

APPLICATION NO: 24/00471/FUL	OFFICER: Mrs Victoria Harris
DATE REGISTERED: 1st April 2024	DATE OF EXPIRY: 27th May 2024 (ET 17/06/24)
DATE VALIDATED: 1st April 2024	DATE OF SITE VISIT:
WARD: Prestbury	PARISH: Prestbury
APPLICANT:	Mr And Mrs Lawrence
AGENT:	SF Planning Limited
LOCATION:	Little Duncroft Evesham Road Cheltenham
PROPOSAL:	Change of use of garage building as a standalone residential property. Retention of external cladding, easterly facing window, roof lights and boundary fencing (part retrospective), (Resubmission of planning application 23/01739/FUL).

RECOMMENDATION: Refuse



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1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 The application site relates to Little Duncroft; a large, detached property with associated detached outbuilding. The site is located within a residential area on Evesham Road and within Cheltenham's Principal Urban Area (PUA).
- 1.2 The applicant is seeking planning permission for the subdivision of the plot, conversion and authorisation of the existing outbuilding to enable use as a separate dwelling. The works also propose retrospective 1.8m high boundary fencing.
- 1.3 The outbuilding is currently being advertised on Air B&B as a separate studio apartment on the ground floor and a separate two-bedroom apartment on the first floor.
- 1.4 Councillor Ian Bassett-Smith, has requested this application is determined by Committee, for the following reason; *"Planning permission has been granted for a new dwelling nearby and we ask that the committee should reconsider the application as insufficient weight is being given to the recent change in planning context in the area"*.

2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

Constraints:

Principal Urban Area

Relevant Planning History:

04/00911/FUL 2nd August 2004 REF

Demolition of 2 existing bungalows and construction of 6 new dwellings

07/01761/FUL 27th March 2008 WDN

WITHDRAWN BY SUBMISSION OF NEW APPLICATION 08/00646/FUL 27.03.2008

Demolition of 4 dwellings and erection of a residential care home (Class C2) comprising 87 suites, associated communal facilities, construction of car parking and revised access

08/00646/FUL 27th June 2008 REF

Erection of a care home for frail older people (use class C2) comprising 83 care suites, associated communal facilities, construction of car parking and revised access (demolition of existing buildings) (Cleevemont Lodge, Three Poplars, Cherry Trees and Little Duncroft)

20/00859/FUL 14th July 2020 PER

First floor extension and new roof to create an additional storey, ground floor extension to rear and erection of new detached double garage

20/01211/DISCON 13th August 2020 DISCHA

Discharge of condition 3 on Planning permission 20/00859/FUL - External roofing material - Standing seam steel roof in Anthracite grey

21/00911/FUL 16th July 2021 PER

Erection of a detached garage with ancillary accommodation/storage

21/02763/FUL 16th February 2022 PER

Erection of a detached garage and 1.5 metre high timber boundary fence adjacent Evesham Road (part retrospective)

23/01739/FUL 12th December 2023 WDN

Full application for the use of garage building as a standalone residential property, retention of external cladding, easterly facing window, roof lights and boundary fencing (part retrospective)

3. POLICIES AND GUIDANCE

National Planning Policy Framework

Section 2 Achieving sustainable development

Section 4 Decision-making

Section 5 Delivering a sufficient supply of homes
Section 8 Promoting healthy and safe communities
Section 9 Promoting sustainable transport
Section 12 Achieving well-designed places

Adopted Joint Core Strategy Policies

SD3 Sustainable Design and Construction
SD4 Design Requirements
SD10 Residential Development
SD14 Health and Environmental Quality
INF1 Transport Network

Cheltenham Plan Policies

D1 Design
SL1 Safe and Sustainable Living
GI2 Protection and replacement of trees
GI3 Trees and Development
BG1 Cotswold Beechwoods Special Area Of Conservation Recreation Pressure

Supplementary Planning Guidance/Documents

The Cheltenham Climate Change SPD (adopted June 2022)
Development on garden land and infill sites in Cheltenham (2009)

4. CONSULTATIONS

See appendix at end of report

5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	15
Total comments received	1
Number of objections	1
Number of supporting	0
General comment	0

- 5.1 15 letters were sent to neighbouring properties. In response to this publicity, 1 objection has been received. The planning objection relates to; impact on amenity and change of use.

