
Appeal Decision

Site visit made on 20 July 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2020

Appeal Ref: APP/A0665/W/20/3248166

Land opposite Brookfield, Well Lane, Kingsley, Cheshire WA6 8AW

- 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 planning permission.
 - The appeal is made by Mr Steve Coulton against Cheshire West & Chester Council.
 - The application Ref 19/04466/FUL, is dated 14 December 2019.
 - The development proposed is demolish garage and outbuilding and erect new house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The appeal has been submitted on the basis that the Council failed to determine the planning application within the statutory timescale. As this is a failure case, there is not a refusal notice. Nonetheless, the Council has prepared an appeal statement and has indicated what decision it would have made had it been in a position to do so. Taking this into account, the main issues are:
 - Whether or not the proposal would be inappropriate development in the Green Belt;
 - the effect of the proposal on the setting of the Kingsley Conservation Area (CA) and the character and appearance of the area; and
 - if the proposal is inappropriate development in the Green Belt, 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 development.

Reasons

Whether inappropriate development in the Green Belt

3. Paragraph 145 of the National Planning Policy Framework (the Framework) indicates that the construction of new buildings in the Green Belt is inappropriate apart from a number of exceptions. The proposal would result in the demolition of a relatively small outbuilding, which according to the Council has been used as a tool store, and its replacement with a two storey detached dwellinghouse. Consequently, the proposal would not meet exception d) of paragraph 145 as the replacement building would not be in the same use and

would be materially larger than the one that it replaced. It would also not meet exception g) of paragraph 145 in so far that whilst the site may be considered to be 'previously developed land', owing to the footprint and volume of the proposed dwellinghouse, it would have a greater impact on the openness of the Green Belt than the existing development.

4. Exception e) of paragraph 145 permits '*limited infilling in villages*'. There is no dispute between the main parties that the appeal site falls within the settlement of Kingsley. I am satisfied that it is a village. In quantitative terms, the proposal would be '*limited*'. Whilst the Framework does not seek to define '*infilling*', the glossary to the adopted Cheshire West and Chester Local Plan (Part 2) Land Allocations and Detailed Policies 2019 (Part 2 LP) defines that this is '*the filling of a small gap, up to two dwellings, in an otherwise built up frontage in an identified settlement*'. This is an entirely reasonable definition for the purpose of considering this exception. In this context, the proposal would not result in the filling of a small gap in an otherwise built up frontage.
5. I therefore conclude that the proposal would constitute inappropriate development in the Green Belt. In this regard, it would not accord with the Green Belt requirements of policy STRAT 9 of the adopted Cheshire West and Chester Local Plan Part One: Strategic Policies 2015 (Part 1 LP); Policy DM19 of the Part 2 LP and the Framework. I afford such conflict substantial weight in the overall planning balance.

Any other harm – setting of the CA and character and appearance

6. Whilst the appeal site does include an outbuilding this a small building. Owing to its height and small footprint it does not appear dominant in the street-scene, even accounting for the fact that the evidence indicates that some landscaping along Well Lane appears to have been removed.
7. The wider appeal site forms part of an essentially green and undeveloped stretch of land between the otherwise more built up areas at either end of Well Lane. This adds positively and distinctively to the general verdant and less developed character and appearance of this part of Well Lane and provides a soft and semi-rural appearance to the setting of the adjacent CA which derives much of its significance from its narrow and substantially planted lanes.
8. The proposed dwelling would be positioned in very close proximity to Well Lane and its site boundaries. Taking this into account, coupled with the limited amount of outside amenity space and proposed hard standing areas and car parking, the development as a whole would appear cramped and discordant within its plot. Owing to its imposing position tight up against Well Lane and its overall height, the dwelling would appear dominant and intrusive when seen from Well Lane. Indeed, it would fail to assimilate well into the wider landscape which is mainly characterised by dwellings set within spacious plots and with an emphasis on planting / vegetation alongside Well Lane.
9. Given the aforementioned harmful impacts, I consider that the proposal would also have a significantly harmful effect on the prevailing soft, green and less developed area afforded by the site and its surroundings to the significance of the setting of the CA. I acknowledge that the proposal would include the removal of an outbuilding on the site which in itself does not make a positive contribution to the character and appearance of the area. However, the

demolished outbuilding would be replaced by a much larger, intrusive and prominent building which would cause harm to the setting of the CA. Whilst this harm would be less than substantial in the context of paragraph 196 of the Framework, there are no identified public benefits which would outweigh such identified harm.

10. For the above reasons, I conclude that the proposal would cause significant harm to the character and appearance of the area and the setting of the CA would not be preserved. Therefore, the proposal would not accord with the design and conservation requirements of policies STRAT 9, ENV2, ENV5 and ENV6 of the LP Part 1; policy DM3 of the Part 2 LP and Chapters 12 and 16 of the Framework. The Council has also referred to policy DM46 of the Part 2 LP, but this relates to parking and access and so is not of any direct relevance to this main issue.

Other Considerations

11. The appellant contends that similar development has been approved in the area and that the proposal would not therefore appear out of place. I do not agree in so far that I have concluded that harm would be caused to the character and appearance of the area and to the setting of the CA. The appellant refers to the site being derelict land and that it would "*ultimately become worse over time and show further inevitable neglect*". I am not persuaded that dismissing this appeal would inevitably mean that the site had to become neglected.
12. I acknowledge that the proposal would make efficient use of previously developed land. However, that would not overcome or outweigh the harm that would be caused by the proposal to the character appearance of the area, to the setting of the CA or to the Green Belt.
13. Whilst there is mix of house styles in the area, my identified concerns relate primarily to the adverse effect that the dwelling would have on the positive contribution made by the site to the character and appearance of Well Lane, to the openness of the Green Belt, to the significance of the setting of the CA, and they also concern the prominent position and cramped nature of the proposed development within its plot.

Planning balance and conclusion

14. The planning application proposal would constitute inappropriate development in the Green Belt and harm would be caused to the setting of the CA and to the character and appearance of the area. I conclude that the substantial weight to be given to Green Belt harm, and the other identified harm, arising from the proposal would not be clearly outweighed by other considerations sufficient to demonstrate very special circumstances. I therefore conclude that the appeal should be dismissed.

D Hartley

INSPECTOR