The Planning Inspectorate

Appeal Decision

Hearing held on 29 November 2022

Site visit made on 29 November 2022

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Appeal Ref: APP/M3645/W/22/3302129
34 Kings Cross Lane, South Nutfield RH1 5NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Mr Nigel Greenhalgh of Village Developments against Tandridge District Council.
- The application Ref: 2021/1938, is dated 18 October 2021.
- The development proposed is seven detached and semi-detached chalet bungalows to the rear of the existing property at 34 Kings Cross Lane with access to be determined and all other matters reserved.

Decision

1. The appeal is allowed and planning permission is granted for seven detached and semi-detached chalet bungalows to the rear of the existing property at 34 Kings Cross Lane with access to be determined and all other matters reserved at 34 Kings Cross Lane RH1 5NU in accordance with the terms of the application, Ref 2021/1938, dated 18 October 2021, subject to the attached Schedule of Conditions.

Application for costs

2. An application for costs was made by Mr Nigel Greenhalgh of Village Developments against Tandridge District Council. This is the subject of a separate decision.

Preliminary Matters

3. I have amended the description of development stated on the application form to correct the house number of the existing property as confirmed during the hearing.

4. The application was made in outline with all matters reserved except for access. I have assessed the appeal on the basis of drawings 1012/50 and 1012/53 insofar as they relate to access as shown by the areas hatched in grey and black lines on drawing 1012/50. I have had regard to drawings 1012/51 and 1012/52 on an indicative basis.

5. I note the comments of the previous Inspector for a proposal on the site. The planning application subject of that appeal was made in outline with the matters of access, scale, layout and appearance sought for approval. As such, while that proposal was also for seven dwellings, it is not directly comparable with this appeal which must be determined on its individual merits.

Main Issues

6. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- whether the proposal would provide a suitable living environment for future occupiers with regard to private amenity space; and
- the effect of the proposal on the living conditions of neighbouring occupiers of No 34 Kings Cross Lane (No 34) with regard to outlook.

Reasons

Character and appearance

7. Kings Cross Lane is a residential street primarily characterised by detached dwellings with a small number of terraces. There is ample spacing between the buildings such that the area has a spacious semi-rural feel. The site forms part of a long rear garden of No 34 which is the last property in the ribbon of development and in an edge of settlement location. It lies adjacent to a small number of other long rear gardens to one side, and open countryside to the other side and to the rear. As I observed during my site visit, the two storey dwellings of Thepps Close are visible from the site. Therefore, the spacious quality of the site provides a pleasing transition from the settlement to the countryside.

8. In terms of pattern of development, the linear ribbon of development along the north side of the street has been significantly altered by Thepps Close, a cul-de-sac with a mix of dwelling types on smaller plots than the surrounding dwellings with long rear gardens.

9. The pattern of development along the south side of Kings Cross Lane mostly consists of detached dwellings with large rear gardens. However, near the eastern end of the ribbon of housing lies a development of dwellings at the rear of a property known as Little Hundith. This cul-de-sac has further altered the pattern of development to one that includes back land development. I note the evidence regarding previous development on the site at Little Hundith. However, the development of dwellings on the site has been completed since the previous appeal and form part of the character and appearance of the area.

10. The proposal is for seven detached and semi-detached chalet bungalows as set out in the description of development. Matters relating to layout, appearance, scale and landscape are served for future consideration. However, the drawings provide an indication of how the site could be developed for seven dwellings. Seven dwellings on the largely undeveloped site would introduce not only built development, but also driveways that would urbanise the site and adversely affect the spaciousness of this edge of location site. The removal of the stable buildings would not mitigate this harm.

11. However, while I note that the site lies at an outermost corner of the defined village settlement, seven dwellings in this location would not be entirely out of keeping with the wider settlement given the developments at Little Hundith and Thepps Close.

12. While scale is a reserved matter, the description of development indicates that the dwellings would be chalet bungalows. They would therefore be likely to be

single storey dwellings with accommodation in the roof space and dormer windows as indicated in the drawings. These types of houses would be in keeping with other dwellings in the area and would be likely to be a modest height that would temper the harm to the spacious character of the area that would result from the introduction of built development.

13. While layout is a matter for future consideration, the submitted drawings provide an indication of the likely plot sizes that could be achievable for the proposed number of dwellings. The rear gardens would be likely to be significantly smaller in size than the adjacent long rear gardens. However, given the development at Thepps Close, the number of rear gardens that are as long as the appeal site on the north side of Kings Cross Lane is limited. The proposed rear gardens would be likely to be moderately smaller than the gardens of the properties at Thepps Close and more comparable with the rear gardens of the properties at Little Hundith.