6. OFFICER COMMENTS

6.1 Determining Issues

- 6.2 The application proposes the erection of 1 new independent dwelling; the key considerations for this application are principle of development, design and layout, impact on neighbouring amenity, highways safety and climate change.

6.3 Planning history and site context

- 6.4 In 2020 planning permission (20/00859/FUL) was granted for the erection of a detached double garage with no accommodation above.

- 6.5 In 2021 planning permission (21/00911/FUL) was granted for the erection of a detached double garage with WC, gym and internal access to the roof space above. A condition of that permission restricted the use of the outbuilding to ancillary accommodation associated with the existing building.

- 6.6** In 2022 planning permission (21/02763/FUL) was granted for the erection of a detached double garage with WC, gym and internal access to the roof space above. A condition of that permission restricted the use of the outbuilding to ancillary accommodation associated with the existing building. A 1.5 metre high timber boundary fence with landscaping adjacent to Evesham Road was also granted.
- 6.7** The outbuilding was subsequently built in early 2023 but is bigger than the previously approved detached double garage. The footprint and height of the building is greater and now accommodates a first floor two-bedroom apartment. The windows within the west and east have changed and the building has been finished in white cladding instead of the originally approved rendered finish. Also, the first floor rooflights within the south elevation originally proposed obscure glazing but are now not obscurely glazed.
- 6.8** In late 2023 a planning application (23/01739/FUL) was submitted to authorise the built building and use. This application was withdrawn following officers' recommendation to refuse the application. The applicant withdrew the application before determination.
- 6.9** The application site is located on the western side of Evesham Road and comprises of a recently extended and remodelled, two-storey dwelling constructed of rendered facing walls under a metal, standing seam pitched roof. The plot is long and rectangular in shape and benefits from generous front and rear garden amenity space. The existing dwelling is set back considerably from the Evesham Road frontage and sits centrally within the plot, roughly in line with the neighbouring dwelling, Sunnyside. Pedestrian and vehicular access to the site from Evesham Road is via a shared driveway with 3 neighbouring properties; the property has no direct, separate access onto Evesham Road.

6.10 Principle of development

- 6.11** Paragraph 11 of the NPPF goes on to set out that where housing policies are out-of-date (including situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites), the NPPF is clear that development proposals should be approved without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the NPPF policies as a whole, or specific NPPF policies provide clear reason for refusal. As it stands, currently Cheltenham cannot demonstrate a five year housing land supply.
- 6.12** The application site is sustainably located within the Principal Urban Area (PUA), where adopted JCS policy SD10 supports new housing development. Policy SD10 also requires new residential development proposals to "seek to achieve the maximum density compatible with good design, the protection of heritage assets, local amenity, the character and quality of the local environment, and the safety and convenience of the local and strategic road network."
- 6.13** With the above in mind, and as required by the NPPF, the principle of the development is considered to be acceptable and the development should therefore be approved unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, subject to all other material considerations, which are:
- i. Design and layout,
 - ii. Impact on neighbouring amenity,
 - iii. Trees and landscaping,
 - iv. Highways safety,
 - v. Sustainable development and climate change, and

vi. Offsetting the environmental impact of development.

