



Appeal Decision

Site visit made on 8 April 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th July 2025

Appeal Ref: APP/A0665/W/24/3356915

**Land adjacent to Hurst Cottage, The Hurst, Kingsley, Frodsham, Cheshire
WA6 8BD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs M Barker against the decision of Cheshire West and Chester Council.
 - The application Ref is 22/04607/FUL.
 - The development proposed is detached two storey dwelling within garden of Hurst Cottage, together with associated external works.
-

Decision

1. The appeal is allowed and planning permission is granted for a detached two storey dwelling within garden of Hurst Cottage, together with associated external works at Land adjacent to Hurst Cottage, The Hurst, Kingsley, Frodsham, Cheshire, WA6 8BD in accordance with the terms of the application, Ref 22/04607/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the site address from the decision notice for clarity and removed words not related to acts of development in the description of development in the above banner heading.
3. During the appeal process the appellant provided an amended proposed elevations drawing including a translucent glass frameless system approximately 2.1m in height. Given its scale it would, in my judgement, substantially change the appeal scheme. The appeals process should not generally be used to evolve a scheme. I therefore have determined this appeal on the original plans the Council used when making its decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the significance of the Kingsley Conservation Area (the CA) through development within its setting;
 - whether the scheme constitutes inappropriate development in the Green Belt; and
 - the effect of the proposed development on the living conditions of neighbouring residents with regard to privacy.

Reasons

Kingsley Conservation Area

5. The appeal site is located within the settlement boundary of Kingsley and is adjacent to the CA. The retained dwelling and garden at Hurst Cottage is however located within the CA. It is sited within the North Cheshire Green Belt.
6. The CA covers a large part of Kingsley and its significance derives in part from its historical layout and buildings, some of which are listed and locally listed. Open spaces are also a notable characteristic of the CA. The built form along The Hurst is not uniform in character and some of the buildings are set back considerably from the public highway. This contributes to the character and appearance of the CA and consequently its significance. Additionally, views out of the CA along The Hurst encompass various dwellings due to their respective heights and scattered building line.
7. The appeal scheme would be located in a relatively prominent position due to the topography of the appeal site. Views from the CA include built form and therefore the appeal scheme would not unacceptably harm these views. Regarding its effect upon the open space, it is heavily bordered by mature hedgerows and therefore this somewhat physically encloses the space. I appreciate that the addition of a dwelling on the appeal site would introduce a built form into the open space, however, given the scattered nature of the built form, the differing designs and heights within the Hurst and the wider CA, I consider that the appeal scheme would not result in unacceptable harm.
8. Given all of the above, in my mind, the appeal scheme would not result in unacceptable harm to the significance of the CA through development within its setting. It therefore would comply with ENV5 and ENV6 of the Cheshire West and Chester Council Local Plan (Part One) Strategic Policies (LP1) and Policies DM3 and DM46 of Cheshire West and Chester Council Local Plan (Part Two) Land Allocations and Details Policies (LP2). These Policies seek, amongst other things, to ensure developments are sympathetic to heritage assets and in particular pay special attention to the significance of conservation areas.

Inappropriate Development

9. Paragraph 155 of the National Planning Policy Framework (the Framework) provides further instances of not inappropriate development besides those referenced in paragraph 154. It states that a) the development would utilise Grey Belt land and would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, b) there is a demonstrable unmet need for the type of development proposed, c) the development would be in a suitable location, with particular reference to paragraphs 110 and 115 of the Framework and d) where applicable the development proposed meets the 'Golden Rules' requirements set out in paragraphs 156-157 of the Framework.
10. The term 'Grey Belt' is defined in the Framework as land in the Green Belt comprising previously developed land and/or any other land that in either case does not contribute to any of the purposes (a), (b) or (d) in paragraph 143. It also excludes land where the application of policies relating to the areas or assets in footnote 7 (other than the Green Belt) would provide a strong reason for refusing or restricting development.

