14) No part of the development hereby permitted shall be brought into use until the visibility splays shown on drawing no. VED259 11 C are provided. The area within the visibility splays as identified on the drawing shall thereafter be kept free of all obstructions, structures or erections.
- 15) No part of the development hereby approved shall be brought into use until the verge crossings are available for use and constructed in accordance with the highway authority specification, as agreed in writing with the Local Planning Authority.

### **END OF SCHEDULE – APPEAL C**

**LIST OF APPEARANCES:**

**FOR THE APPELLANT**

Mr C Waumsley – Freeths

**FOR THE LOCAL PLANNING AUTHORITY**

Mr M Avery – Gedling Borough Council

Mr N Bryon – Gedling Borough Council

**INTERESTED PARTIES**

Mr M Downes – Aspbury planning

Mr J Devaney – Appellant

Mr P Champ – Interested party

Ms J Bates - Interested party

Mr D Cooper - Interested party

Mr N Staley - Interested party

Mr J Harris - Interested party

**DOCUMENTS SUBMITTED AT THE HEARING:**

Record of Attendance

Signed copy of Statement of Common Ground

Indicative plan relating to Nightingale site pre-application

Indicative plan identifying suggested layout for Housing Site H18

List of suggested conditions