



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
18 MAY 2022**

| | |
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| Application Number | 21/01253/FUL |
| Location | Walden Cottage 58 Walden House Road Great Totham CM9 8PN |
| Proposal | Replacement dwelling with detached garage, landscaping and extension of garden land. |
| Applicant | Mankelow - Bradley David Developments |
| Agent | Mr Fred McKennon - CITIGROUP |
| Target Decision Date | 17.02.2022 EOT 01.04.2022 |
| Case Officer | Cris Lancaster |
| Parish | GREAT TOTHAM |
| Reason for Referral to the Committee / Council | Member Call In by Councillor J V Keyes Reason: Sustainability and policies S1, H1 and D1 |

1. RECOMMENDATION


REFUSE for the reason as detailed in Section 8 of this report.

2. SITE MAP

Please see below.

21/01253/FUL
NWAC



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| | Organisation: | Maldon District Council |
| | Department: | Department |
| | Comments: | Not Set |
| | Date: | 09/05/2022 |
| | MSA Number: | 100018588 |

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located on the northern side of Walden House Road, approximately 50 metres west of the settlement boundary for Great Totham. The site is currently occupied by a single storey detached dwelling located in the south east corner of the site. The site is surrounded by open countryside to the north, two neighbouring dwellings to the east and a brook along the western boundary.
- 3.1.2 Planning permission is sought for a replacement of the existing bungalow with a two storey dwelling with a detached garage and an extension to the residential garden land.
- 3.1.3 The proposed replacement dwelling would be sited to the north west of the position of the existing dwelling and some 11 metres from the public highway. It would measure 284 sqm being 14.7m wide, a maximum of 10m deep, extend 5.3m to eaves and 8.48m to the ridge. The proposed finishing materials are red facing brick walls, slate roof tiles, softwood windows, soffits and fascia's with an oak framed porch with clay roof tiles.
- 3.1.4 The proposed garage would measure 6.6m wide, 6.37m deep and 4.47m to the ridge. It would be sited to the western side of the site towards Catchpole Brook with its flank parallel to but set back and down from the footpath.
- 3.1.5 The proposed extension to the residential garden land relates to an area of open countryside directly to the rear of the site which amounts to 290sqm. This would increase the residential land from 1485sqm to 1775sqm.
- 3.1.6 This application represents a resubmission following the refusal of application 21/00901/FUL which proposed '*Replacement dwelling with detached garage and extension to garden land*'. The application was refused for the following reason:
- 'The proposed replacement dwelling, due to its design, appearance and scale is considered to form a dominant and bulky building, wholly out of keeping with the character of the area. Furthermore, the harm, as a result of the change of use of agricultural land to residential, would result in the unnecessary urbanisation of the open and undeveloped countryside, which currently positively contributes to the rural area in which it is set. The proposal would result in demonstrable visual harm to the site and surrounding area contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government guidance contained in the National Planning Policy Framework'.*
- 3.1.7 The changes when comparing the proposed and previously refused replacement dwellings (21/00901/FUL) are as follows:
- The design and appearance of the proposed dwelling has been altered from a modern Georgian style dwelling with a hipped roof form to a more traditional farmhouse style to dwelling with two front facing gable projections and gable roof form.
 - The overall width has reduced by 0.4m
 - The overall depth has reduced by 1.8m
 - The proposed extension to the garden land has been reduced from 651.9sqm to 290sqm (reduction of 361.9sqm).

- 3.1.8 Further, it is pertinent to note that the site benefits from approved permission 18/00817/FUL which proposed a two storey replacement dwelling at the site, it has been confirmed that the works have commenced and following a site visit it was apparent that groundworks had begun. Therefore, this permission appears to be extant, and the previously approved dwelling provides a fall-back position in the determination of this application.
- 3.1.9 The changes when comparing the proposed and previously approved replacement dwellings (18/00817/FUL) are as follows:
- An additional front facing gable has been added to the front elevation of the proposed dwelling increasing the footprint of the dwelling by 6 sqm.
 - The design and appearance of the proposed dwelling is similar except for the additional front projecting gable.
 - Provision of a double garage in place of open car parking,
 - The garden land proposed to be extended has increased by 361.9sqm. The original approved site area is 1485sqm and is now proposed at 1735sqm. There is no change in site area between this application and refused application 21/00901/FUL

