



Appeal Decision

Site visit made on 9 September 2025

by A Robinson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 November 2025

Appeal Ref: APP/Y2430/W/25/3368765

Willowmead, 5 Hollands Lane, Twyford, Leicestershire LE14 2HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Gary Bird against Melton Borough Council.
 - The application Ref is 24/00982/FUL.
 - The development proposed is described as “Demolition of existing dwelling and double garage. Replacement dwelling and triple garage/pool. Associated drive and landscaping and new pond.”
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. The Council claims it requested the appellant remove reference to the new pond from the description as it falls outside the red line boundary, although this request was refused. The appellant contradicts this claiming that they did not initially include the pond as part of the application but did so following a request from the Council. They were then requested to remove the pond from the application by the Council and submitted a separate application for this aspect.
3. The Council subsequently refused a certificate of lawful development for the pond and issued an enforcement notice. These are subject to separate appeals.
4. Drawing number A002A clearly shows the ‘proposed pond’ falling outside the red line boundary. It therefore cannot form part of the appeal proposal. I do not consider it further including its effect on flooding.
5. The Council has confirmed that it would have refused the application had it determined the application within the prescribed period.

Main Issues

6. The main issues are:
 - whether the proposal represents a necessary and appropriate form of development having regard to the effect on open countryside and the setting of the village of Twyford;
 - the effect on protected species with regard to bats; and
 - disposal of foul drainage.

Reasons

Whether the proposal represents a necessary and appropriate form of development having regard to the effect on open countryside and the setting of the village of Twyford

7. The appeal site comprises a detached bungalow set within a large plot of land located on the edge of Twyford. At the site access from Hollands Lane is a small bridge which crosses Gaddesby Brook. Upon entering the site is an area of hardstanding and a large, detached garage situated in front of the bungalow. The bungalow is tightly bounded by tree planting to the rear and along one side which forms an enclosure to surrounding grassed land which forms part of the wider site (denoted in blue on the location plan). This arrangement adds a small degree of separation from the main built-up part of Twyford.
8. The boundary to the opposite side of the bungalow is open and comprises an area of grassland and soil. This area, which includes a rectangular shaped outbuilding, merges into rough grassed land forming part of the wider site where the demarcation with the curtilage of the bungalow is not readily apparent.
9. The proposal would be situated on the area of ground between the existing bungalow and outbuilding. I have not been provided with evidence illustrating a defined settlement boundary for Twyford. Therefore, the extent to which the proposal encroaches into the countryside is a matter of judgement having regard to the individual circumstances of the case.
10. Evidence in the form of an undated sales particular document covering the bungalow and wider site shows a low-rise open timber fence separating the bungalow from this area of ground. This boundary is demarcated on the location plan and block plan. It is also visible on an undated aerial image. I have not been presented with alternative aerial images disputing this. Comparing this evidence against what I observed on site, it is clear this boundary has been removed.
11. Comments and photos submitted by parties suggests the area of ground was used by sheep to graze when there was a clearer demarcation. Even if grazing primarily took place in areas of the wider site, the area of ground was clearly connected to and associated with this activity. I am aware the definition of agriculture under section 336 of the Town and Country Planning Act 1990 includes, amongst other things, the use of land as grazing land. Bringing these matters together, the evidence firmly leads me to conclude that the area of ground has historically been agriculture. The fact that the land may not be readily visible from the public domain or the presence of an informal track does not change this conclusion.
12. For the above reasons, I find that the proposal would encroach into and fail to conserve the open countryside resulting in visual and spatial harm. It would result in landscape harm through the removal of landscape features such as grassland, boundaries and other vegetation features which all contribute to its rural character.
13. Policy SS2 of the Melton Borough Local Plan 2011-2036 (MBLP) (adopted 2018) restricts development outside of settlements, including rural settlements, to that which is necessary and appropriate in the open countryside. No guidelines as to what may or may not be considered 'necessary' and 'appropriate' in this context has been brought to my attention. This is therefore a matter of judgement.

