



Appeal Decision

Site visit made on 1 May 2025

by **Laura Cuthbert BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 June 2025

Appeal Ref: APP/B1605/W/24/3350209

Little Duncroft, Evesham Road, Cheltenham, Gloucestershire GL52 3JN

- 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 and Mrs J Lawrence against the decision of Cheltenham Borough Council.
 - The application Ref is 24/00471/FUL.
 - The development is use of garage building as a standalone residential property with external cladding, easterly facing window, roof lights and boundary fencing.
-

Decision

1. The appeal is allowed and planning permission is granted for use of garage building as a standalone residential property with external cladding, easterly facing window, roof lights and boundary fencing at Little Duncroft, Evesham Road, Cheltenham, Gloucestershire GL52 3JN in accordance with the terms of the application, 24/00471/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. In the banner heading above, I have deleted the words 'retention', 'retrospective' and 'resubmission' from the description of development as these relate to the merits or purpose of the appeal case, rather than the description of development.
3. The relevant planning history includes an earlier approval for the erection of a detached double garage with WC, gym and internal access to the roof space above¹. A 1.5 metre high timber boundary fence with landscaping adjacent to Evesham Road was also granted. A condition of that permission restricted the use of the outbuilding to ancillary accommodation associated with the existing dwelling. However, when the outbuilding was built in 2023, it was not built in accordance with the approved plans. Notably, a first floor two-bedroom apartment was incorporated, and the outbuilding is currently being advertised on Airbnb.
4. In light of the planning history of the site, and as confirmed by my site visit, the building itself is already in situ. Therefore, the application is partly retrospective. I also noted on site that whilst the appeal proposal involved the erection of a 1.8m fence, since the determination of the appeal application, the appellant has reduced the height of the fence down to 1.5m, to align with the previously consented arrangement. I have determined the appeal on this basis.
5. I am also aware of associated enforcement appeals, which are related to the unauthorised building and use as an Airbnb. These were submitted after the appeal before me now. For clarification, I am dealing with the description of development

¹ Application Reference 21/02763/FUL

as set out in the banner heading above, under Section 78 of the Town and Country Planning Act 1990.

6. A Unilateral Undertaking (UU) dated 11 June 2024 was submitted with the application to secure the necessary contributions towards Strategic Access Management and Monitoring (SAMM), as well as Suitable Alternative Natural Greenspace (SANG) in regard to the Cotswold Beechwoods Special Area of Conservation (SAC). This will be addressed further in my decision.

Main Issues

7. The main issues are the effect of the proposal on:
 - the character and appearance of the area: and
 - the integrity of the Cotswold Beechwoods SAC.

Reasons

Character and Appearance

8. The appeal site relates to a detached outbuilding, situated in the front garden associated with the existing property known as Little Duncroft. The appeal site is situated in a predominately residential area which runs along Evesham Road.
9. The character and grain of the surrounding area is varied, with some variation in the plot sizes and spaces between dwellings, including that of the recently constructed houses to the south. I observed that there is no dominant architectural style, with the local vernacular comprising an eclectic mix of built form, heights, materials and architectural composition. There was also a number of examples where plots had or have permission to be sub-divided, as well as existing frontage development with dwellings positioned behind. These all add to the variety of character and plot sizes in the area.
10. Due to the variation in the area, the sub-division of the plot would not be contrived, as alleged by the Council, nor would the position of the dwelling, forward of the existing dwelling of Little Duncroft, be particularly incongruous to the area. Furthermore, the layout of the site, with the position of the private garden area to the front of the proposal, would also not be inconsistent with the variation of built form and patterns of development that I observed. The resultant plot size of the proposal, as well as the reduced plot size of Little Duncroft, would be comparable to those in the surrounding residential area, and sensitive to the character of the locality. It would also be respectful of the building line along Evesham Road, with the proposal sitting on the same building line as the adjacent properties to the south. Therefore, the development would be respectful of the neighbouring development and would be a complementary addition to the area, respectful of the character and appearance.
11. It is appreciated that the building is larger, in both footprint and height, than that of the previously approved garage and that the windows in the west and east elevation are also different from those previously approved. However, the overall scale of the development is appropriate to the character of the locality and the design and size of the windows are sensitive to the local distinctiveness of the area. Furthermore, the use of cladding on the proposal is suitable, as cladding is

already used on some of the other new or extended dwellings in the area. Therefore, the materials are sensitive to its surroundings.

