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## Appeal Decision

Site visit made on 16 May 2019

**by Martin Chandler BSc MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 July 2019**

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**Appeal Ref: APP/V1505/W/18/3214486**

**Rose Cottage, Dunton Road, Dunton, Basildon CM13 3SH**

- 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 J England against the decision of Basildon District Council.
  - The application Ref 18/00283/OUT, dated 26 February 2018, was refused by notice dated 1 May 2018.
  - The development proposed is a replacement dwelling.
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### Decision

1. The appeal is allowed and outline planning permission is granted for a replacement dwelling at Rose Cottage, Dunton Road, Dunton, Basildon CM13 3SH in accordance with the terms of the application, Ref 18/00283/OUT, dated 26 February 2018, subject to the conditions in the attached schedule.

### Procedural Matter

2. The proposal seeks outline planning permission for the erection of a replacement dwelling, and at this stage, permission is only sought for the approval of the proposed access and layout. Appearance, landscaping, and scale are reserved for future consideration and I have therefore assessed the proposal on this basis.

### Main Issue

3. In refusing planning permission, the Council's only concern relates to the impact of the proposal on the Green Belt. Consequently, the main issue is whether the proposal would be inappropriate development within the Green Belt, having regard to the National Planning Policy Framework (the Framework) and development plan policy.

### Reasons

4. 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. The construction of new buildings should be regarded as inappropriate development in the Green Belt. However, an identified exception to this is the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
5. The appeal site constitutes an open parcel of land to the rear of the principal dwelling on the site which fronts the main road. An existing dwelling in the form of a converted stable building is located on land to the north of the

proposed replacement dwelling. This building has a long and narrow footprint and is single storey with a pitched roof. The majority of the structure would be demolished as part of the development, although a small store would be retained.

6. The proposed new dwelling would replace the existing converted stable building. It would have a broadly square footprint which would be 169m<sup>2</sup> in area. This would be the same as the dwelling that would be demolished. However, the indicative floorplans and elevations suggest that the proposed building would have a two storey section with additional first floor accommodation provided within a converted roofspace. In this respect, the indicative bulk and mass of the proposed dwelling would appear larger than the building it would replace.
7. Despite this, the scale, appearance and landscaping of the proposed development are reserved for future consideration. Consequently, concerns in relation to the proposal being materially larger than the one it would replace can be adequately controlled at the reserved matters stage. The same is also true in relation to the living conditions of neighbouring properties, with particular regard to loss of privacy.
8. The proposed dwelling would not occupy the same location as the building that it would replace. The necessary demolition would therefore need to be secured through a suitably worded planning condition. On that basis, and having regard to the evidence before me and the matters that are relevant to the assessment of this appeal, I am satisfied that the proposal would be a replacement building that would be in the same use and would not be materially larger than the one it would replace. I therefore conclude that the proposal would not constitute inappropriate development within the Green Belt.
9. Consequently, for the reasons identified above, the proposal would accord with Saved Policy BAS GB3 of the Basildon District Local Plan (2007) (BDLP) as well as the Green Belt protection aims of the Framework.
10. In refusing planning permission, the Council also referred to Saved Policy BAS GB5 of the BDLP which provides a definition of a dwelling for the purposes of the development plan. It states that Saved Policy BAS GB3 will not apply to dwellings that were made lawful by virtue of the granting of a Lawful Development Certificate<sup>1</sup>. Despite this, Paragraph 145 (d) of the Framework does not explicitly relate to the replacement of dwellings. Instead, it allows for the replacement of a building subject to restrictions in relation to use and size.
11. As a consequence, Saved Policy BAS GB5 is not consistent with policies contained within the Framework. Accordingly, it is out-of-date and is not relevant to the consideration of this appeal.

## Conditions

12. Due to my findings set out above, conditions are necessary to establish the terms of the subsequent reserved matters application as well as to list the approved drawings at this stage. In addition, a condition is necessary to secure the demolition of the existing dwelling so as to fulfil the Green Belt protection aims of the Framework.

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<sup>1</sup> The existing dwelling that would be replaced was made lawful under Lawful Development Certificate  
Ref: 14/01236/LDC

13. Due to the location of the site within the Green Belt and to ensure that the proposed building would not be materially larger than the building it would replace, conditions are necessary in relation to proposed site levels and overall floor area. In addition, in the interests of highway safety, conditions are necessary to ensure car parking spaces are provided on site, as well as suitable vehicular turning areas. Finally, in the interests of visual amenity, a condition is necessary to ensure the proper provision of refuse and recycling facilities.
14. Although the site is located within the Green Belt, I am not satisfied that there is clear justification to remove permitted development rights for alterations and additions that could materially increase the size of the proposal. Such restrictions do not automatically apply to development within the Green Belt and due to the layout proposed as well as the limited size of the appeal site, I am satisfied that extensions under permitted development would not harm the Green Belt protection aims of the Framework.
15. The Council have suggested an additional condition in relation to the overall ridge height of the proposal. However, this condition is not necessary because the height can be controlled at the reserved matters stage. For the same reason, details in relation to the design, external appearance and means of enclosure are also not required at this stage by way of condition.
16. Due to the size of the overall site and the limited scale of the proposal, I also consider that conditions in relation to hours of construction, a construction management plan and wheel washing facilities fail the test of necessity.

### **Conclusion**

17. For the reasons identified above, the appeal is allowed.

*Martin Chandler*

INSPECTOR

### SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, 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.
- 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) 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.
- 4) Prior to the occupation of the dwelling hereby approved, the existing dwelling shall be demolished in accordance with Drawing Number 2018-125-002.
- 5) Insofar as they relate to the access and layout of the development hereby approved, the development shall be carried out in accordance with the following approved plans: 2018-125-001 and 2018-125-002
- 6) The reserved matters application shall be accompanied by details of existing site levels and finished floor levels of the proposed dwelling and the development shall be implemented in accordance with those details.
- 7) The overall floor area of the dwelling hereby permitted shall not exceed 239m<sup>2</sup> measured externally.
- 8) The dwelling hereby permitted shall not be occupied until two car parking spaces for the dwelling, have been provided on the site, details of which including their location and size shall have first been submitted to and approved in writing by the local planning authority.
- 9) Prior to the occupation of the dwelling hereby approved, full details of a vehicular turning area shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the detail so approved.
- 10) Prior to the occupation of the dwelling hereby approved, full details of the refuse and recycling facilities, including their location, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented strictly in accordance with the detail so approved.