3.2 Conclusion

- 3.2.1 The application follows the approval of 18/00817/FUL, which granted permission for a two-storey replacement dwelling. This is extant by reason of a meaningful start of development. Although, the overall scale of the proposal has increased by a further 6 sqm over the approved scheme, together with a double garage of 42 sqm to the west of the proposed dwelling, the increase overall, is in itself considered acceptable. The substantive change concerns the proposal being of a similar design and scale to the original approval, except an additional front gable has been included which, although would be a prominent feature, is of shallow depth and no further forward than the existing approved gable. These changes are considered to overcome the design concerns raised with the previous refused scheme. However, the change of use of agricultural land to residential garden land would result in the unnecessary urbanisation of the open and undeveloped countryside, which currently positively contributes to the rural area in which it is set. This element of the proposal did not form part of the previously approved 2018 scheme and although reduced in extent from the previous approval, still is of a size and extent that would result in demonstrable visual harm to the site and surrounding area contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan (MDLDP) and Government guidance contained in the National Planning Policy Framework (NPPF).

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework (NPPF) 2021, including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47 – 50 Determining applications
- 54 – 58 Planning conditions and obligations
- 119 – 125 Making effective use of land
- 126 – 136 Achieving well-designed places
- 152 – 158 Meeting the challenge of climate change, flooding and coastal change

- 174-188 Conserving and enhancing the natural environment
- 189 – 208 Conserving and enhancing the historic environment

4.2 Maldon District Local Development Plan (LDP) approved by the Secretary of State

- S1 Sustainable Development
- S8 Settlement Boundaries and the Countryside
- D2 Climate Change & Environmental Impact of New Development
- D1 Design Quality and Built Environment
- D3 Conservation and Heritage Assets
- D5 Flood Risk and Coastal Management
- H2 Housing Mix
- H4 Effective Use of Land
- N2 Natural Environment and Biodiversity
- T1 Sustainable Transport
- T2 Accessibility
- N2 Natural Environment and Biodiversity

4.3 Relevant Planning Guidance / Documents:

- Maldon District Vehicle Parking Standards Supplementary Planning Document (VPS)
- Maldon District Design Guide SPD (MDDG) (2017)
- Planning Practice Guidance (PPG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved Local Development Plan (LDP).

Replacement dwelling

5.1.2 The application site lies outside of the defined settlement boundary. However, as the proposal is for a replacement dwelling the principle of a dwelling being located at this site is already established. Policy H4 of the approved MDLDP states that planning permission for the replacement of an existing dwelling with a new dwelling will only be granted if:

- 1) *The residential use of the original dwelling has not been abandoned;*
- 2) *The original dwelling is not a temporary or mobile structure;*
- 3) *The original dwelling is not worthy of retention because of its design and relationship to the surrounding area;*
- 4) *The proposed replacement dwelling is of an appropriate scale to the plot and its setting in the landscape;*
- 5) *The proposed replacement dwelling is of a design appropriate to its setting; and*
- 6) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests.*

5.1.3 Having visited the site and having regard to the previous applications it is noted that the residential use of the original dwelling has not been abandoned and that it is not

a temporary or mobile structure, in accordance with criteria 1 and 2. The existing bungalow on site is not considered to have a particularly strong relationship to the neighbouring dwellings or surrounding area by way of its design and is considered to be of limited architectural merit. Therefore, the existing dwelling is not considered to be worthy of retention and does not conflict with criterion 3.

- 5.1.4 The assessment of the proposed dwelling in relation to criteria 4 and 5 is undertaken in detail below. Following the changes now proposed under this application, there are no significant concerns in relation to the design, appearance and overall bulk of the proposed development. However, concern is maintained in relation to the extension of the garden, and the impact it would have on the character and appearance of the site and surrounding area.
- 5.1.5 The proposal would not result in the loss of any heritage features and no important landscape or ecology interest has been recorded on this site, in compliance with criterion 6.

