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## Appeal Decision

Site visit made on 18 March 2025

**By G Powys Jones MSc FRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 4 April 2025**

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**Appeal Ref: APP/F1610/D/24/3356031**

**Bittenham Springs, Ewen, Cirencester, GL7 6BY**

- 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 & Mrs Hewer against the decision of Cotswold District Council.
  - The application Ref is 24/02453/FUL.
  - The development proposed is the erection of an annex for a family member.
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### Decision

1. The appeal is allowed, and planning permission is granted for an annex for a family member at Bittenham Springs, Ewen, Cirencester, GL7 6BY in accordance with the terms of the application, Ref 24/02453/FUL, subject to the conditions set out in the accompanying Schedule.

### Preliminary and procedural matters

2. For the reasons set out in the officer report, the proposal in the Council's view did not comprise an annex but was considered '*to represent an independent residential unit*' located within the open countryside. The proposal was refused permission partly on this basis having regard to adopted settlement policy.
3. The officer report clarifies that the Council has no adopted policies relating to residential annexes, and nor has it referred to any published guidance on the subject. The officer report therefore sets out the factors which officers took into account and led them to their conclusions. These included the scale of the proposal; the facilities contained therein; the degree of separation from the principal dwellinghouse and the extent of subservience to it; the lack of apparent dependence, for example, on shared facilities, and whether the land on which the annex was to be sited formed part of the principal dwelling's garden within the same planning unit.
4. Bittenham Springs is a large, detached dwelling, significantly extended according to the planning history. It is set within extensive grounds partly used as garden, beyond which lies agricultural land and woodland in the appellants' ownership. The dwelling obtains access from the highway through a set of security gates, opened remotely from the house, and then along a drive for about 60m.
5. The drive continues southwards alongside the house toward an agricultural building, built to the east of the drive. The proposed building would be sited on the fringe of what I would describe as a well-maintained lawn, on the other, western side of the drive, about 50m or so south of the main dwelling. North of the main

- dwelling, but in a separate curtilage, are substantial buildings and land also owned by the appellants, used as a wedding venue. There is however a symbiotic relationship since overflow parking from the wedding venue uses land around Bittenham Springs.
6. The proposed building would share the current access to the site and the main dwelling. It would be single storey, but with accommodation provided in the roof space. The accommodation would be comprised of an open plan kitchen/dining/lounge area on the ground floor with a bedroom, home office and bathroom upstairs. A toilet and small boot room would be provided to the side of the projecting main entrance on the ground floor. There is no indication on the plans that a separate parking area or separate garden would be provided, although a small patio area would be.
  7. The level of accommodation and facilities would render the building capable of being occupied independently as a dwelling. However, as was found in *Uttlesford*<sup>1</sup>, even if accommodation provided facilities for independent day-to-day living, it would not necessarily become a separate planning unit from the main dwelling. Determining that would instead be a matter of fact and degree on a case-by-case basis. Therefore, while the building proposed would be capable of being occupied as an independent unit of accommodation, it is also necessary to consider whether it would be capable of being occupied as an annexe, and whether such development would be acceptable in planning terms.
  8. The description of the proposed development provided in the application form was abridged in the Council's decision notice, and the officer report on the application make no reference to the reason why the annex was sought, or its intended occupant<sup>2</sup>. In this regard the occupant would be the applicant's son who is employed at the wedding venue and to look after and maintain Bittenham Spring's extensive grounds. Accordingly, the person for whom the accommodation is intended, works very locally, partly on site, and is therefore probably in regular touch with the appellants in their role as parents and employers. I therefore consider that a close relationship exists between the occupants of the respective buildings, but the son is at an age where a level of independence is considered desirable, for which the annex would cater. I find nothing untoward in that prospect in planning terms.
  9. Although the officer report does not consider the possibility that a building detached from a main dwelling could operate as an ancillary annex, they do exist, and I have seen numerous examples of them. In this case the building would be clearly separated from the main dwelling, but close enough to the latter for it to be easily accessible. In terms of their comparative scale, the annex would be clearly subservient to the main dwelling.
  10. The lawn on which the annex would stand serves the main dwelling house. There is no serious disagreement between the parties that the lawn was added to the original garden area. However, judging from the submitted evidence, which included maps and historical photographs, this appears to me to have taken place around the turn of the millennium.

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<sup>1</sup> *Uttlesford DC v SSE & White [1992] JPL 171*, a case on residential annexes which has stood the test of time.

<sup>2</sup> As set out in the letter dated 20 August 2024 accompanying the original application.

11. The Council says that the assimilation of the lawn as part of the main dwelling's garden has not been subject to an application for a lawful use certificate. There is, of course, no obligation on the landowner to apply. By the same token, the incorporation of the lawn into the dwelling's garden and the creation of a larger planning unit has not been subject of enforcement proceedings, or none that have been reported to me. In this respect, judging from the planning history, the site must have been visited many times since the turn of the millennium by Council officers. Accordingly, I am persuaded, based on the evidence, that the lawn can by now be reasonably regarded as part of the residential planning unit centred on Bittenham Springs.
12. In the circumstances and having regard to the facts of the case, I am satisfied that the proposal may be treated as an annex, as originally applied for. I shall therefore proceed on this basis, and I turn next to appraise the other objections raised by the Council.

### **Main Issues**

13. These are the effects of the development on: (a) the character and appearance of its surroundings including the setting of the Ewen Conservation Area, and (b) on aspects relating to Biodiversity.