6.14 Design and layout

- 6.15** Paragraph 131 of the NPPF sets out that ‘the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.’ Paragraph 135 of the NPPF requires decisions should ensure developments ‘add to the overall quality of the area...; are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; are sympathetic to local character...; create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users’.
- 6.16** Policy SD4 of the JCS and policy D1 of the Cheltenham Plan draw from the requirements of section 12 of the NPPF by requiring development to be of a high standard of architectural design that responds positively to and respects the character of the site and its surroundings.
- 6.17** The Development on Garden Land and Infill Sites in Cheltenham Supplementary Planning Document (SPD) sets out guidance for the erection of new dwellings. The document specifically 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.
- 6.18** The application proposes the conversion and extension of the previously approved garage building, along with a subdivision of the plot to enable the use of the building as a separate residential dwelling.
- 6.19** As proposed, officers consider the subdivision of the plot to be out of character with the existing pattern of development. The new dwelling would have a significantly smaller plot than that of the surrounding development and would be out of character given its position, which sits forward of the existing dwelling. Whilst officers accept that the built form of a garage has been permitted in this location, this is in the form of an ancillary garage. The approved garage building has already been considered as acceptable and granted permission, but this was not considered in the context as a new residential dwelling which requires its own access and dedicated private amenity space.
- 6.20** Officers consider the proposed subdivision of the plot to be contrived and does not allow the new plot/dwelling to sit comfortably alongside the existing residential dwelling of Little Duncroft. This is particularly evident where the plans show the main private amenity space of this new dwelling to be located at the front of the site.
- 6.21** The planning statement has referred to an application (ref: 23/02063/FUL) for a detached dwelling in the side garden of 3 Cleavelands Drive that the Council has recently approved. The development is located a distance from the current scheme, is located to the side of the existing dwelling and is single-storey. Officers therefore do not find it to be particularly representative of the predominant layout and character of the adjoining neighbouring properties in which the proposal would sit. Therefore, its context is different to the proposed dwelling.
- 6.22** Officers raise further concerns with the 1.8m high boundary fencing adjacent to Evesham Road. The site originally had a green boundary hedge running along the front boundary. The proposal to subdivide this front section of garden and part enclose it with a fence would be out of character with the surrounding pattern of development. Whilst it is acknowledged that there are a few fences fronting onto Evesham Road and a small fence with landscaping has been approved, green boundary hedging largely remains and is a particular characteristic of the area. The fencing is of a poor standard of design, which has a harsh visual impact on the character of the street scene. It is visually prominent given

that there is no similar fencing on adjoining properties. As such, the new fence appears out of character and a harmful addition to the street scene.

6.23 Having considered all of the above, officers do not consider the proposed subdivision of the plot or new fence to the site to be acceptable or appropriate in this context and therefore the development is considered to be contrary Cheltenham Plan policy D1, JCS policy SD14 and Cheltenham's SPD – Development on Garden Land and infill sites.

6.24 Impact on neighbouring property

6.25 It is necessary to consider the impact of development on neighbouring amenity. JCS Policy SD14 and Cheltenham Plan Policy SL1 state how development should not cause unacceptable harm to the amenity of neighbouring properties. Matters such as a potential loss of light, loss of privacy, loss of outlook, noise disturbances and overbearing impact will therefore be considered.

6.26 In the main, the built form of this ancillary building is already agreed and therefore has already been considered as acceptable in terms of impact on neighbouring amenity. Therefore, in this application officers have considered whether the increased size to the approved building and proposed alterations to the site would result in any unacceptable impact on neighbouring amenity. Due to the position of the building within the plot, its height and the relationship with neighbouring land users, the proposed development is not considered to result in any unacceptable loss of light, loss of outlook or overbearing impact. Furthermore, there would be no unacceptable loss of privacy resulting from this proposed development and the clear glazed roof lights are more than 1.7 metres above the floor level of the rooms that the windows serve.

6.27 The proposed use of the existing garage building as a residential dwelling and the associated shared access is not considered to result in any unacceptable impact on neighbouring amenity in terms of noise and disturbance.

6.28 With the above in mind, the proposal would comply with the requirements of policy SD14 and SL1.

6.29 Access and highway issues

6.30 Policy INF1 of the JCS requires all development proposals to ensure a safe and efficient access to the highway is provided for all users; permission will only be refused on highway grounds where the impact of the development upon the local highway network would be severe. The policy draws from the requirements set out within Section 9 of the NPPF.

