

# Appeal Decision

Site visit made on 28 August 2024

**by E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 11 November 2024**

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**Appeal Ref: APP/C1625/W/24/3337848**

**Land at Belle Vue, Marsh Road, Leonard Stanley, Gloucestershire  
GL10 3NH**

- 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 Tom Marshall on behalf of Beech Homes against the decision of Stroud District Council.
  - The application Ref is S.23/1190/FUL.
  - The development proposed is a new dwelling with amenity and parking.
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## Decision

1. The appeal is allowed and planning permission is granted for a new dwelling with amenity and parking at Land at Belle Vue, Marsh Road, Leonard Stanley, Gloucestershire GL10 3NH in accordance with the terms of the application, Ref S.23/1190/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The third and fourth refusal reasons relate to the lack of mitigation in relation to the Cotswold Beechwoods Special Area of Conservation (SAC) and the Severn Estuary SAC, Special Protection Area (SPA) and Ramsar site. However, unilateral undertakings pursuant to Section 106 of the Town and Country Planning Act 1990 have been submitted as part of the appeal to secure financial contributions towards the relevant mitigation schemes. Consequently, the Council has confirmed that the unilateral undertakings overcome these refusal reasons. I shall return to this matter later in my decision.
3. The appeal submissions indicate that the adjoining property to the east of the appeal site, which is now known as Gourmet Gardens, was previously known as Marsh Stores House, and is referred to as such by the Council. For the avoidance of doubt, I shall refer to the property as Marsh Stores House.

## Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area; living conditions of the occupiers of Marsh Stores House and Lyndale; and European sites.

## Reasons

### *Character and appearance*

5. The appeal site comprises an 'L' shaped area of former garden land with a frontage to Marsh Road, contained by fencing to the side and rear boundaries. At the time of my site visit, the land was overgrown, with the front part in use for the parking of vehicles and storage. The surrounding area is predominantly residential, characterised by a mix of detached, semi-detached and terraced dwellings in a variety of mostly traditional styles.
6. While the residential properties elsewhere along Marsh Road are evenly spaced and orientated to run parallel with the highway, those close to the appeal site are part of a group with a more ad hoc layout, with dwellings sited in various positions on plots of a range of shapes and sizes. The adjoining semi-detached dwellings are set forward of their neighbour, with the flank gable end of Belle Vue at a right angle to the highway, and the garden to Lyndale extending outwards from the side gable of the property. The overall informal layout of the dwellings contributes to the character and appearance of this part of Marsh Road close to its junction with Church Road.
7. The proposed development would see the erection of a 2 storey dwelling, with second floor accommodation within the roof space, on land between the semi-detached dwellings Belle Vue and Lyndale, and Marsh Stores House. The dwelling would be orientated to front the highway, with an area of private garden space to the side, set back from Marsh Road behind the garden to Belle Vue, and the provision of 2 off road parking spaces located to the front of the building.
8. The proposed dwelling is of a traditional pitched roof design, which is not inconsistent with the appearance of the surrounding properties and would be similar in height to Marsh Stores House. Moreover, the single storey projection to the rear of the dwelling would not be an anomalous feature in a residential context. The width of the plot frontage would not be dissimilar to that of some of the dwellings on the opposite side of the road, and the proposed dwelling would be set in from the side boundaries of the site. This arrangement, together with the gap between the site boundary and the rear elevation of the neighbouring semi-detached dwellings, would maintain a degree of space between the flank elevations of the proposed dwelling and the neighbouring buildings to either side.
9. In addition, notwithstanding the rectangular footprint of the proposed dwelling, which extends up to the rear boundary of the site, given the surrounding pattern of development adjacent to the appeal site, the layout of the site would be compatible with the immediate context. As such the proposed built form would not appear as a discordant feature in terms of the prevailing pattern of development or within the existing street scape.
10. In light of the above considerations, I conclude that the proposed development would not be harmful to the character and appearance of the area. In that regard it would not conflict with Policy HC1(1) of the Stroud District Local Plan adopted November 2015 (SDLP) which requires new residential development to be compatible with the character, appearance and amenity of the area in terms of scale, density, layout and design, and

the density proposed is at as high a level as is acceptable, in terms of townscape, street scene and amenity, Policy CP8(3) of the SDLP which requires residential development to have a layout, access, parking, and landscaping that are appropriate to the site and its surroundings, and Policy CP14(5) and (9) which seeks high quality development of an appropriate design and appearance, which is respectful of the surroundings.