12. I note the concerns raised by the Council with the 1.8m fence which was originally proposed along Evesham Road. However, as already mentioned, the boundary fence would now be 1.5m in height, which would be appropriate in the streetscene. The 1.8m fence is still shown on the proposed site layout plan² so a condition would be attached for this element of the proposal to be omitted. Furthermore, in order to alleviate the impact of the new fence, a condition would be attached which would require a new hedge to be planted on the inside edge of the fence.
13. The Council have drawn my attention to the 'Development on Garden Land and Infill Sites in Cheltenham Supplementary Planning Document' (the SPD) (June 2009) which sets out 'guidance on layout and development patterns stating that the layout of development plays an important role in defining the character of an area including the grain, building lines and type of building'. However, the SPD also states that 'responding to character is not simply about copying or replicating what already exists in an area.....Change itself is not to be considered a bad thing automatically but change that results in harm to the character or amenity of an area will normally be unacceptable'. For the reasons set out above, I am satisfied that in these circumstances, the proposal would be in accordance with the SPD as it would complement and respect the character of the street and would not cause harm to the character and appearance of the area.
14. Therefore, the development, for the reasons set out above, would not harm the character and appearance of the area. It would be in accordance with Policy D1 of the Cheltenham Plan (2020) and Policy SD4 of the Gloucester, Cheltenham, and Tewkesbury Joint Core Strategy 2011-2031 (2017) which both seek to ensure that development will only be permitted where it complements and respects neighbouring development, the character of the locality, and enhances local distinctiveness. It would also be in accordance with guidance set out in the SPD, as well as Section 12 of the National Planning Policy Framework (2024) which seeks good design sympathetic to the local area.

Cotswold Beechwoods SAC

15. The site is within a zone of influence of the Cotswold Beechwoods SAC, which is afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended). The Cotswold Beechwoods SAC is mainly designated for its woodland flora and is very popular with visitors. Its qualifying features include Asperulo-Fagetum beech forests and Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia).
16. As set out in the Site Improvement Plan for the Cotswold Beechwoods SAC, public use of the Beechwoods has grown considerably over recent years and damage is becoming more widespread due to an increase in recreational pressure, for example by visitors walking, biking or exercising their dogs. That damage is likely to increase as more houses and holiday accommodation are built, leading to more visitors to the SAC.
17. It is therefore necessary for me, as the competent authority, to conduct an Appropriate Assessment in relation to the effect of the development on the integrity

² Drawing No 21-336/04

of the SAC. The evidence before me is clear that the proposal would have a likely significant effect on the SAC due to an increased disturbance through recreational activity from future occupiers of the dwelling. I must therefore consider whether measures could be put in place to avoid or mitigate these impacts.

18. To mitigate this effect, the Council have worked with neighbouring local authorities and Natural England to prepare the Recreation Mitigation Strategy for the Cotswold Beechwoods SAC (Mitigation Strategy) (Footprint 2022). Mitigation involves both SAMM and SANG contributions. In regard to SAMM, the per dwelling cost is £193. In regard to SANG, this will be at a standard rate of £480 per dwelling. Developer contributions for both SAMM and SANG will be collected through planning obligations through Section 106 agreements ('S106') or unilateral undertaking (UU).
19. As mentioned above, a UU has been submitted, which has secured the relevant combined mitigation contribution of £673.00 to cover both SAMM and SANG.
20. NE have been consulted accordingly. It is content that the mitigation measures set out above are sufficient to ensure that any adverse impacts on the integrity of the Cotswold Beechwoods SAC and its qualifying features can be avoided. NE also confirms that it is content that these measures can be secured by way of the UU. The Council have also now confirmed that they are no longer pursuing the second reason for refusal in relation to the SAC and that they are also satisfied that the UU secures the required mitigation measures.
21. Furthermore, I consider that the contribution is directly related to the appeal scheme. In addition, as it relates to a standard charge based on the scale of residential development proposed, I consider it to be fairly and reasonably related in scale and kind to the development. Therefore, the UU would meet the requirements of the Framework.
22. In view of the above, I am satisfied that the mitigation measures set out above can be appropriately secured by way of the UU. These mechanisms would enable the delivery of proportionate and relevant mitigation and are capable of being enforced. I therefore find within my AA that, with the provided mitigation, the proposal would not have an adverse effect on the integrity of the Cotswold Beechwoods SAC. The development would therefore comply with the Habitat Regulations.
23. The proposal would also comply with Policy BG1 of the Cheltenham Plan in this respect, which states that in order to retain the integrity of the Cotswold Beechwoods SAC, all development within the borough that leads to a net increase in dwellings will be required to mitigate any adverse effects.

