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## Appeal Decision

Site visit made on 19 August 2025

by **R J Redford MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29<sup>th</sup> August 2025

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**Appeal Ref: APP/B1605/W/25/3365765**

**52 River Leys, Cheltenham, Gloucestershire GL51 9RY**

- 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 Roger Poolman of Palmtrees Estates Ltd against the decision of Cheltenham Borough Council.
  - The application Ref is 25/00245/FUL.
  - The development proposed is the erection of a single dwelling, alongside a parking area, private amenity space and landscaping, alterations to a single dwelling driveway and private amenity space.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling, alongside a parking area, private amenity space and landscaping, alterations to a single dwelling driveway and private amenity space at 52 River Leys, Cheltenham, Gloucestershire GL51 9RY in accordance with the terms of the application, Ref 25/00245/FUL, subject to the conditions in the attached schedule.

### Background and Main Issue

2. The Council has confirmed that during the appeal process the appellant has paid the necessary mitigation contribution towards the impact of the proposal on the Cotswold Beechwoods Special Area of Conservation, therefore it no longer wishes to defend the associated reason for refusal. An appropriate assessment (AA)<sup>1</sup> was undertaken during the application process, and I am satisfied nothing has changed since the AA was completed and the mitigation contribution paid.
3. Therefore, the main issue is the effect of the proposed development on the character and appearance of the area.

### Reasons

4. The appeal site is on River Leys. This is an established residential estate located between Hayden Road and Tewkesbury Road. The purposeful layout of the estate means that there is a reasonable regularity to the distance between rear and side elevations and the surrounding roads, including those properties adjacent to Hayden Road. However, although the appeal site is also adjacent to Hayden Road, it is set back from the rest of the River Leys properties by a parking area lined by mature trees.
5. The site consists of an end terrace, 2-storey dwelling which has a rear and side garden as well as a parking area to the front. It is of a similar functional design as the other properties on River Leys. To the rear of the appeal site is a 2-storey hotel,

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<sup>1</sup> As required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (Habitat Regulations)

which is largely screened from River Leys and Hayden Road by a dense, mature hedge.

6. The proposal would create a new, 2-storey, 2-bedroom dwelling to the side of the donor dwelling. It would follow the building line, and roof and eave height of the terrace the donor dwelling is part of but would be wider than that property and have a rear dormer. Nevertheless, its form, scale and design would be in keeping with the existing properties as would the external finishes.
7. Although wider, this would be read in context of the minor differences between all the properties on River Leys, which include but are not limited to rear dormers, varying heights, projection from neighbouring properties and external finishes. Therefore, the proposal, although not identical would not be out of character and would not cause harm to the appearance of the donor dwelling, the terrace, or the wider surrounding area.
8. It would be closer to the boundary with Hayden Road than other properties on River Leys, but the visual separation created by the parking area means the extension of the building line towards Hayden Road would not be visually obvious. Further, there are other pockets of development along Hayden Road which are closer to the back of the pavement than River Leys. The hedge between the River Leys and hotel extends the full length of the rear boundary of the appeal site thus prevents any views through it. This means that the proposal would not be out of character when considering Hayden Road as a whole and would not cause any visual enclosure of existing sight lines.
9. Accordingly for the reasons given above, the proposed development would not harm the character and appearance of the area. This would comply with Policy D1 of the Cheltenham Plan, Policy SD4 of the Joint Core Strategy insofar as they require new development to respect the character of its surroundings. It would also align with the guidance set out in the Council's Supplementary Planning Document 'Development on garden land and infill sites in Cheltenham'.

### **Other Matters**

10. It is noted that no harm has been identified in relation to living conditions, highway safety, parking, cycle and refuse storage, garden space and landscaping, sustainability, flooding, drainage, ecology, and health and safety matters.
11. The planning application associated to this appeal was submitted post 2 April 2024 therefore the Biodiversity Net Gain (BNG) Regulations must be applied. The Council have confirmed the proposal would result in a 52.81% gain in habitat and so the proposal would exceed the required 10% gain. There is nothing before me to conclude otherwise.