14. Therefore, the likely plot sizes that would result from seven detached dwellings on the site would have an urbanising effect on the site and edge of settlement location. However, they would not appear entirely out of keeping with the area given the development at Little Hundith. In addition, specific plot sizes, appearance and scale of the dwellings would be subject to future consideration of reserved matters.

15. During my site visit I also observed a tall evergreen hedge alongside the access track which would partially screen views of the dwellings from the countryside. The site also has limited visibility from the highway. In addition, future consideration of landscaping matters could partially screen views of the development from the countryside.

16. Consequently, the proposal would harm the character and appearance of the area. Therefore, it would conflict with Policy CSP18 and CSP21 of the Tandridge District Core Strategy 2008 (CS) and Policy DP7 and DP12 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (LP) which together seek development of high quality that reflect and respect the character, setting, local context and landscape character of the area and Defined Village.

17. Given the modest number of dwellings proposed and the other developments in the wider area as well as layout being a matter reserved for future consideration, the harm would be limited and localised.

Living environment

18. LP Policy DP7 seeks, among other things, proposals that provide a satisfactory environment for the occupiers of both the existing and new development; and appropriate facilities for individual and communal use including bicycle storage, amenity areas and garden areas (proportionate to the size of the residential units and appropriate for the intended occupiers).

19. The application form indicates that the dwellings would have three or four bedrooms and could therefore be occupied by small families. While the area available for gardens for the seven dwellings would be likely to be smaller than the surrounding properties, the indicative layout demonstrates that garden depths of between 8m and 10m would be achievable.

20. I note the Council's concerns regarding the rear garden sizes of plots 1, 2, 5 and 6. However, a garden depth of around 8m to 10m and a width matching

that of the dwelling would provide sufficient space for common domestic paraphernalia for small families including washing line, seating area and bicycle storage. Therefore, since layout is a matter for future consideration, I see no reason why careful consideration of reserved matters could not adequately address this issue.

21. Consequently, the proposal would provide a suitable living environment for future occupiers with regard to outlook. Therefore, the proposal would not conflict with LP Policy DP7 in this particular respect which seeks, among other things garden areas that would be proportionate to the size of the residential units and appropriate for the intended occupiers.

Living conditions

22. While layout is a matter for future consideration, the drawings provide an indication of a scheme that would leave No 34 with a rear garden of around 22m in depth. The dwelling at Plot 1 would project a significant distance above the fence and would therefore be visible from the rear windows and garden of No 34. However, given the significant depth of the garden and that there would be outlook in other directions, the proposal would not appear overbearing or unduly harm the outlook of the neighbouring occupiers. Accordingly, it is likely that the site could be developed in a way that would not unduly affect the outlook of the occupiers of No 34.

23. Consequently, the proposed development would not harm the living conditions of the occupiers of No 34 with regard to outlook. Therefore, it would not conflict with LP Policy DP7 which seek development that does not, among other things, significantly harm the amenities of occupiers of neighbouring properties (including their private amenity space) by reason of overbearing effect.

Other Matters

24. I note local concerns including the effect on Nos 33 and 32 Kings Cross Lane. Given the distance between those properties and the site, and that layout is a matter for future consideration, there would not be any undue harm to the living conditions of the occupier of these properties.

25. I see no reason why a suitably worded condition could not adequately mitigate concerns regarding construction noise. Given the limited number of dwellings proposed, the scheme would not have a severe impact on the local road network or unacceptable impact on highway safety.

26. The access road lies outside the defined settlement boundary. However, since it is an existing access track, and the increase in trips to and from the site would be limited given the modest number of dwellings proposed, there would not be unacceptable harm in this respect.

27. Representations were made to the effect that the rights of the adjoining occupier, as set out in the Human Rights Act 1998 would be violated if the appeal were allowed. However, given the distance between the neighbouring properties at No 33 and 32 Kings Cross Lane and the appeal site, and that layout and scale are matters for future consideration, the proposed development would not result in unacceptable harm to the living conditions of the neighbouring occupiers with respect to privacy, outlook or noise. The development would not conflict with LP Policy DP7. I am therefore satisfied that a grant of planning permission would not unacceptably interfere with the

neighbouring occupiers' right to the peaceful enjoyment of their possessions or a private and family life and home. It is proportionate in the circumstances to allow the appeal.

28. The parties agree that the proposal would not constitute inappropriate development in the Green Belt. Given the evidence I see no reason to disagree and have not pursued this matter further.

Planning balance

29. The Council can demonstrate 1.8 years housing supply. In these circumstances the policies which are most important for determining the appeal are out-of-date. As such the 'tilted balance' in the terms of paragraph 11d of the National Planning Policy Framework (Framework) is engaged.