Extension of Residential Garden Land

- 5.1.6 Policy H4 of the LDP states that *'small, unobtrusive extensions of residential curtilages into the surrounding countryside, which will not adversely affect the character and rural amenities of the site and wider countryside, may be approved where the following criteria are met:*
- 1) *The proposal will not involve the loss of any important landscape, heritage features or ecology interests; and*
 - 2) *Provision is made for suitable landscaping to ensure boundary treatments are of an appropriate rural character and appearance.'*
- 5.1.7 The change of use to the land to the north of the existing residential curtilage would have an overall area of 290sqm which is a 361sqm reduction from the refused scheme. The land is currently open and undeveloped countryside. The proposal would result in an increase of the residential land from 1485sqm to 1,775.9sqm.
- 5.1.8 Although reduced from the refused application 21/00901/FUL, the extent of the land proposed to change use is not considered to be small or unobtrusive, particularly considering that the existing curtilage measures 1485sqm. The additional garden land proposed would increase the residential curtilage to 1785sqm by approximately 17% (as confirmed by the applicants Design and Access Statement). The proposal would extend the residential garden land into an open and undeveloped area that contributes to the rural character of the area, contrary to the policy H4 of the LDP. In addition, no justification has been provided for the proposed extension of garden land.
- 5.1.9 Whilst the land is not considered to have any overriding landscape, heritage features or ecology interests' that contribute to the character of the area, given the extent of the land proposed to change use and the intrusion into the undeveloped countryside, the proposal is considered to be contrary to policy H4 of the LDP and as such, the principal of development cannot be established in this instance.
- 5.1.10 The proposed change of use of agricultural land to residential garden land did not form part of the extant application and the principle of this element of the proposal is objected to.

5.2 Design and Impact on the Character of the Area

5.2.1 The planning system promotes high quality development through good inclusive design and layout, and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design seek to create a high quality built environment for all types of development.

5.2.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.

5.2.3 This principle has been reflected to the approved LDP. The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) *Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;*
- b) *Height, size, scale, form, massing and proportion;*
- c) *Landscape setting, townscape setting and skylines;*
- d) *Layout, orientation, and density;*
- e) *Historic environment particularly in relation to designated and non-designated heritage assets;*
- f) *Natural environment particularly in relation to designated and non-designated sites of biodiversity / geodiversity value; and*
- g) *Energy and resource efficiency.*

5.2.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG (2017). The proposal is for a replacement dwelling. Policy H4 seeks to encourage development only if the proposed replacement dwelling is of an appropriate scale and design to the plot and its setting.

5.2.5 The proposed replacement dwelling would be sited to the north west of the position of the existing dwelling. The proposal uses the footprint and design of the extant planning permission (FUL/MAL/18/00817). This application is for a 284/m² two storey Class C3 detached dwelling house and garage. There are some minor changes to the design and layout:

- Front Elevation – Additional symmetrical gable
- L/H Flank – Additional 2 windows to match size and style of accepted design
- R/H Flank – Additional 3 windows to match size and scale of accepted design

The changes result in a 4.4% increase of footprint (284/m² vs 272/m² of the extant scheme).

5.2.6 The replacement two-storey dwelling approved under the terms of application 18/00817/FUL is significantly larger than the existing bungalow currently occupying the site and given that the permission is extant it provides a fall-back position in the

determination of this application. It should be noted that the proposed extension to the residential garden land did not form part of the previously approved permission. The submitted Design and Access Statement suggests that the visual impact will be low, but the proposal is not accompanied by a verified visual landscape appraisal. Notwithstanding this, whilst the change may be limited in terms of public or wider views there is an impact associated with urban features and domestication beyond the existing curtilage, which would be harmful to the character of the area and the proposed development will encroach on and erode open countryside land.

- 5.2.7 It is considered, on balance, that the dwelling in combination with the garage would not form a dominant and out of keeping feature within open and rural landscape when compared to the approved scheme. As noted above, the overall dimensions and siting would be similar to the farmhouse design of the approved scheme.
- 5.2.8 The proposed garage would be sited to the western part of the site near to Catchpole Brook. Its flank wall would be 1.2m from the back edge of the footpath and set down from street level by over 1 metre. Due to its pitched roof facing the street, its ridge would be some 4.4m from the line of the footpath. Given its design, dimensions and orientation and distance from the proposed dwelling, the garage would not appear cramped nor the buildings, taken together, over dominant in the street scene. In this respect, there are no objections to the proposed garage.
- 5.2.9 The proposed change of use of the agricultural land to the rear of the site (north) to residential garden land would result in a loss of 290sqm of open and undeveloped countryside. Views of the subject land are available to members of the public travelling along the public highway in both directions, and the open and undeveloped land contributes to the rural feel of the area. The change of use of the land would result in the unjustified domestication of the land and intrusion into the countryside, significantly adding to the overall visual harm of the proposal.
- 5.2.10 Therefore, given the above assessment it is considered that the amended replacement dwelling is acceptable in terms of its design and appearance and therefore in compliance with D1 of the LDP. However, the extension of the residential garden to the rear of the site, into open countryside, would result in demonstrable harm to the character and appearance of the site and surrounding area contrary to policies S1, S8 and H4 of the LDP.