*Living conditions*

11. Marsh Stores House is set back a short distance from the shared side boundary with the appeal site. The siting of the proposed dwelling and its overall height would to some extent, have an overshadowing impact on the ground floor window in the side elevation of Marsh Stores House which faces the site and would impede the light and outlook from this room over and above the existing boundary fence. However, the appellant indicates that the room which the window serves is dual aspect and benefits from a second window in the rear elevation of the property which overlooks the garden. This is not disputed by the Council. As such, based on the evidence before me, the rear window would provide a less oppressive outlook and sufficient daylight and sunlight into the room. Consequently, the proposed development would not give rise to an unacceptable loss of outlook and or light from the property.
12. While the single storey rear adjunct to the proposed dwelling would extend along the most part of the side boundary to the rear garden of Marsh Stores House, given its height and inset from the boundary, it would not be unduly dominating when viewed from the rear of the property. Nor would it give rise to a significant loss of light to the rear garden or the living space at Marsh Stores House, including the conservatory.
13. The neighbouring residential property at Lyndale has ground floor windows which look across the adjoining garden at Belle Vue, towards the appeal site. The windows serve an open plan kitchen/living room. The proposal would introduce a 2 storey gable end, half of which would be directly in front of the windows. The light and outlook from the windows in Lyndale facing towards the appeal site is already affected by an existing boundary fence which is sited a short distance from the openings.
14. While the gable wall of the proposed dwelling would be clearly visible above the fence, due to the intervening separation distance, and the siting of the gable, off set from the rear of Lyndale, the flank elevation of the proposed dwelling would not form an unduly dominant or overbearing feature when viewed from the ground floor windows in Lyndale. Furthermore, the proposed dwelling would not be directly in front of the windows and so there would be times of day when it would not cause overshadowing of the adjoining property.
15. Moreover, the affected windows are not the only source of natural light and outlook to the ground floor room and the proposed development would not affect light or outlook to the other aspect from the room to the front elevation of the property. As such, the proposal would not result in material harm to the living conditions of the occupants of Lyndale with respect to outlook or light.

16. The Council did not object to the scheme in relation to the effect of the proposed development upon the living conditions of the occupiers of the adjoining property Belle Vue. Given the overall scale and siting of the proposed dwelling, I have no reason to disagree.
17. The appeal site is in an urban setting where a degree of overlooking of the front of properties as well as rear garden areas is commonplace. In light of the existing arrangement and given the orientation of the proposed dwelling and position of first floor windows in relation to the site boundaries, the proposal would therefore not have an adverse effect with regard to loss of privacy of the occupiers of the surrounding residential properties.
18. Moreover, there is no compelling evidence to indicate that the proposal, when occupied, would lead to activities that would generate an unusual level or type of noise disturbance to neighbouring residents. Consequently, in light of the above considerations, the proposal would not interfere with the occupiers of the neighbouring properties right to respect for their private family life and home.
19. For the foregoing reasons I conclude that the proposed development would not harm the living conditions of the occupiers of Marsh Stores House or Lyndale. Accordingly, it would not conflict with Policy ES3(1) of the SDLP which sets out that permission will not be granted where development would be likely to lead to or result in an unacceptable loss of daylight or sunlight, or an overbearing effect.

#### *European sites*

20. The site is within the 'core catchment zone' of the Cotswold Beechwoods SAC, and the Severn Estuary SAC, SPA and Ramsar site. The Cotswold Beechwoods SAC is designated for its qualifying features which include beech forests and semi-natural dry grasslands and scrubland facies on calcareous substrates. The Severn Estuary SAC, SPA and Ramsar site is designated for the qualifying bird species which use the Estuary for feeding and roosting during the winter months. There is potential that additional residents at the site, in combination with other development, could result in adverse effects on the integrity of the sites through harm to the habitats and species due to increased recreational pressure such as pedestrians and dog walkers.
21. The Council advise that mitigation in the form of financial contributions to the Council's Cotswold Beechwoods SAC Recreation Mitigation Strategy adopted October 2022 and Strategy for Avoidance of Likely Significant Adverse Effects on the Severn Estuary SAC, SPA and Ramsar Site adopted December 2017 can avoid such adverse effects. This is to be funded through developer contributions proportionate to the scale of development proposed. In this case, the appropriate contributions are secured in unilateral undertakings submitted as part of the appeal.
22. Following appropriate assessment under the Conservation of Habitats and Species Regulations 2017, I am, therefore, satisfied that adverse effects on the integrity of the European sites will be avoided. In that regard, the proposal would accord with Policy ES6 of the SDLP, which sets out that development will safeguard and protect all sites of European importance and must not result in significant adverse effects on these internationally

important nature conservation sites, either alone or in combination with other projects and plans.

### **Other Matters**

23. Concern has been expressed by interested parties in relation to highway safety near the site, given existing parking congestion in the area, traffic speeds and the position of the bus stop opposite the site. The Council confirm, despite its design, adequate provision is made for the parking of vehicles within the scheme to meet the relevant parking standards and highway safety. My attention is drawn to a recent road traffic collision in the area. However, there is no clear evidence that it was attributable to the operation of the surrounding highway network, or that the appeal proposal would be to the detriment of highway safety.
24. There is no substantive evidence that the design of the property would give rise to unsatisfactory living conditions of future occupiers or that the size and shape of the plot would mean that the construction of the development would be unduly compromised in practical or safety terms.
25. Furthermore, there is no definitive evidence before me to suggest that the proposal would have an adverse effect on the foul sewer system in the area or put undue pressure on existing infrastructure including public transport and other facilities and amenities. Nor have I been presented with any clear reason why existing regulations and controls could not satisfactorily deal with asbestos that may be present on the site.
26. Even if the CGI images which form part of the appellant's submissions are not a true representation of the site context, my assessment of the proposal is based on the scale drawings submitted as part of the application and my observations at my site visit.
27. While I appreciate there have been a number of previous planning applications at the site for similar development, which have been refused by the Council, I have determined the appeal on its merits based on the evidence before me.

