
Appeal Decision

Site visit made on 9 April 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 May 2025

Appeal Ref: APP/X1545/W/24/3354510

Lower Meadow, Ulting Lane, Ulting CM9 6QZ

- 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 Stephen Newman of Nossewey Gundogs Limited against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/23/00838.
 - The development proposed is the change of use of one acre of the land for exclusive use for the purpose of commercial dog training.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the fence surrounding the proposed dog training area has already been laid out and that there has been some previous use of the site for this purpose, though there was no activity taking place at the time of my site visit. Nevertheless, I must determine the appeal based on the submitted plans and information considered by the Council.
3. The description of development in the banner heading above is taken from the application form but has been shortened in the interests of precision.

Main Issues

4. The main issues in this appeal are:
 - whether this is an appropriate location for the proposed development, having regard to development plan policies;
 - the effect of the proposal on the character and appearance of the countryside; and
 - the effect of the proposed development on the living conditions of the occupiers of Stammers Farm, with particular regard to noise.

Reasons

Location

5. The appeal site lies in the countryside, outside the defined settlement boundaries identified in Policy S8 of the Maldon District Local Development Plan 2014 – 2029 (LDP). The policy only allows certain types of development outside the defined settlement boundaries.

6. The proposal is for a commercial dog training facility for gundogs which the appellant considers is a countryside activity. However, whilst the land could be returned to agricultural use in future, the proposal does not relate to an existing agricultural unit and therefore does not support rural diversification.
7. The proposed use supports a small business, providing employment for the appellant. Nevertheless, there is no substantive evidence that it provides an employment generating proposal in accordance with LDP Policy E1, a type of development allowed outside defined settlement boundaries by Policy S8.
8. The appellant outlines that as customers attend training at the site, the proposed commercial dog training facility is a community facility which meets a local need. However, whilst it provides a specific service to gundog owners, it does not meet any wider community needs.
9. No case is made that the proposed use meets any other types of development set out in Policy S8.
10. Consequently, I conclude that this is an inappropriate location for the proposed development, having regard to development plan policies. This is contrary to Policy S8 of the LDP where it seeks to restrict development outside the defined settlement boundaries.

Character and appearance

11. The site comprises a largely grassed area to the south of Ulting Lane, a country road bounded by trees and hedgerows. It is within the Lower Chelmer Valley Landscape Character Area (LCA) in the Council's Landscape Character Assessment. Overall, the LCA is open in character with a wide floodplain and gently sloping valley sides. Its key characteristics include predominantly arable farmland on valley slopes and a strong sense of place and tranquillity. As it is undeveloped land within a wider area of open and agricultural land, the site positively contributes to the character of the LCA.
12. The proposal includes space for parking up to seven cars. It is indicated that there are very few occasions when this number of cars are parked and that normally there are only two parked cars when one to one training is undertaken. The appellant is willing to only carry out one to one training on the site, resulting in a maximum of three cars parked at any time.
13. Nevertheless, due to the undeveloped and open nature of the site and surrounding land, a row of parked cars would appear as an unexpected and discordant feature in this part of the countryside. Although the appellant indicates that some tree planting has taken place which would screen the parking area as the landscaping matures, no details have been provided. In any event, this could be removed, become damaged or diseased and may only provide screening in the spring and summer months. Regardless of any planting, parked cars would be visible to users of this part of Ulting Lane through the proposed vehicular access and gaps in the hedge further west along the road.
14. Therefore, I conclude that the proposal harms the character and appearance of the countryside. This is contrary to Policies D1 and S8 of the LDP where they require developments to protect the countryside for its intrinsic character and to make a positive contribution to landscape setting.

Living conditions

15. The appeal site is in a quiet rural location, relatively close to a residential property at Stammers Farm. Permission was sought to carry out dog training from 8.30am-7pm on Mondays to Fridays and from 9am-2pm on Saturdays, Sundays and Bank Holidays, though it is indicated that this would be limited to daylight hours.
16. The evidence indicates that the occupiers of Stammers Farm have been affected by sporadic noise arising from the use of the site for dog training, including whistles, firecrackers and shouting, both inside their dwelling and when using their outdoor space. The Council does not refer to the use being a statutory nuisance, but its Environmental Health Manager objects to the proposal as there have been complaints about noise from the site and this issue has not been addressed.
17. The appellant states that firecrackers are not used in gundog training and that whistles are not blown at full force, nor are they used in every training session. Nevertheless, in the absence of a noise survey or other evidence which quantifies the levels of noise expected onsite and how this could be mitigated, I cannot be certain that the proposal does not cause noise disturbance to nearby residents.
18. The appellant would accept restrictions limiting the operation of the premises to weekdays only, but there would remain large parts of the week when the occupiers of Stammers Farm could be affected by noise from the proposed use.
19. Consequently, I conclude that there has been a failure to demonstrate that the proposed development would not harm the living conditions of the occupiers of Stammers Farm, with particular regard to noise. This would be contrary to Policy D1 of the LDP which requires development to protect the amenity of surrounding areas taking into account noise, amongst other things.

Other Matters

20. The proposed use provides a safe, secure and controlled space for training dogs bookable by appointment with an instructor. However, this does not outweigh the harms I have found above.
21. The Council did not find harm or development plan conflict in relation to several other matters, including flood risk, heritage assets, waste disposal, highway safety, and ecology. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

Conclusion

22. For the above reasons, 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. Therefore, the appeal should be dismissed.

A Wright

INSPECTOR