### **Reasons**

#### *Character and Appearance*

14. The site is located on the edge of the village next to an attractive area of verdant countryside, and it is unsurprising that the surroundings are locally designated as part of the Ewen and Kemble Special Landscape Area (SLA). The building would also stand reasonably close to the south-eastern boundary of the Ewen Conservation Area (ECA),
15. In its questionnaire response on the appeal, the Council wished me to be aware of an unauthorised development<sup>3</sup> that had taken place on land to the east of the appeal site, on land within the appellants' ownership. I have since learnt that permission was granted for this development retrospectively. The questionnaire also raised a point as to the conduct and practicalities of my site visit. The Council said:  
  
*Although glimpses of the site are likely to be possible from the road to the north and PROW to the south (Kemble footpath 16) the Inspector will need to enter the site to clearly view the site and the surrounding area'.*
16. It is as well that this point was made, since from public vantage points, I would have found it difficult to see the site and to make an appropriate assessment. Bearing in mind that my visit took place when re-foliation of the trees in the vicinity was at a very early stage, I considered the site to be exceptionally well screened from public view either by extant buildings, trees, or other vegetation. During the summer the screening would be even more effective. Thus, the building would barely be perceptible from publicly accessible points surrounding the site throughout the year.
17. I find and conclude that the proposal would have very little impact on the wider SLA or the setting of the ECA, and certainly none that would be discerned in the public

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<sup>3</sup> Described as a solar array and hardstanding.

realm or cause harm. I also find the proposed building to be well-designed and that materials traditionally found locally would be utilised. It would thus respect the setting of the ECA.

18. Accordingly, I find no conflict with those provisions of policies EN6 & KE11 of the Cotswold District Local Plan (DLP) and Kemble & Ewen Neighbourhood Development Plan (NDP) respectively, designed to protect SLAs from inappropriate forms of development or that causing significant detrimental impact. Nor is there conflict with those provisions of DLP policies EN10 & EN11 designed to protect the setting of historic assets.

### *Biodiversity*

19. The Council's objections on this score were two-fold. The Council is now satisfied in respect of Greater Crested Newts, that subject to the imposition of an appropriate condition, were the appeal allowed, the additional documentation provided by the appellant overcomes their initial concerns.
20. The Council's other concern centred on the possible impacts of the development on the North Meadows Special Area of Conservation (SAC), since the site is said to be within its '*zone of influence*'. However, as the response to consultation on the application from the Council's Biodiversity Officer clarifies, the assessment was made on the basis that '*additional dwellings (including holiday accommodation) result in increased recreational pressure on the designated site.*'
21. The annex would not involve these forms of development. Rather, the development is designed to provide ancillary residential accommodation for an extant dwelling intended for occupation by a family member already working on the site or next to it. In these circumstances, I am not persuaded that any additional pressure would be applied to or experienced within the SAC or that the SAC would suffer any adverse effects from the development, if approved.
22. I therefore conclude that the additional material provided by the appellant addresses the concerns raised by the Council in respect of the provisions of LP policy EN8, and that the Council's concerns regarding the possible impacts on the SAC under the terms of LP policy EN9 are unsubstantiated.

### **Conditions**

23. The Council has suggested the imposition of several conditions in the event of the appeal being allowed. All shall be imposed, albeit the wording of some is modified.
24. In the interests of certainty, it is necessary that the development be carried out in accordance with the approved plans.
25. The Council's suggested conditions relating to materials and aspects of detailed design are imposed in the interests of visual amenity, having regard to the building's proximity to the boundary of the ECA.
26. A condition regarding external lighting is imposed in the interests of protecting nocturnal animals.
27. In the interests of safeguarding the interests of a protected species, the Greater Crested Newt, the Council's suggested condition is imposed.

28. It is a moot point whether the Council's suggested condition 4 is necessary having regard to the description of the proposed development. The appeal is allowed as ancillary accommodation and not as an independent dwelling, for which another separate planning permission would be necessary. Nevertheless, the condition shall be imposed in the interests of certainty and for the avoidance of doubt.

### **Other matters**

29. Reference has been made to other development plan policies, but I consider those to which I have referred to be the most relevant having regard to the facts of the case. I have also taken into account all references to the *National Planning Policy Framework*.
30. No other matter raised in the representations, is of such strength or significance as to outweigh those considerations that led to my conclusions.

**G Powys Jones**

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: LOC01; PL01; PL02; PL03 & SUR01.
- 3) Samples of the materials to be used on the external walls and roof of the development hereby permitted shall be submitted to the local planning authority for its approval, to be obtained in writing. The walls and roof shall thereafter be constructed in the approved materials.
- 4) All door and window frames shall be recessed a minimum of 75mm into the external walls of the building, hereby permitted, and shall be permanently retained as such thereafter.
- 5) Prior to the installation of any external lighting on or near the building hereby permitted, a scheme for such lighting shall be submitted to the local planning authority for its approval, to be obtained in writing. Any external lighting of the building and its surroundings shall thereafter only be installed in accordance with the approved scheme.
- 6) The development shall be undertaken in accordance with the recommendations contained within the Great Crested Newt Reasonable Avoidance Measures (RAMS) Method Statement (*focus Environmental Consultants, November 2024*). All the recommendations and specifications shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the Local Planning Authority.
- 7) The annexe hereby permitted shall not be used other than for purposes ancillary to the residential use of the dwelling known as Bittenham Springs and for no other purpose.