### **Conditions**

28. The conditions set out in the accompanying schedule are based on those suggested by the Council in their appeal statement should the appeal be allowed. Where I agree the conditions are necessary, I have amended the wording, in the interests of precision and clarity, and to comply with advice in the Planning Practice Guidance (PPG). In addition to the standard condition controlling the timescale within which the development must commence, a condition is required to specify the relevant plans, in the interests of certainty.
29. Given the location of the site in a residential area a condition to restrict hours of construction works, including deliveries, is necessary to protect the living conditions of the occupants of the surrounding dwellings during the construction phase.
30. It is necessary to impose a condition to secure details of a surface water drainage strategy to ensure the development does not exacerbate the risk of

flooding. The suggested condition includes reference to a range of details and specific guidance; however, I have omitted this so that the parties can agree the precise requirements based upon relevant guidance and site circumstances at the time that the details are agreed. This is worded as a pre-commencement condition as surface water drainage is an integral part of the development that may affect how it is constructed.

31. To minimise impacts on and provide net gains for biodiversity, in accordance with Policy ES6 of the SDLP and advice in the Framework, a condition is necessary to secure details of the recommended mitigation and enhancement measures set out in the submitted Ecological Impact Assessment (PEA) and a scheme for the enhancement of biodiversity. It is not necessary to require confirmation that the measures in the PEA have been implemented. A condition to agree details of any external lighting is necessary to minimise disturbance to nocturnal wildlife.
32. In the interests of highway safety, a condition is necessary to secure the construction of the access and parking to serve the development. To encourage the use of sustainable transport modes, details of cycle parking is necessary. A condition to agree details of the external materials to be used, is necessary so as to safeguard the character and appearance of the area.
33. A condition has been put to me which would restrict permitted development rights for the proposed dwelling under Schedule 2, Part 1, Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The PPG states that area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. I have not been presented with compelling reasons why permitted development rights should be withdrawn in this case. Accordingly, I do not consider that the condition is necessary in order to make the development acceptable in planning terms.

## **Conclusion**

34. For the reasons given above, the appeal should be allowed.

*E Worley*

INSPECTOR

## **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location plan – drawing No. PD SLP01, Proposed site plans – drawing No. PD PL002 D, Proposed floor plans – drawing No. PD PL003 B, Proposed elevations – drawing No. PD PL004 C,



Proposed street scene - drawing No. PD PL005 C and Visibility assessment – drawing No SK01 A.

- 3) Construction works and related deliveries shall take place only between 08.00 and 18.00 on Monday to Friday, and between 08.00 and 13.00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) Development shall not take place until drainage works for the disposal of surface water from the development have been carried out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
- 5) All works shall be carried out in full accordance with the recommendations contained in section 4 'Conclusions, Impacts and Recommendations' of the Preliminary Ecological Appraisal by Arbtech, dated 7 September 2023 submitted with the planning application.
- 6) Prior to the installation of any external lighting at the site, a lighting design strategy for biodiversity shall be submitted to and approved by the local planning authority. The strategy will:
  - a) identify the areas/features on site that are particularly sensitive for nocturnal wildlife,
  - b) show how and where lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or spill onto site roosting provisions or enhancements for biodiversity.

All lighting shall be installed and retained in perpetuity in accordance with the specifications and locations set out in the strategy. No other external lighting shall be installed on the site other than that agreed as part of the approved lighting strategy.

- 7) Within 3 months of the commencement of the development hereby approved, a specification (including methodology and programme of implementation) for the enhancement of biodiversity through the provision of hedgehog holes in fencing, pollinator-friendly planting, bird and bat boxes, shall be submitted to and approved in writing by the local planning authority. The measures therein shall be fully implemented in accordance with the approved specification and programme of implementation and shall be retained thereafter in perpetuity.
- 8) Prior to the first occupation of the development hereby permitted secure and covered cycle storage facilities for a minimum of 2 bicycles shall be made available in accordance with details to be submitted to and approved in writing by the local planning authority. The cycle parking to serve the new dwelling shall be retained for such purposes in perpetuity.
- 9) Prior to the first occupation of the development hereby permitted, the vehicular access/parking facilities shall be laid out and constructed in

accordance with the details shown on the Proposed site plans – drawing No. PD PL002 D. In addition, the area of driveway within 5.0m of the carriageway edge of the public road shall be surfaced in bound permeable material. The parking spaces to serve the new dwelling shall be kept available for such purposes thereafter in perpetuity.

- 10) Prior to the construction of any external wall of the development hereby approved, samples of the proposed external wall and roof materials shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter in perpetuity.

**\*\*\*\*\*end of conditions\*\*\*\*\***