



Appeal Decision

Site visit made on 1 April 2025

by **P Terceiro BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 April 2025

Appeal Ref: APP/X1545/W/24/3351753

Rosemead, Bumfords Lane, Ulting, Essex CM9 6QT

- 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 J Fielder against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/24/00205.
 - The development proposed is the demolition of existing dwelling and outbuildings and construction of a new dwelling on adjacent land.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated on 12 December 2024. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views, and the revised version has been taken into account in this decision.
3. As a part of their appeal submission the appellant has provided an Arboricultural Impact Assessment. The report confirms that the proposed dwelling would not result in harm to existing trees on the site, and provides a detailed tree protection plan which sets out the proposed measures to ensure that the demolition works would preserve the health of the retained trees. The Council has confirmed that it no longer wishes to pursue this reason for refusal. I see no reason to disagree and, accordingly, I have not considered this matter any further.

Main Issue

4. The main issue is whether the principle of a dwelling in the location shown would be acceptable, having regard to the development plan policies and to the effect of the proposed development on the character and appearance of the area.

Reasons

5. Policy H4 of the Maldon District Approved Local Development Plan 2014 – 2029 (2017) (the LDP) states that planning permission for the replacement of an existing dwelling with a new dwelling will only be granted if the criteria listed are met. These include that the proposed replacement is of an appropriate scale to the plot and its setting in the landscape; and is of a design appropriate to its setting.

6. In this case, the appeal site is a large parcel of land with an irregular shape which forms part of a wider property. It comprises two distinct parcels of land connected by an access track. The existing dwelling and outbuildings proposed for demolition occupy the northern part of the site. The existing dwelling has an enclosed garden and is located in a woodland setting, near a number of outbuildings. The proposed dwelling would be located within the southern part of the site, in a maintained area of grassland. The Council indicates that both parcels of land are approximately 60m apart, which is not disputed by the appellant. While the proposal seeks to deliver the new dwelling in a different location in terms of character, the whole land falls within the ownership of the appellant. In addition, LDP Policy H4 does not set a specific requirement in terms of the positioning of a replacement dwelling relative to the dwelling it would replace.
7. The parties agree that a S106 legal agreement is required to secure the demolition of the existing dwelling and outbuildings, which I find would be an appropriate mechanism taking into account the tests set out in the Framework and in the Planning Practice Guidance. However, there is none before me. In the absence of a completed legal agreement, I cannot be satisfied that the existing dwelling would be demolished, and that the proposal would constitute a replacement dwelling.
8. Bumfords Lane is a narrow lane largely bounded by trees and hedges. The surrounding character is markedly rural and comprises agricultural fields interspersed with pockets of woodland and limited presence of built form. The nearby dwellings differ in individual scale and appearance and are accommodated in plots of varying shapes and sizes.
9. The proposed dwelling would appear grand in design, with a symmetrical front façade and the main roof and dormers set behind a parapet wall. While this may result in a dwelling with a stately home appearance, there is a mixture of styles and designs of properties in the local area, and so the proposal would be appropriate to its setting and would not look out of place.
10. The size of the proposed plot would be commensurate to the size of the dwelling, and the dwelling would be provided with adequate gaps to its boundaries. As such, whilst large, the scale and massing of the dwelling would be comfortably accommodated within its plot and the proposal would integrate well with the local character.
11. The dwelling would be considerably set back from Bumfords Lane and the existing line of mature trees and vegetation along the boundary of the property with the lane would filter views towards the proposed dwelling. Therefore, while the proposal would create a new curtilage in a different location within the countryside, the visual effects from the proposal would be largely contained to the appeal site itself, apart from the glimpsed views from Bumfords Lane through the site access and retained boundary hedgerow and trees.
12. Drawing all the above together, while the proposal would be acceptable in terms of its effect on the character and appearance of the area, in the absence of a completed legal agreement, I cannot be certain that the existing dwelling would be demolished. On this basis, the proposal would fail to accord with LDP Policies H4, S1 and S8, where they relate to replacement dwellings and seek to direct residential development towards the defined settlement boundaries.

Other Matters

13. The appeal site lies within the 'Zone of Influence' of one or more European designated sites scoped into the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). As a result of the location of the site and the nature of the development proposed, the development could potentially have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure. However, there is no need for me to undertake an Appropriate Assessment because the scheme is unacceptable for other reasons.
14. The area where the existing dwelling and outbuildings proposed for demolition are located would be returned to woodland, which would be beneficial to biodiversity. However, in the absence of a S106 legal agreement to secure the demolition of these buildings, this matter would carry limited weight in favour of the scheme.

Conclusion

15. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

P Terceiro

INSPECTOR