### **Conditions**

12. The Council has suggested several conditions which I have considered against advice in the National Planning Policy Framework (the Framework) and Planning Practice Guidance. As a result, I have amended them for consistency and clarity.
13. In addition to the standard time limit condition (1), I have imposed condition 2 requiring the development to be carried out in accordance with the approved plans as this provides certainty. Conditions 3 and 4 have been imposed in the interest of the character and appearance of the development and surrounding area. Condition

5 is imposed to ensure appropriate flood risk management and drainage can be secured.

14. To ensure an appropriate level of ecological enhancement condition 6 has been imposed. The appellant is also reminded of their duties under paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990, that planning permission granted for the development of land in England is deemed to have been granted subject to the biodiversity gain condition which must be discharged before the development can begin. This is a statutory requirement but taking into account the small size of the proposal and the gain possible, it is not necessary or reasonable to also condition a Habitat Management and Monitoring Plan as proposed by the Council.
15. It is necessary for details of any refuse, recycling, and cycle storage to be submitted as they are to the front of the dwelling and so can impact the character and appearance of the area. The Council had proposed conditions for compliance on these matters, but within its evidence it is clear there is requirement for additional details to be submitted, and I conclude similarly so have imposed conditions 7 and 8. Condition 9 has been added to ensure appropriate car parking is retained, and due to the constraints of the site it is necessary to control permitted development rights with condition 10.
16. Conditions 4, 5, and 6 are required to be pre-commencement as it is fundamental to have these details agreed upfront prior to any works commencing on the appeal site. The Appellant has agreed to this.

### **Conclusion**

17. For the reasons given above the appeal scheme would comply with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, allowed.

*RJ Redford*

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: 24.041.03 Rev D; 24.041.03.5 Rev D; 24.041.05 Rev D; 24.041.04 Rev C; and 24.041.06 Rev B.
- 3) The external materials of the development hereby permitted shall match those used on 52 River Leys, unless specified on the approved plans.
- 4) No development shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include but are not limited to:

- all walls, fences, trees, hedgerows, and other planting which are to be retained;
- details of all new walls, fences, or other boundary treatments;
- finished ground levels;
- new hard surfacing of open parts of the site which shall be permeable or drained to a permeable area;
- a planting specification to include species, size, position, and method of planting of all new trees and shrubs;
- an implementation programme; and
- a scheme of management and maintenance including a replacement plan for any trees or plants removed, uprooted, destroyed, or die or becomes seriously damaged or defective for 5 years from the date of planting.

The landscaping works shall be carried out in accordance with the agreed implementation programme. The completed works shall thereafter be managed and maintained in accordance with the approved scheme of management and maintenance.

- 5) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and appropriate flood risk management, has been submitted to and approved in writing by the local planning authority. The scheme shall include but is not limited to:

- a programme of implementation of works; and
- a scheme of management and maintenance.

The development shall be carried out in accordance with the agreed implementation programme. The sustainable drainage system shall thereafter be managed and maintained in accordance with the approved scheme of management and maintenance.

- 6) No development shall take place until an Ecological Mitigation and Enhancement Strategy (EMES) has been submitted to and approved in writing by the local planning authority. The EMES shall include but is not limited to:

- the provision of 1No bird (for swift and house sparrow), 2No bat, and 1No insect boxes;
- a plan showing the location, specification, height, and orientation of these features;
- an implementation programme; and
- a scheme of management and maintenance.

The EMES shall be carried out in accordance with the agreed implementation programme and thereafter managed and maintained in accordance with the approved scheme of management and maintenance.

- 7) The development hereby permitted shall not be occupied until cycle storage facilities have been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be retained for the storage of cycles.

- 8) The development hereby permitted shall not be occupied until refuse and recycling storage facilities have been installed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and those facilities shall thereafter be retained for the storage of refuse.
- 9) The development hereby permitted shall not be occupied until the car parking has been laid out in accordance with the approved plans and made available for use. The car parking shall then be kept available at all times for the parking of the occupants of the new dwelling and their visitors, and for no other purpose.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions, garages, sheds, outbuildings, fences, gates or walls shall be erected within the curtilage of the new dwellinghouse.

**END OF SCHEDULE**