6.31 The County Council's Highways Development Management Team have been consulted on the application; comments can be read in full below. The response requests that the application be deferred to address rights of access.

6.32 The Highways Officer has not provided comments or concerns with regards to the safety of highways users. In addition, the Highways Officer provided no objection to the previous identical withdrawn application 23/01739/FUL and concluded that there would not be an unacceptable impact on Highway Safety or a severe impact on congestion.

6.33 Officers note the comments made by the Highways Officer, however given officers recommendation is to refuse, and that comments were received late in the application process, revised drawings to address the red line and ownership have not been sought in this instance.

6.34 As such, with regards to highways safety, no concerns have been raised, and therefore the proposed new dwelling is acceptable in terms of access, and highway safety. Furthermore, the application proposes off-street parking for 2 vehicles.

6.35 Climate change and sustainability

- 6.36** Policy SD3 of the JCS requires new development to demonstrate how they will contribute to the aims of sustainability and be expected to be adaptable to climate change in respect of design, layout, siting, orientation and function.
- 6.37** The Cheltenham Climate Change SPD provides guidance as to how applicants can design new buildings to successfully integrate sustainable measures into new development, and therefore address climate change and enhance biodiversity.
- 6.38** A sustainability statement has been submitted to accompany the application and address the above policy and guidance document. The document sets out the measures as part of the development which include location of windows to maximise solar gain, the building would be energy and thermal efficient, the installation of an air source heat pump, low water consumption devices, water butts and an EV charging point.

6.39 Cotswold Beechwoods Special Area of Conservation (SAC)

- 6.40** The site is within a zone of influence as set out in the Cotswold Beechwoods SAC Recreation Mitigation Strategy (May 2022) for recreational pressure for the Cotswold Beechwoods SAC, which is afforded protection under the Conservation of Habitats and Species Regulations 2017 (as amended).
- 6.41** Cheltenham plan policy BG1 states that development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site Network and the effects cannot be mitigated. All development within the Borough that leads to a net increase in dwellings will be required to mitigate any adverse effects. Without appropriate mitigation, the proposed development is likely to have a significant effect on the Cotswold Beechwoods SAC (either alone or in combination with other development) through increased recreational pressure.
- 6.42** The application is silent on this matter and at the time of this report no mitigation is proposed to address the impacts of the proposal on the Cotswolds Beechwoods SAC. The proposal is therefore in conflict with policy BG1 of the Cheltenham Plan.
- 6.43** The applicant could opt to make a financial contribution via a Unilateral Undertaking, which would state that the applicant would pay the Council the relevant sum of £673.
- 6.44** An additional refusal reason has therefore been added in this regard.

6.45 Other considerations

Flooding and drainage

- 6.46** The application site is wholly located in flood zone 1 and is therefore not considered to be susceptible to any flood risk, nor is there any reason to suggest that the proposed development would result in any flooding implications, or unacceptable surface water issues for neighbouring development. The development is therefore considered to be acceptable and accords with JCS policy INF2.

Environmental Impact

- 6.47** Whilst records show that important species or habitats have been sighted on or near the application site in the past, it is not considered that the proposed development will have any impact on these species.

Public Sector Equality Duty (PSED)

6.48 As set out in the Equality Act 2010, all public bodies, in discharging their functions must have “due regard” to this duty. There are three main aims:

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people; and
- Encouraging people with certain protected characteristics to participate in public life or in other activities where participation is disproportionately low.

6.49 Whilst there is no absolute requirement to fully remove any disadvantage, the duty is to have “regard to” and remove OR minimise disadvantage and in considering the merits of this planning application the planning authority has taken into consideration the requirements of the PSED.

