



Appeal Decision

Site visit made on 17 March 2020

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 7th April 2020

Appeal Ref: APP/A0665/W/19/3242201

Land at 2 Brow Cottages, The Brow, Kingsley, Frodsham WA6 8AN

- 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 N Booth against the decision of Cheshire West & Chester Council.
 - The application Ref 18/04909/OUT, dated 21 December 2018, was refused by notice dated 15 October 2019.
 - The development proposed is erection of 2 New Detached Dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with only access to be considered at this stage. The submitted plans additionally illustrate how 2 dwellings could be accommodated at the site to demonstrate that an acceptable scheme is capable of being advanced at a later stage. Although appearance and layout are reserved matters, the reasons for refusal include the effect of the proposal on character and appearance. Therefore, notwithstanding the indicative nature of the plans, and in the absence of any alternative layouts, I have had regard to them insofar as they illustrate 2 dwellings and access.

Main Issues

3. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies;
 - ii) The effect of the proposal on the openness of the Green Belt;
 - iii) Whether the proposal preserves the character or appearance of the Kingsley Conservation Area; and
 - iv) If the proposal is inappropriate development, whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development

4. The appeal site is a small undeveloped area of land in the centre of Kingsley, which is washed over by the Green Belt.
5. Policy STRAT9 of the Cheshire West and Chester Council Local Plan (Part 1) Strategic Policies Adopted January 2015 (the CWCCLP1) sets out that development in the Green Belt will be restricted in line with the Framework. In this respect, Paragraph 143 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 states that the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to specific exceptions, including 145 e) limited infilling in villages.
6. The CWCCLP1 defines infill development as the filling of a small gap, up to two dwellings, in an otherwise built up frontage in a recognised settlement. In this case, Kingsley is a recognised settlement and it is a village for the purposes of Green Belt policy.
7. The appeal site is to the rear of Brow Cottages, in a backland location characterised by irregularly sited and spaced properties of varying ages, sizes and styles. It is at the meeting point of Well Lane, The Brow and Brookside. These are historic narrow back lanes that provide access to a small number of properties and the public right of way adjacent to Kingsley Brook. The backland location is not typical of the more regular urban form and road frontages elsewhere in the village. Therefore, taking account of the prevailing character of the settlement, the appeal site is not a small gap between dwellings and it is not in a built up frontage.
8. My attention has been drawn to schemes allowed on appeal¹ for limited infilling in villages in the Green Belt. However, they appear to differ from the appeal scheme. Some relate to relatively regular plots between buildings in linear road frontages, while others were found to be consistent with the grain and form of the settlement. The neighbouring outline planning permission (ref 18/01560/OUT) for housing relates to redevelopment of previously developed land (PDL). No details have been provided in relation to infill sites in Kingsley. On the basis of the evidence before me, schemes elsewhere do not provide a justification for the appeal scheme.
9. Therefore, the proposal would not be limited infilling in villages. It would be inappropriate development in the Green Belt. It would conflict with Policy STRAT9 of the CWCCLP1 and the policies that protect the Green Belt in the Framework.

Effect on openness

10. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
11. Although the proposal is in outline, the dwellings would each have at least 4 bedrooms. Two substantially large buildings with vehicular access, parking for

¹ Refs APP/A0665/W/15/3016547, APP/A0665/W/14/3000557, APP/A0665/W/16/3155932

6 vehicles and turning areas would be a significant footprint of permanent development resulting in a spatial loss of openness.

12. The site is visible from nearby public roads and footpaths. There would be a significant visual impact in this location as a result of the bulk of the buildings, the extensive hardstanding and associated domestic paraphernalia.
13. Consequently, there would be a significant spatial and visual impact and a harmful loss of openness of the Green Belt, which would be moderate in this locality.

Effect on the Kingsley Conservation Area

14. The appeal site is an open area of green space that slopes away from the rear of Brow Cottages. It is separated from the grounds of the neighbouring Red Bull public house by The Brow. Bank House is at the foot of the slope, separated by Kingsley Brook and the footpath. The land immediately to the north, which has outline planning permission for housing, is currently grassland with hedgerows and trees.
15. The Kingsley Conservation Area (the CA) includes the historic settlement around Hurst Methodist Church and the Red Bull public house with narrower ribbons of development extending along Dark Lane and Hollow Lane. The significance of the CA derives in part from the historic layout and buildings, including Grade II listed buildings and locally listed buildings. The open spaces which include fields, public and private green spaces and churchyard contribute to the traditional rural character of the CA. The undeveloped appeal site forms part of the historic settlement pattern.
16. The appeal site is not visible from the main roads through the village. However, it is readily visible from locations in and around the historic back lanes and the footpath. At the time of my visit, the trees were not in leaf and the site was heavily grazed. Consequently, the low metal fencing to the Brow and the stored building materials will have been more conspicuous than they would be at times of the year when vegetation is actively growing. Therefore, while elements of the site are visually detrimental, in its entirety the green space makes a positive contribution to the character and appearance of the area.
17. Paragraph 184 of the Framework emphasizes that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. In this regard, I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
18. In this regard, the outline nature of the proposal does not allow for a comprehensive assessment of the impacts on the CA. However, the plans illustrate 2 large and closely spaced dwellings set in relatively small plots. There would be a shared access from The Brow with a substantial area of hardstanding for vehicle turning and 4 parking spaces. Although appearance, layout and scale would be reserved matters, there would be a conspicuous increase in the bulk of built development in this area. The proposal would appear out of scale with the generally modest dwellings nearby. The close-spacing, small plot sizes and shared driveway would be a discordant and urban form of development in the backland location and historic core of the village.