5.3 Impact on Residential Amenity

- 5.3.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight. This is supported by section C07 of the MDDG (2017). Similarly, policy D2 of the approved LDP requires all development to minimize all forms of possible pollution including air, land, water, odour, noise and light. Any detrimental impacts and potential risks to the human and natural environment will need to be adequately addressed by appropriate avoidance, alleviation and mitigation measures.
- 5.3.2 The application site has one immediately adjacent neighbouring property; the proposed development would be approximately 35 metres from the eastern boundary which is shared with the dwelling Sam's Song on Walden House Road and approximately 70m dwelling to dwelling.
- 5.3.3 The proposed dwelling would be sited in approximately the same position as the previously approved replacement dwelling, it is pertinent to note that no concerns

were raised in terms of the impact on residential amenity at the time of the previous assessment.

- 5.3.4 Due to the extensive separation distance, it is not considered that the proposed dwelling would have an overbearing effect on this neighbouring property. There would be three first floor windows on the eastern elevation facing the neighbouring property however, given the distance from the neighbouring property, it is not considered that this would result in any overlooking and loss of privacy to Sam's Song. There are no other residential properties bordering the remainder of the application site.

5.4 Access, Parking and Highway Safety

- 5.4.1 Policy T1 of the approved LDP seeks to create additional sustainable transport opportunities. Policy T2 aims to create and maintain an accessible environment, requiring development proposals, inter alia, to provide sufficient parking facilities having regard to the Council's adopted parking standards. Similarly, policy D1 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.4.2 The replacement dwelling would result in a four bedroom property and therefore would require parking provision for three vehicles, the proposed single storey double cartlodge would provide space to park two cars and the further parking could be accommodated to the front of the dwelling and outbuilding. Therefore, there is no objection with regards to car parking.
- 5.4.3 The existing access for the site is to remain. The Highways Authority have been consulted and there is no objection to the scheme in terms of highway safety, subject to the inclusion of a condition regarding construction traffic and storage of materials.

5.5 Private Amenity Space and Landscaping

- 5.5.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Maldon Design Guide advises a suitable garden size for each type of dwellinghouse, namely 100m² of private amenity space for dwellings with three or more bedrooms, 50m² for smaller dwellings and 25m² for flats.
- 5.5.2 The proposed development includes a 651.9sqm extension of the residential garden land it is considered that there is sufficient existing garden space well in excess of the 100m² required to serve the replacement dwelling. Therefore, there is no justification in extending the residential curtilage.
- 5.5.3 The submitted block plan shows that the existing soft landscaping and boundary treatments would be retained and extended. Should the application be approved it is considered a condition relating to the submission of details in respect of boundary treatments and landscaping are imposed, particularly as the hedge running along the western side boundary of the site is not within the applicant's control and due to the location of the trees on the southern part of the site a condition should be included for the submission of the tree retention and protection scheme to ensure that the development maintains the rural nature of the site.

6. ANY RELEVANT SITE HISTORY

- **14/00844/FUL** Replacement dwelling - Refused
- **15/00024/FUL** Replacement dwelling - Approved
- **18/00817/FUL** Replacement dwelling (renewal of planning permission FUL/MAL/15/00024) - Approved
- **21/00901/FUL** Replacement dwelling with detached garage and extension to garden land – Refused

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

| Name of Parish / Town Council | Comment | Officer Response |
|-------------------------------|--|------------------|
| Great Totham Parish Council | We raise no objection but wish to make the following comment. Provided the siting of the dwelling further back from the front (road side) of the site. | Noted. |

7.2 Statutory Consultees and Other Organisations

| Name of Statutory Consultee / Other Organisation | Comment | Officer Response |
|--|-------------------------------------|------------------|
| County Highways | No objection subject to conditions. | Noted. |

7.3 Internal Consultees

| Name of Internal Consultee | Comment | Officer Response |
|----------------------------|-------------------------------------|------------------|
| Environmental Health | No objection subject to conditions. | Noted. |

7.4 Representations received from Interested Parties

7.4.1 No representations have been received from interested parties.

8. REASON FOR REFUSAL

1. The proposed change of use of agricultural land to residential, would result in the unnecessary urbanisation of the open and undeveloped countryside, which currently positively contributes to the rural area in which it is set. The proposal would result in demonstrable visual harm to the site and surrounding area contrary to policies S1, S8, and H4 of the Maldon District Local Development Plan and Government guidance contained in the National Planning Policy Framework