30. The proposal would provide seven dwellings to the local housing supply. While the number of proposed dwellings is modest, given the considerable shortfall of housing land supply, I agree with the previous Inspector that the proposal for seven dwellings would make a small yet not insignificant contribution towards improving the supply of housing. I therefore attribute moderate weight to the benefit of the provision of these dwellings.

31. There would also be temporary economic benefits during the construction phase and future occupiers would provide social and economic benefits to the local community.

32. I have found that there would be no undue harm with respect to the living environment of future occupiers and the living conditions of neighbouring occupiers. The harm with respect to the character and appearance of the area would be limited and localised. I therefore attribute limited weight to the conflict with CS Policies CSP18 and CSP21 and LP Policies DP7 and DP12.

33. Consequently, the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conditions

34. The Housing Delivery Test Action Plan September 2022 (HDTAP) includes an Interim Policy Statement for Housing Delivery (Policy Statement) and states that it will be an important material consideration in the determination of planning applications. The Policy Statement states, among other things, that planning permission will only be granted for a limited period of 2 years to ensure the rapid development of the sites.

35. However, since the application was made in outline, I consider that the condition restricting commencement of the development later than 2 years from the date of approval of the last of the reserved matters to be approved would be justified.

36. The suggested condition relating to specified plans is necessary in the interests of certainty. I have amended the condition to relate to matters concerning access only.

37. The suggested conditions relating to external materials, removing permitted development rights and parking and turning areas and footpath are not

necessary as they relate to the reserved matters. Therefore, they have not been attached.

38. The conditions relating to carbon emissions is necessary in the interests of reducing carbon emissions. The conditions relating to ecology and tree protection are necessary in the interests of biodiversity and to safeguard the character and appearance of the area.

39. A condition requiring a Construction Transport Management Plan (CTMP) is also necessary to safeguard the living conditions of neighbouring occupiers and a condition relating to visibility zones is necessary for highway safety. A condition requiring a scheme for electric vehicle charging is necessary in the interests of climate change.

40. The conditions relating to carbon emissions, tree protection and CTMP are pre-commencement conditions as they are likely to affect the early stages of construction.

Conclusion

41. For the reasons given above, the appeal should be allowed.

R Sabu

INSPECTOR

SCHEDULE OF CONDITIONS

1) 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.

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) 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.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1012/50 and 1012/53 insofar as they relate to access as indicated by the areas hatched in grey and black lines on drawing 1012/50.

5) No development shall commence until details demonstrating how the development would satisfy the 10% reduction of carbon emissions through renewable resources have been submitted to and approved in writing by the Local Planning Authority. The renewable energy provision shall thereafter be implemented and retained in accordance with the approved details.

6) The development shall be carried out wholly in accordance with the 'Preliminary Ecological Appraisal dated August 2018'

7) No development shall start until updated tree protection details, relating to all stages of development, for the protection of all trees and hedges to be retained on site or trees located offsite within 12 metres of the site boundary, has been submitted to and approved in writing by the Local Planning Authority. These details shall observe the principles of BS 5837:2012 (Trees in relation to design, demolition and construction – Recommendations), shall be implemented prior to any works commencing on site, shall be retained during the course of development, and shall not be varied without the written agreement of the Local Planning Authority.

   In any event, the following restrictions shall be strictly observed unless otherwise agreed by the Local Planning Authority:

   (a) No bonfires shall take place within the root protection area (RPA) or within a position where heat could affect foliage or branches.

   (b) No further trenches, drains or service runs shall be sited within the RPA of any retained trees.

   (c) No further changes in ground levels or excavations shall take place within the RPA of any retained trees.

8) No vehicle shall access the site unless and until the proposed vehicular accesses to Kings Cross Lane hereby approved have been constructed and provided with visibility zones in accordance with the approved plans and thereafter the visibility zones shall be kept permanently clear of any obstruction over 1m high.

9) No development shall commence until a Construction Transport Management Plan, to include details of:

(a) parking for vehicles of site personnel, operatives and visitors

(b) loading and unloading of plant and materials

(c) storage of plant and materials

(d) measures to prevent the deposit of materials on the highway

(e) on-site turning for construction vehicles

has been submitted to and approved in writing by the Local Planning Authority. Only the approved details shall be implemented during the construction of the development.

10) The development hereby approved shall not be occupied unless and until a scheme for electric vehicle charging shall have been submitted to a agreed by the local planning authority. The approved scheme shall thereafter be implemented and retained in accordance with the approved details.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT:

Nigel Greenhalgh	Appellant
Brian Woods	WS Planning and Architecture

FOR THE LOCAL PLANNING AUTHORITY:

Paul Batchelor	Tandridge District Council
Ian Harrison	Tandridge District Council

INTERESTED PARTIES:

Adam Skalsky	Local resident