Other Matters

24. The existing occupants of the neighbouring house to the south, Daneway House, have raised concerns in regard to the development and the impact it would have on their living conditions. They state that the front garden associated with the proposed dwelling would afford clear sight lines into their bedrooms on the east facing front elevation. However, this area is already garden land associated with Little Duncroft. The proposal would not result in any additional nor harmful levels of overlooking than the lawful situation. The clear glazed rooflights which would be on

the south elevation would be 1.7m above the floor levels of the rooms that they serve so would not offer harmful levels of overlooking.

25. Due to the position of the building within the plot, its height and the relationship with Daneway House and other neighbouring dwellings, the proposal would not result in any unacceptable loss of light, loss of outlook or loss of privacy. I also note the Council did not raise any objections to the development on the basis of the living conditions of existing occupants of neighbouring properties. I have no reason to come to a different conclusion on this matter.
26. The Highway Authority have raised concerns regarding the ownership of the access drive to serve the proposal. However, I note from the plan provided by the appellant that the public highway runs up to the redline boundary of the appeal site so 'there should be no doubt that the appellant can appropriately access the site', as submitted by the appellant. The Council have not provided any evidence to counteract this plan. Based on the evidence before me, I do not consider that it has been demonstrated that any alleged problems regarding land ownership and the access drive would prevent the development from being carried out.

Conditions

27. Even though the building is in situ, its use as a separate residential dwelling has not yet commenced, therefore, a condition setting a time limit for the commencement of the development is required by statute. It is necessary that there is a condition requiring the development to be carried out in accordance with the approved plans for certainty. As alluded to above, I have included a clause on the plans condition which omits consent to the 1.8m fence on the site layout plan.
28. In order to safeguard the privacy of the existing occupants of neighbouring dwellings, a condition which removes permitted development rights in relation to additional windows, doors and openings is considered necessary and reasonable. The provision of the necessary parking and turning facilities is also considered reasonable in the interests of highway safety and to ensure adequate car parking is provided.
29. To ensure the adequate provision and availability of cycle parking, a condition which secures the provision of secure cycle storage is considered necessary. In the interests of sustainable waste management and recycling, a condition requiring a scheme for the provision of refuse and recycling storage facilities is reasonable.
30. Finally, as already alluded to, in the interests of the character and appearance of the area, a condition which requires a hedge to be planted along the western side of the eastern boundary fence is considered both reasonable and necessary. I have amended this condition slightly to clarify that a 1.5m fence shall also be erected along this boundary.

Conclusion

31. The appeal scheme would comply with the development plan and as such, having considered all other matters raised, the appeal is allowed, subject to the conditions set out in the attached schedule.

Laura Cuthbert

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 21-336 01 A , 21-336 03 E and 21-336 04 C, except in respect of the 1.8m high timber fence shown on plan 21-336 04 C.
- 3) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and/or re-enacting that order with or without modification), no additional windows, doors and openings shall be formed in the building without express planning permission.
- 4) Prior to first occupation of the development, parking and turning facilities shall be provided in accordance with the approved plans. Such areas shall not be used for any purpose other than the parking and turning of vehicles and shall remain free of obstruction for such use at all times.
- 5) Prior to first occupation of the development, secure covered cycle storage shall be provided on site in accordance with details which shall have first been submitted to and approved in writing by the local planning authority. The cycle storage shall thereafter be retained available for such use in accordance with the approved details at all times.
- 6) Prior to first occupation of the development, a scheme for the provision of refuse and recycling storage facilities shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with the approved details prior to first occupation of the development and shall be retained as such thereafter.
- 7) Notwithstanding the submitted drawings, a 1.5m timber fence shall be erected along the eastern boundary and a hedge shall be planted adjacent to the east boundary fence. It shall comprise of either Beech and Hornbeam whips, a Broadleaf Mixed Species hedge or an alternative species which, prior to planting shall have been agreed in writing by the local planning authority. The hedge/plants shall be 1.5 metres minimum in height when first planted and shall be planted during the next immediately available planting season following the date of this planning permission. The hedge shall be maintained for 5 years after planting and should any part of the hedge be removed, die, be severely damaged or become seriously diseased within this period it shall be replaced with hedge as originally required to be planted by this condition.