11. Paragraph 143(a) and (b) establish the purposes of Green Belt policy as to prevent unrestricted sprawl of large built-up areas and prevent neighbouring towns merging into one another. Given that the appeal site is located within the garden of Hurst Cottage, is relatively enclosed by adjacent dwellings and is located immediately next to the built-up area of Kingsley, I consider that the appeal site would not contribute to unrestricted sprawl of a large built-up area and can be classed as other land for the purpose of the Grey Belt Definition. It therefore follows that it would not result in the merging of neighbouring towns or fail to preserve the setting and special character of any historic towns as outlined in paragraph 143(d).
12. Consequently, the appeal site meets the criterion to be classed as Grey Belt.
13. Regarding paragraph 155 of the Framework, I have identified above that the appeal scheme would not undermine the purposes of the Green Belt in relation to paragraph 143(a), (b) or (d). In relation to paragraph 143(c), due to the substantial mature border of the site, I consider that the appeal scheme would not result in encroachment into the countryside. Furthermore, given that the appeal site is already within the garden of Hurst Cottage, to my mind, it would not undermine the purpose outlined in paragraph 143(e) which pertains to encouraging the recycling of derelict and other urban land. Accordingly, part a) of paragraph 155 is met.
14. The Council is unable to demonstrate a five-year housing land supply, and it follows therefore that there is a demonstrable unmet need for residential development. Consequently, considering the proposal would provide a residential dwelling, part b) of paragraph 155 is met.
15. Paragraph 155 part c) of the Framework requires development to be sustainably located with respect to its approach to transport accessibility. The appeal site is within a reasonable walking distance to the centre of Kingsley which is identified as a Local Service Centre by Policy R1 of LP2. There are adequate facilities and amenities located within Kingsley as well as public transport options to access Key Service Centres such as Frodsham. The appeal scheme would consequently comply with part c) of paragraph 155 of the Framework.
16. Part d) references the Golden Rules however, these rules only pertain to major housing development (any housing scheme of 10+ units or site area of 0.5ha or more). Consequently, part d) of paragraph 155 of the Framework does not apply to the appeal scheme.
17. Finally, footnote 7 includes policies in the Framework that relate to designated heritage assets amongst other things. I have identified above that the appeal scheme would not result in unacceptable harm to the significance of the CA through development within its setting. It follows therefore, that it does not provide a strong reason for refusing or restricting development.
18. In conclusion, the appeal site is in the Grey Belt and the effect of the appeal scheme on the significance of the CA through development within its setting does not provide a strong reason for refusing or restricting the proposed development. It therefore complies with paragraph 155 of the Framework, and the proposed development would not be inappropriate in the Green Belt. Accordingly, it would comply with Policies STRAT9 and ENV6 of LP1 and Policies DM3 of LP2. These Policies seek, amongst other things, to restrict development in the Green Belt in accordance with the Framework.

Living Conditions

19. The first-floor windows of the appeal scheme would not provide unacceptable direct views into neighbouring habitable windows nor neighbouring private amenity spaces. However, the appeal scheme would include a rear balcony/roof terrace and given the elevated land level of the appeal site, the appeal scheme would be higher than the existing dwellings on the Hurst. Consequently, this would result in a level of overlooking between the future occupants of the appeal scheme and existing residents along the Hurst including those at Hurst Lea and Balderstone.
20. Nevertheless, the addition of adequate screening along the rear balcony would prevent any unacceptable harm in relation to the privacy of any neighbouring residents. Therefore, I am satisfied that this could be achieved by an appropriately worded condition.
21. Given the above, the appeal scheme would not result in significant harm to the living conditions of neighbouring residents with regard to privacy. Consequently, it would comply with Policy SOC5 of LP1 and DM2 of LP2 insofar as they seek to ensure that development does not result in significant adverse impacts to residential amenity.

Other Matters

22. Regarding highways access, the Highways Authority has not objected to the appeal scheme on the grounds of highways access or safety, and I find no reason to disagree with their conclusions on this matter.