19. The proposal does not therefore demonstrate that it would preserve or enhance the character or appearance of the CA. No alternative plans have been provided to demonstrate any alternative scheme that would make a neutral or positive contribution to the townscape. Consequently, taking into account the importance of the heritage asset, I must adopt a precautionary approach in determining this appeal.
20. Nevertheless, the proposal would be modest in the context of the CA as a whole and it would result in less than substantial harm to the significance of the CA as a designated heritage asset. Paragraph 193 of the Framework is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
21. Paragraph 196 of the Framework states that where a development proposal would lead to less than substantial harm to the significance of the heritage asset, that harm should be weighed against the public benefits of the proposals. In this respect, the appeal scheme would primarily deliver private benefits. It would make a minimal contribution to the delivery of housing and the economic and social benefits would be similarly limited. There is no evidence of any environmental benefit. On this basis, there would be no public benefits that would outweigh the harm to the CA and the proposal would therefore conflict with the Framework.
22. By virtue of the harm to the CA, the proposal would conflict with Policies ENV5 and ENV6 of the CWCLP1 and DM3 and DM46 of The Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Detailed Policies Adopted July 2019 (the CWCLP2). These require, among other things, that development is sympathetic to and avoids harm to the significance of heritage assets, respects and enhances local distinctiveness and townscapes.

Other Considerations

23. The principle of residential development has been established on the neighbouring land to the north. In this respect, there is correspondence from the Council referring to the possibility of bringing forward one scheme across both neighbouring sites. However, there is no evidence that any such scheme has been proposed or that it would accord with the development plan. Neither the neighbouring outline permission nor the advice of the Council relating to that site are matters that carry weight in favour of the scheme.
24. The neighbouring public house is a locally listed building and therefore a heritage asset. It is set in its own grounds, elevated above and separated from the appeal site by dense vegetation. The proposal would not have an adverse effect on the locally listed building or its setting. This is a neutral factor.
25. The Council can demonstrate a 5 year housing supply. Two dwellings would in any case make a minimal contribution to the supply of housing. There would be minimal economic benefits, primarily in the short-term during construction. Future occupiers would make a minimal contribution to supporting the local economy.
26. The proposal would not harm the living conditions of neighbouring occupiers. Matters relating to access arrangements, biodiversity, drainage and flood risk could be dealt with by planning conditions. These are neutral factors in my

assessment. The accessibility of the site to services and facilities would be a small benefit. However, all sites for new housing are required to be reasonably accessible and there are likely to be equally accessible sites in more suitable locations. Therefore, this carries little weight in favour of the scheme.

27. My attention has been drawn to policies in the Framework, including those relating to boosting the supply of homes and sustainable rural development. Compliance with some policies in the Framework and the development plan is a neutral factor.
28. There is a Tree Protection Order at the site. However, the evidence indicates that the site was largely cleared of trees at some point in the past. The remaining sycamore along the site boundary does contribute to the verdant character and appearance of the area. However, it is not individually significant and replacement planting could be secured. This is therefore a neutral factor in my assessment.
29. Concerns have been raised in relation to the loss of traditional orchards, which are a Habitat of Principal Importance in England. However, while the Kingsley and Acton Bridge orchards will contribute to the character of the area, there is no compelling evidence that the appeal site is a traditional orchard. Therefore, while I have a duty to have regard to the conservation of biodiversity in England, I am not persuaded that the proposal would result in the loss of a priority habitat type. This is a neutral factor in my assessment.

Green Belt balance

30. I have concluded that the proposal would be inappropriate development in the Green Belt. It would result in a moderate loss of openness of the Green Belt. These matters attract substantial weight. It would result in harm to the CA.
31. There are no other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness and any other harm. Therefore, the very special circumstances necessary to justify the proposal do not exist.

Conclusion

32. For the reasons set out above, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR