
Appeal Decision

Site visit made on 16 September 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2020

Appeal Ref: APP/A0665/W/20/3254678

Kinsbrook, Dark Lane, Kingsley, Frodsham WA6 8BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Mort against the decision of Cheshire West and Chester Council.
 - The application Ref 19/02893/FUL, dated 1 August 2019, was refused by notice dated 5 February 2020.
 - The development proposed is a new detached bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site lies within the North Cheshire Green Belt which washes over the village of Kingsley. The Council considered that the proposal would constitute limited infill development and thus would not be inappropriate development. Consequently, Green Belt was not cited as a reason for refusal.
3. A proposal for the construction of two dwellings on the site was dismissed on appeal in March 2019¹.

Main Issues

4. The main issue is the effect of the proposed development upon the setting of the Kingsley Conservation Area.
5. The appeal site sits close to Dark Lane which is a very narrow 'green lane' characterised in the main by substantial, white painted period dwellings sitting close to the lane, some in quite large plots, interspersed by high hedges, gardens, trees and bushes. The site is an oblong shaped enclosed paddock which is clearly visible from Dark Lane and separated from it by a narrow stream. Access would be via a driveway off Dark Lane to the dwelling called Kinsbrook. From the front the site slopes upward, gently at first but more steeply as it approaches the back of 34 Top Road, a new two-storey dwelling.
6. Virtually all the site sits outside of the Kingsley Conservation Area. However, the access from Dark Lane would cross a sliver of land within the Conservation Area. The geographical extent of the Kingsley Conservation Area is largely defined by the main roads running through the village. The boundary of the

¹ APP/A0665/W/18/3214171

- section of the Kingsley Conservation Area relevant to this appeal is broadly coterminous with Dark Lane and the period properties which sit close to it.
7. Due to its visual prominence and its proximity to the boundary, the site lies within the setting of the Kingsley Conservation Area. Consequently, the requirement of Paragraph 200 of the National Planning Policy Framework (the Framework) to look for opportunities for new development to enhance or better reveal the significance of the Conservation Area is engaged.
 8. Adjacent to the site, and outside of the Kingsley Conservation Area, are two pairs of semi-detached bungalows, one of which is Kinsbrook. According to the Appellant these properties date back to at least 1968 and therefore pre-date the designation of the Kingsley Conservation Area in 1976. In broad terms the appeal site forms the apex of a large green wedge of land that sits between Top Road and Dark Lane and extends out to where it meets the B5152 at the base of the triangle.
 9. Within this green wedge area are the gardens of the dwellings along Dark Lane and Top Road separated from each other by fields. When travelling down Dark Lane from the B5152 there is the impression of openness and greenery which gives way to a greater sense of enclosure with a more compact form of residential development as one approaches the heart of the village.
 10. The appeal site is presented as a paddock. Thus, its links to agriculture, and therefore to the historical associations with the village, are clear. This area of paddock makes a valuable contribution to the setting of the Conservation Area.
 11. The proposed dwelling would sit such that it would be aligned with, and be of around the same height as, the adjacent dwelling, Kinsbrook. It would occupy about two-thirds the width of the plot. Although the proposal sits within a larger plot than its neighbour it would not look out of proportion with it.
 12. However, notwithstanding that it would provide a more spacious arrangement than the previous proposal for 2 adjacent two-storey dwellings it would still represent a prominent feature jutting into an attractive open area of countryside. It would, therefore, still have an urbanising effect on an open, green space that helps to frame and provide a setting for that part of the Kingsley Conservation Area along Dark Lane.
 13. The proposed development would be constructed of render, timber and a slate roof. However, whilst it would reflect the style and the proportions of the neighbouring semi-detached bungalows these dwellings are not within the Conservation Area and do not reflect the vernacular of many of the other dwellings along Dark Lane. Consequently, the proposed development would not enhance or better reveal the significance of the Conservation Area and, would instead, harm its setting. This harm would be less than substantial to the significance of the asset when considered as a whole.
 14. The development would secure the construction of a new dwelling. This would produce short term economic benefits through construction as well as the longer-term benefit of additional housing. However, these public benefits, to which I give a very modest degree of weight, do not outweigh the harm that would be caused by the proposal to the setting of the Conservation Area.
 15. Because the development proposal would harm the setting of the Conservation Area it would fail to accord with Policy ENV5 of the Cheshire West and Chester

Council Local Plan (Part 1) Strategic Policies 2015 which requires that new development respects and responds positively to designated heritage assets and their settings. Furthermore, it would fail to accord with Policy DM46(1) of the Cheshire West and Chester Council Local Plan (Part 2) Land Allocation and Detailed Policies 2018 which requires new development, where possible, to take account of the landscape settings of Conservation Areas.

16. Finally, it would fail to accord with the advice set out at Paragraphs 196 and 200 of the Framework that new development which causes less than substantial harm to the setting of a Conservation Area should generally only be allowed where it produces more substantial public benefits.

Other Matters

17. Planning permission has been granted for demolition of a building on a site towards the B5152 and its replacement with 2 dwellings². I have no details beyond this but, in any event, the appeal proposal has been assessed on its own merits.

Conclusion

18. For the reasons set out above the appeal should be dismissed.

William Walton

INSPECTOR

² 17/05469/FUL