Conditions

23. The Council has provided a list of suggested conditions. I have amended the wording of suggested conditions for clarity and to ensure accordance with the tests set out in paragraph 57 of the Framework.
24. In addition to the standard time limit condition (1), I have attached a condition specifying the approved plans to provide certainty (2). A condition requiring the submission of details regarding external materials is necessary to prevent any erosion of the areas character (3).
25. A condition requiring a preliminary risk assessment is necessary to ensure that risks from land contamination are minimised (4). It is necessary to attach a condition requiring the provision of adequate visibility splays and site access in the interest of highway safety (5). I have also attached conditions requiring the provision of adequate parking and cycle facilities in the interest of highway safety and sustainable transport methods respectively (8 and 9). Additionally, in the interests of sustainable development and transport I have imposed a condition requiring the submission of electric vehicle charging point provision (10).
26. To ensure the living conditions of neighbouring residents are not significantly affected by the appeal scheme I have imposed a condition requiring the submission of details regarding a privacy screen (6).
27. I have imposed a condition requiring the submission of details regarding a scheme of bat roosting and bird boxes to secure biodiversity enhancement measures (7).

28. A condition requiring the development to provide a water consumption rate of no more than 110 litres per person is necessary to ensure the efficient use of water (11).
29. Conditions restricting the hours of construction and deliveries are necessary to ensure the living conditions of neighbouring occupants are not significantly affected (12 and 13).
30. It is necessary for conditions 4 and 5 to take the form of 'pre-commencement' conditions to have their intended effect.

Conclusion

31. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above the appeal should be allowed.

B Astley-Serougi

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos P7 02 (Proposed Site Layout and Location Plan), P7 03 (Proposed Site Layout), P7 04 (Proposed Site Section), P7 05 (Proposed Ground Floor Plan), P7 07 (Proposed First Floor Plan), P7 10 (Proposed Elevations).
- 3) No development above ground level shall take place until details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
 - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
 - ii) the site has been remediated in accordance with the approved measures and timescale; and
 - iii) a verification report has been submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:

 - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
 - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place until detailed plans in respect of the works required to form suitable site access and the changes to the front boundary to achieve suitable visibility splays have been submitted to and approved in writing by the local planning authority. The works shall only be carried out in accordance with the approved details and completed prior to first occupation of the development.
- 6) Prior to the first occupation of the development hereby permitted, details of privacy screening along the full projection of the west side of the first-floor level roof terrace shall be submitted to and approved in writing by the local planning authority. The screening shall be at least 1.70m in height above the finished floor level and no openings or alterations shall be introduced/made

- to the screening without the express consent in writing of the local planning authority. The privacy screening shall be provided prior to the first occupation of the development hereby permitted and retained thereafter.
- 7) Prior to the first occupation of the development hereby permitted a scheme for the provision of bat roosting and bird boxes within the site shall be submitted to and approved in writing by the local planning authority. Details shall include the locations and specifications. The bat and bird boxes shall be provided in accordance with the approved scheme prior to the first occupation of the development hereby permitted and retained thereafter.
 - 8) Prior to the first occupation of the development hereby permitted the space for turning and car parking shall be provided in accordance with drawing nos P7 02 and P7 03 and retained as such thereafter.
 - 9) Prior to the first occupation of the development hereby permitted the details of cycle parking facilities shall be submitted to and approved in writing by the local planning authority. The cycle parking facilities shall be provided in accordance with the approved details prior to the first occupation of the development hereby permitted and retained thereafter.
 - 10) Prior to the first occupation of the development hereby permitted details of electric vehicle charging points shall be submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be provided in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be retained thereafter.
 - 11) The development hereby permitted shall have a water consumption rate of no more than 110 litres per person per day.
 - 12) Demolition or construction works shall take place only between 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on a Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.
 - 13) Deliveries shall be taken at or despatched from the site only between 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on a Saturday and not at any time on Sundays or on Bank or Public Holidays.

=====END OF SCHEDULE=====