14. It has not been disputed that the existing bungalow is currently uninhabitable due to extensive flood damage that occurred in January 2025. I observed that the bungalow was undergoing significant works during my visit. It is put to me that the proposal is required to provide a more flood resilient dwelling in place of the bungalow, which some residents comment has flooded on several occasions.
15. The updated Flood Risk Assessment (FRA) (dated March 2025) notes that the site is in Flood Zone 3a. Figure 3 of the FRA notes that the existing floor level of the bungalow is 98.9m above ordinance datum (AOD). The FRA recommends the replacement dwelling have a finished floor level of not less than 99.27m AOD, which would be at least 0.6m above the estimated 1 in 100-year (plus 37% climate change allowance) flood level. The replacement dwelling also proposes all sleeping accommodation to the first and second floors.
16. I give positive weight to these matters in justifying the necessity of the proposal. However, whilst I accept these measures could result in a more flood resilient dwelling, I am not persuaded that they justify the extent of encroachment into the countryside. The proposal would remain within the same Flood Zone despite being sited further from the Gaddesby Brook. Noting therefore that a main benefit would be the higher floor level, it is not clear why the footprint of the existing bungalow cannot be utilised for this purpose. I recognise the proposed lowering of the existing floor levels of the bungalow and garage once removed although this is to provide level-for-level and volume-for-volume floodplain compensation for the replacement dwelling, as required under Policy EN11 of the MBLP. I therefore give very little weight to this matter in justifying the proposal.
17. Overall, I find that the extent of encroachment into the countryside would not represent a necessary and appropriate form of development, contrary to policy SS2 of the MBLP. It would fail to conserve and result in unjustified harm to the open countryside and the landscape setting and features of the site, contrary to Policy EN1 of the MBLP. In addition, paragraph 84 of the National Planning Policy Framework (the Framework) seeks to avoid isolated homes in the countryside, and the proposal would exacerbate the existing separation of the site from Twyford.
18. Policy EN6 of the MBLP supports development proposals which do not harm open areas in settlements subject to criteria. The location of the site adjacent to existing buildings and structures against a backdrop of extensive tree planting in a reasonably well contained part of the wider site limits the contribution the site makes to the character of Twyford. For those reasons, I consider the positive contribution the site makes to the character of Twyford is limited. Other criteria within the policy are not directly relevant to the proposal. Overall, I find the proposal would not conflict with policy EN6 of the MBLP.

Bats

19. A Preliminary Ecological Appraisal Report (PEAR) (dated 20 February 2025) assesses, amongst other things, the effect of the proposal on key habitats and species. It also contains a preliminary roost assessment (PRA) in respect of bats. The PEAR concludes further emergency surveys are required due to bat roosting suitability within the existing buildings, with the existing bungalow noted as having a high suitability. These surveys are required to be undertaken during the May-August bat activity season where one may be within September. In addition, Leicestershire County Council's (LCC's) Ecology Officer notes the survey within

the PEAR has not taken place in accordance with national guidance due to unavoidable access limitations.

20. No further bat emergency surveys are before me. Paragraph 99 of Planning Circular 06/2005 states it is essential that the presence or otherwise of protected species, and the extent that they may be affected, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. It emphasises that requesting surveys under planning conditions should only be in exceptional circumstances.
21. In the absence of such surveys, there is insufficient information to consider whether bats would be harmed by the proposal and if so, whether mitigation measures are required. Attaching a planning condition would not properly determine this matter and allow me to discharge my duties under the Conservation of Habitats and Species Regulations 2017 as the harm to bats is unknown. For those reasons, it would not be appropriate to attach a condition. I have not been presented with any exceptional circumstances to indicate otherwise.
22. In adopting the precautionary principle, I conclude there is insufficient information to demonstrate the proposal has avoided or would avoid a harmful effect on bats. The proposal would not accord with Policy EN2 of the MBLP and paragraph 193 of the Framework which amongst other things, seek to protect and enhance biodiversity and ecology.

Disposal of foul sewage

23. The application form states foul sewage would be disposed by mains sewer. However, the appellant has confirmed that the existing dwelling is served by a septic tank and no mains sewer connection is available. During the Council's processing of the application, there was an outstanding objection from the Environment Agency (EA) on the grounds of insufficient information regarding the disposal of foul sewage.
24. The EA has advised during the appeal they have received information from the appellant which confirms that the existing septic tank would be replaced by a new package treatment plant to dispose of foul drainage. This information is not before me, so I am unable to consider it. Had I otherwise been allowing the appeal, I would have requested details of this information and particularly the site plan that the appellant claims was submitted to the Council to ensure that the requirements of Policy EN11 of the MBLP had been met.

Other Matters

25. Matters relating to the involvement of Council Members during the application process is not a matter for me to consider as part of this decision. So too are concerns about the time taken by the Council to process the application and that it did not make a decision on the scheme. I am required to assess all comments and evidence submitted to the appeal and I have considered these in my decision.

Conclusion

26. The proposal conflicts with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal should be dismissed.

A Robinson

INSPECTOR