6.50 In the context of the above PSED duties, this proposal is considered to be acceptable.

7. CONCLUSION AND RECOMMENDATION

7.1 Having considered all of the above, whilst the proposed dwelling can be considered as policy compliant in terms of the principle of a dwelling on the site, impact on neighbouring amenity, parking and highway safety and sustainability, the proposed subdivision of the plot and proposed alterations to the site, as well as the proposed fencing would fail to achieve an acceptable scheme that would comply with Cheltenham Plan policy D1, JCS policy SD4 or Cheltenham’s SPD – Development on Garden Land and infill sites.

7.2 Furthermore, the application proposes no measures to mitigate the effects on the Cotswold Beechwoods SAC which due to the new dwelling would lead to increased pressure on the Cotswolds Beechwoods SAC. Without appropriate mitigation, the proposed development is likely to have a significant effect; however, no mitigation has been proposed.

7.3 With the above in mind, the benefit of an additional dwelling to Cheltenham’s housing stock is not considered to outweigh the adverse impacts of the proposed development.

7.4 The recommendation is to therefore refuse planning permission for the reasons set out below.

8. REFUSAL REASONS

1 By virtue of the proposed subdivision of the plot, site layout, plot configuration and location of the development, the proposal would appear at odds and out of character with the existing pattern of development and surrounding context. In addition, the 1.8m high timber fence represents a poor standard of design that is visually unacceptable on the street scene. The proposal is therefore contrary to Policies D1 of the Cheltenham Plan (2020), Policies SD4 of the Joint Core Strategy (2017), and Section 12 of the National Planning Policy Framework and guidance set out in the Council's Supplementary Planning Document - Residential Development on Garden Land and Infill Sites in Cheltenham (2009).

2 The proposed development, by virtue of resulting in a net increase in dwellings, would result in an adverse effect on the integrity of the Cotswold Beechwoods SAC; however, no mitigation has been proposed to address the impacts of the proposal. Without appropriate mitigation, the proposed development is likely to have a significant effect on

the Cotswold Beechwoods SAC through increased recreational pressure. The proposed development is therefore contrary to adopted policy BG1 of the Cheltenham Plan (2020) and the aims of The Conservation of Habitats and Species Regulations 2017.

INFORMATIVES

- 1 In accordance with the requirements of The Town and Country Planning (Development Management Procedure) (England) Order 2015 and the provisions of the NPPF, the Local Planning Authority adopts a positive and proactive approach to dealing with planning applications and where possible, will seek solutions to any problems that arise when dealing with a planning application with the aim of fostering the delivery of sustainable development.

At the heart of this positive and proactive approach is the authority's pre-application advice service for all types of development. Further to this however, the authority publishes guidance on the Council's website on how to submit planning applications and provides full and up-to-date information in relation to planning applications to enable the applicant, and other interested parties, to track progress.

In this instance, having had regard to all material considerations, the authority cannot provide a solution that will overcome the concerns raised by officers relating to principle and design.

As a consequence, the proposal cannot be considered to be sustainable development and therefore the authority had no option but to refuse planning permission.

Consultations Appendix

Building Control

15th April 2024 - This application will require Building Regulations approval. Please contact Cheltenham and Tewkesbury Building Control on 01242 264321 for further information.

GCC Highways Planning Liaison Officer

8th May 2024 - Gloucestershire County Council, the Highway Authority acting in its role as Statutory Consultee has undertaken a full assessment of this planning application. Based on the appraisal of the development proposals the Highways Development Management Manager on behalf of the County Council, under Article 18 of the Town and Country Planning (Development Management Procedure)(England) Order, 2015 recommends that this application be deferred.

The justification for this decision is provided below.

The access drive between the site and the public highway is not shown as being either within the red or the blue line and therefore cannot be conditioned or guaranteed to be available. If it is owned by the other properties served by it then i believe they should have Notice served on them and we would need to see confirmation that there are the necessary rights to access the proposed dwelling.

The Highway Authority therefore submits a response of deferral until the required information has been provided and considered.

Tree Officer

17th April 2024 - The Trees Section has no objections to this proposal.

Gloucestershire Centre For Environmental Records

9th April 2024 - Report available to view in documents tab.